

TITLE 11
BUSINESS REGULATIONS AND LICENSES

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CHAPTER 11-01
GENERAL PROVISIONS

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11-0101. Licenses. Unless otherwise specifically provided licenses and permits required for the carrying on of a business or trade within the city shall be applied for, issued, terminated, and revoked according to the provisions of this article.

11-0102. Licenses--Application. Any person desiring a license or permit under any ordinance of the city shall make a written application to the city therefor upon application blanks furnished by the city auditor and file the same with the city auditor stating the purpose for which the same is desired, for what length of time, and specifying the place where his business is to be carried on; if required to file a bond before being licensed he shall also name his proposed sureties on his bond in his application.

11-0103. Licenses--Granting. The city auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If he shall not feel authorized to grant any particular application for license or permit for any purpose not named by ordinance, he shall report such application to the next meeting of the governing board for their action thereon.

11-0104. Licenses--Term.

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of July in each year and expire on the last day of June in each succeeding year.

3. No license or permit shall be valid until signed and sealed, nor shall any person be deemed licensed until a license shall be duly issued to him.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced; if the business calls for a yearly license then the license shall commence on the first day of July in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and license record.

11-0105. Licenses--Not Transferable. No License or permit shall be assignable or transferable except by permission of the governing board. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The city may grant the continuance of the business licensed to any other portion of the city, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

11-0106. Licenses--Revocation. All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the city's governing body. Any person who shall violate any provision of this article relating to his license may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked or forfeited in the discretion of the governing body or the court before which any action may be brought for the recovery of any fine or penalty.

Where not otherwise provided any license may be revoked by the city Governing Board at any time for cause. "Cause" shall include, but not be limited to, the following:

1. Violation of the laws of the State of North Dakota, or any of the ordinances of the city dealing with or pertaining to the business or trade licensed.
2. The wilful making of any false statement as to a material fact in the application for license.
3. Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
4. The death of a licensee.
5. When the licensee ceases business at the location licensed.

6. When the licensee ceases to be a legal and bona fide citizen of the State of North Dakota.

When the license is terminated or revoked for cause, the licensee or those claiming under him, shall not be entitled to any return of any portion of the license fee previously paid to the city.

11-0107. Licenses--Posting of. All licenses and permits issued by the city for the operation of any business establishment, trade or any part of the operation thereof shall be posted in a conspicuous place in the main business area of the business establishment. Where badges representing permits or licenses are issued to be worn by an individual such licensee shall wear such badge during the normal course of employment for which said badge was issued.

11-0108. Licenses--Short Term. No license unless otherwise specified shall be issued for a fractional part of the year, but shall relate back if taken out subsequent to the first day of July of each year.

11-0109. Licenses--Enforcement. All city officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the licensed premises with or without a search warrant to check for violations of ordinances or state laws by the licensee.

11-0110. Licenses--Obligations to the City. No applicant shall be granted a license who is in default under the provisions of any city ordinance, or is indebted or obligated to the city, or is delinquent in the payment of any taxes in which the city shares.

CHAPTER 11-02
TRANSIENT MERCHANTS

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11-0201. Definitions. For the purpose of this article:

1. "Transient merchant: includes any person, individual, co-partnership, or corporation, either as principal or agent, who engages in, does, or transacts any temporary or transient business in the city of Hebron, either in one locality, or in traveling from place to place within the city selling goods, wares, and merchandise, who does not intend to become and does not become a permanent merchant of the city of Hebron, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, lots, tract,

railroad car, or motor vehicle for the exhibition and sale of such goods, wares, and merchandise. The person, individual, co-partnership, or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

2. "Merchandise" shall not include any livestock or agricultural product.

11-0202. License Required. It shall be unlawful to do business in the city as a transient merchant without having first secured a license therefore as is herein provided. For the purpose of this article any merchant engaging or intending to engage in business as a merchant in the city for a period of time not exceeding 100 days shall be considered as a transient merchant, provided that peddlers shall not be considered transient merchants.

11-0203. License Fee. The license fee to be required of all transient merchants for the transaction of such business within the city, is contemplated in and provided for in and by Section 51-04-09, North Dakota Century Code, is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City.

