

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

The following terms, when used in this chapter, shall have the meaning ascribed herein unless the context clearly indicates otherwise:

- (a) *Alcoholic beverages* shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent ($\frac{1}{2}$ of 1%) or more of alcohol by volume.
- (b) *Beer* shall mean any malt beverage containing more than one-half of one percent ($\frac{1}{2}$ of 1%) of alcohol by volume.
- (c) *Liquor* shall mean any alcoholic beverage except beer.
- (d) *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.
- (e) *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.
- (f) *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.
- (g) *Lodge* shall include any corporation or association organized for civic, fraternal, social, or business purposes, or the promotion of sports, which had at least one hundred (100) members in the city at the time of application for license, prior to the date of passage of this ordinance [chapter].

- (h) *Club* shall mean and include any nonprofit organization created and maintained for the purpose of owning, operating or managing a facility to provide recreation of an athletic nature to its members and their guests.
- (i) *Retail sale* shall mean the sale of alcoholic beverages for use or consumption and not for resale.
- (j) *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.
- (k) *On-sale* shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.
- (l) *Under age* shall mean the legal age promulgated by state law. For purposes of this chapter, however, a person is not twenty-one (21) years of age until 8:00 a.m. on that person's twenty-first birthday.
- (m) *Retailer* shall be deemed to mean and include any person engaged in the sale of alcoholic beverages under any type of license except a wholesale license.

(n) *Wholesaler* shall be deemed to mean and include any person engaged in the sale and distribution of alcoholic beverages to persons holding a retail license for the sale and distribution of alcoholic beverages within the state.

(o) *Qualified alcoholic beverage licensee* means a licensee in the City of Grafton, North Dakota, who is licensed under the provisions of this article and N.D.C.C. chapter 5-02. (Rev. Ords. 1941, §§ 16-201, 16-301; Ord. No. 364, § 1(16-301), 6-3-77; Ord. No. 105, § 1, 7-12-93; Ord. No. 222, § 1, 7-11-05)

Sec. 3-2. Hours of sale.

Any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after 2:00 a.m. on Sundays, before 12:00 noon on Sundays, or between the hours of 2:00 a.m. and 8:00 a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, or after 6:00 p.m. on Christmas Eve or who provides off-sale after 1:00 a.m. on Thanksgiving Day is guilty of a class A misdemeanor.

(Rev. Ord. 1941, §§ 16-216, 16-317; Ord. No. 228, § 1, 7-1-65; Ord. No. 241, § 2, 4-19-66; Ord. No. 269, § 1, 7-23-69; Ord. No. 305, § 1, 7-9-73; Ord. No. 364, § 1(16-304), 6-3-77; Ord. No. 413, § 1, 7-14-80; Ord. No. 29, § 1, 8-11-86; Ord. No. 37, § 2, 6-8-87; Ord. No. 48, § 1, 2-8-88; Ord. No. 83, § 1, 11-12-91; Ord. No. 105, § 2, 7-12-93; Ord. No. 222, § 2, 7-11-05)

State law reference—Hours of sale, N.D.C.C. § 5-02-05.

Sec. 3-3. Sales to minors prohibited.

(a) No licensee, his agent or employee, shall sell, serve or dispense alcoholic beverages to any person under the age of twenty-one (21) years, and no licensee shall permit any person under the age of twenty-one (21) years to be furnished with any alcoholic beverages on the premises for which a license is granted pursuant to the provisions of this chapter.

(b) No person under the age of twenty-one (21) years of age shall purchase, attempt to purchase, receive or drink any alcoholic beverages in any public place or in any place licensed hereunder or on any street or alley within the city.

(c) For purposes of this section, however, a person is not twenty-one (21) years of age until 8:00 a.m. on that person's twenty-first birthday.

(Rev. Ords. 1941, § 16-314; Ord. No. 77, § 1, 12-5-47; Ord. No. 84, § 1, 8-6-51; Ord. No. 364, § 1(16-305), 6-3-77; Ord. No. 222, § 3, 7-11-05)

Cross reference—Persons under twenty-one prohibited from entering licensed premises, § 3-11.

State law reference—Minors, N.D.C.C. §§ 5-01-08, 5-02-06.