11-0204. License--Application For. Applicants for license under this article, whether an individual, co-partnership, or corporation, shall file a written sworn application signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, with the city auditor, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address, and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city.
3. The residence, business address, and type of business in which applicant has been engaged in the previous two years;
4. The residence, business address, and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two years;
5. The place or places in the city, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant, in the city, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

11-0205. Bond. Before any license shall be issued to a transient merchant for engaging in business in this city, the applicant therefore shall file with the city auditor a bond running to the city in the sum of \$1000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be canceled has been given to the city auditor; said bond to be approved by the city attorney, conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of the city and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage flowing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentation or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person.

11-0206. Service of Process. Before any license as herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this city, such applicant shall file with the city auditor an instrument nominating and appointing the city auditor his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by this article, or for the performance of the conditions of said bond or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the said license under this article,

according to the law of this state or any other state, and waiving all claim or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the city auditor, as herein provided, the city auditor shall send to the licensee at his last known address, by registered mail, a copy of said process.

11-0207. Exhibiting License. The license issued under this Article shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the city, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

11-0208. Transfer. No license issued to a transient merchant in the city shall be transferred.

11-0209. Enforcement by Police. It shall be the duty of the police officers of the city to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating the same. The city auditor shall deposit with the chief of police a record of each license number, together with the location within the city of the business licensed thereunder to assist and promote such enforcement.

11-0210. Revocation.

1. Any license issued pursuant to this article may be revoked by the governing body of the city, after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
 - c. Any violation of this article;
 - d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
 - e. Conducting the business licensed under this article in an unlawful manner or in a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five days prior to the date set for the hearing.

11-0211 Expiration of License. All licenses issued under the provisions of this article shall expire at the expiration of the period for which application has been made and prepaid, to be renewable by the city auditor upon application and payment therefore.

CHAPTER 11-03
SOLICITATION WITHOUT INVITATION

Section

- 11-0301 Solicitation Without Invitation Prohibited
- 11-0302 Enforcement

11-0301 Solicitation Without Invitation Prohibited. The practice of going in and upon private residences or privately owned property in the city by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, photographers and magazine and periodical subscription agents, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences or private property, for the purpose of soliciting orders for the sale of goods, wares, and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or periodicals and/or for the purpose of taking photographs is hereby declared to be a nuisance and unlawful.

11-0302 Enforcement. The chief of police and all police officers in the city are hereby required and directed to suppress the same and to abate any such nuisance as is described in 11-0301.

CHAPTER 11-04
ALCOHOLIC BEVERAGES

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11-0401. Definitions. For the purpose of this article:

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Liquor" shall mean any alcoholic beverage except beer.
4. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society, or any other organization; and shall include the singular and the plural.
5. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of , and keeping for sale of such alcoholic beverages.
6. "Package" and "original package" shall mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
7. "Club" or "Lodge" shall include any corporation or association organized for civic, fraternal, social or business purposes, or the promotion of sports, which has at least 200 members at the time of application for license and which was in existence on November 3, 1936.
8. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.

9. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
10. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an onsale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

11-0402. Exceptions.

1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress, and the regulations thereunder;
 - b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations;
 - c. Flavoring extracts, syrups, and food products;
 - d. Scientific, chemical, and industrial products; nor to the manufacturer or sale of said articles containing alcohol.

11-0403. License Required. No person shall sell at retail within the city limits of this city any alcoholic beverage without first having obtained a license therefore as herein provided. This section shall not apply to public carriers engaged in interstate commerce.

11-0404. License--Term Of.

1. All licenses issued hereunder shall be for a period of not more than 6 months and shall expire on the 30th day of June and 31st day of December in each year.
2. If an application is made for license hereunder during the license period, the unexpired portion of such period, the fees therefore shall be as follows:
 - a. If the short term be for three months or less, the license fee therefore shall be 50% of the Six Month license fee.

- b. If the term be for more than three months and less than six months, the license fee therefore shall be 75% of the annual license fee.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
7. Whether the applicant has ever had a license revoked or cancelled by any municipal, state or federal authority, and if so, the date of such cancellation, the place and authority cancelling same, and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance, with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of places, and courts, in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation, and the reasons assigned therefore.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed, and the court in which convicted.
11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management, or control of the establishment for which license is sought.