Sec. 3-4. Minors prohibited from dispensing alcoholic beverages.

Any person under twenty-one (21) years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, if the person is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one (21) or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverage, or if the person is a law enforcement officer entering the premises in the performance of official duty. Any person who is nineteen (19) years of age or older but under twenty-one (21) years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one (21) or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. An establishment where alcoholic beverages are sold may employ persons from eighteen (18) to twenty-one (21) years of age to work in the capacity of musicians under the direct supervision of a person twenty-one (21) or more years of age.

(Rev. Ords. 1941, § 16-316; Ord. No. 364, § 1(16-306), 6-3-77; Ord. No. 87, § 1, 8-10-92)

Sec. 3-5. Licensee responsible for conduct in place of business.

Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and

sobriety in such place of business. No intoxicated person or persons shall be permitted to remain upon the premises or to be sold beer, liquor, or alcoholic beverages by any person holding any license issued pursuant to this chapter.

(Ord. 1941, § 16-320; Ord. No. 364, § 1(16-308), 6-3-77)

Sec. 3-6. Consumption of liquor from package.

No person holding a license hereunder shall permit the consumption of beer, liquor, or alcoholic beverages upon the licensed premises or the opening of the container containing the alcoholic beverage, the same being in the original package in which the sale is made on the premises where sold, unless the licensee holds an on-sale license and the beverage dispensed is served in a glass or other similar container by the licensee or his employee; provided, however, that this shall not apply to the consumption of malt beverages from original packages. All sales of beer, liquor or alcoholic beverages made by the licensee in packages shall be completed upon the licensed premises by the delivery of the container containing the beer, liquor, or alcoholic beverage to the person upon such premises.

(Rev. Ords. 1941, § 16-319; Ord. No. 359, § 2, 11-8-76; Ord. No. 364, § 1(16-307), 6-3-77)

Sec. 3-6.5. Sampling of alcoholic beverages.

An off-sale liquor and beer license holder may, in addition to off-sales of liquor, wine and beer, be permitted to provide to their customers, free of charge, samples of wine and cordials as a promotion for the sale of the same so long as each sample does not exceed one ounce in volume per customer.

(Ord. No. 196, § 1, 9-10-01)

Sec. 3-7. Possession of unsealed container.

No person shall drink or consume nor have in his possession nor on his person nor keep beer, liquor, wine, or alcoholic beverages on or in any public street, sidewalk, alley, or in an

automobile, truck, or at public functions in any city civic center or other municipal building, which has been opened or the contents of which have been partially consumed.

(Rev. Ords. 1941, § 16-309; Ord. No. 42, § 1, 7-6-48; Ord. No. 364, § 1(16-309), 6-3-77)

Sec. 3-8. Opening and consumption of alcoholic beverages in public places prohibited except where authorized by proper permit.

No person shall be permitted to open an original package or container of an alcoholic beverage or possess an alcoholic beverage in an open package or container or consume the same from an open package or container in any public place, street or alley, the premises of which are not licensed for on-sale consumption or have not been given a specific permit as designated in sections 3-22 through 3-25 of this Code.

(Rev. Ords. 1941, § 16-314; Ord. No. 447, § 1, 5-10-82; Ord. No. 61, § 1, 5-8-89)

Cross reference—Possession and consumption of alcoholic beverages in park areas, § 3-13 et seq.

Sec. 3-9. Maintenance of premises.

Every licensee shall at all times maintain the interior of his licensed premises in a clean and sanitary condition and conduct and maintain his business in a clean, orderly, and respectable manner.

(Ord. No. 364, § 1(16-310), 6-3-77)

State law reference—Local regulations, N.D.C.C. § 5-02-09.

Sec. 3-10. Penalties.

Any person found guilty of violating the provisions of this chapter shall be punished by a fine or imprisonment, or both, according to the general penalty provision of this Code (section 1-14). The court shall have the power to suspend the sentence and to revoke the suspension thereof. Each day any person shall

violate any section or provision of this chapter shall constitute a separate offense.

(Ord. No. 364, § 1(16-318), 6-3-77; Ord. No. 168, § 1, 4-13-98)

Cross reference—General penalty, § 1-14.

State law references—City fines and penalties; limitation, N.D.C.C. § 40-05-06(1).

Sec. 3-11. Persons under twenty-one years of age prohibited from entering licensed premises; penalty; exceptions; referrals to addiction facilities.

(a) Except as permitted in this article or N.D.C.C. section 5-02-06, any person under twenty-one (21) years of age is prohibited from purchasing, attempting to purchase, or being in possession of alcoholic beverages, or consuming or having recently consumed an alcoholic beverage other than during a religious service, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with N.D.C.C. section 5-02-06, or if the person is a law enforcement officer entering the premises and in the performance of official duty.

(b) Any person found to be in violation of this section is guilty of a class B misdemeanor.

(c) For purposes of this section, a person is not twenty-one (21) years of age until 8:00 a.m. on that person's twenty-first birthday.

(d) The court may, under this section, refer the person to an outpatient addiction facility licensed by the department of health for an evaluation and appropriate counseling or treatment.

(e) An offense under subsection (a) may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

(f) An individual under twenty-one (21) years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one (21) years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assis-

tance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one (1) occurrence is five (5) individuals.

(Ord. No. 16, § 1, 5-13-85; Ord. No. 222, § 4, 7-11-05; Ord. No. 254, § 1, 11-8-10)

Cross reference—Sales to minors prohibited, § 3-3.

Sec. 3-12. Sunday alcoholic beverage permit; penalty.

(a) In addition to all other permits and licenses for the retail sale of on-sale alcoholic beverages authorized by this article, the Grafton City Council, through its city auditor, may issue a Sunday alcoholic beverage permit to a qualified alcoholic beverage licensee licensed under this article or to a publicly-owned or operated facility. For purposes of this section, "qualified alcoholic beverage licensee" has the same meaning as in section 3-1.

(b) The authority for issuing the permit rests solely with the Grafton City Council. A permit may be granted only upon proper application to and approval by the Grafton City Council and may include payment of a fee determined by the city council up to five dollars (\$5.00) per Sunday. A permit granted by the city may be effective for more than one (1) Sunday.

(c) Anyone seeking issuance of a permit hereunder shall file an application with the city auditor of the city stating and showing:

- (1) The name and address of the applicant.
- (2) Proof of licensing as a qualified alcoholic beverage licensee licensed under this article and N.D.C.C. chapter 5-02.
- (3) The designated Sundays for which the permit is requested.
- (4) Any other information which the city auditor shall find is reasonably necessary to a fair determination as to whether a permit should be issued.

(d) Under the permit, alcoholic beverages may be distributed and dancing may be permitted in the establishment or facility. Nothing in this section shall allow certain alcoholic beverages before 12:00 noon on any specified Sunday, nor after 2:00 a.m. on Monday. No dispensing of alcohol shall be permitted on Christmas Day, or after 6:00 p.m. on Christmas Eve in accordance with section 3-2. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority of this permit. The establishment or facility granted the permit shall enforce the requirements of this section.

(e) Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section, or who furnishes information required by this section which is false or misleading, is guilty of a class A misdemeanor.
(Ord. No. 37, § 1, 6-8-87; Ord. No. 83, § 1, 11-12-91; Ord. No. 105, § 3, 7-12-93; Ord. No. 222, § 5, 7-11-05)

Sec. 3-13. Possession and consumption of alcoholic beverages in park areas—Permit required.

(a) No person shall bring alcoholic beverages into or use alcoholic beverages upon the public premises of the city Park District without a permit; and if a permit has been obtained, then only in such areas as specifically designated in sections 3-13 through 3-21 and authorized by the permit.

(b) Such designated areas include:

(1) Leistikow Park in area bounded by 5th Street on south, Park River to the north, the western park road to the east and the State School property to the west.

(2) The South End Complex Softball Area.

(Ord. No. 54, § 1, 6-27-88)

Cross references—Possession of unsealed container in public areas, § 3-7; opening and consumption of alcoholic beverages in public places, § 3-8.

Sec. 3-13.5. Same—Campground permit exemption.

Possession and consumption of alcoholic beverages is allowed within the Leistikow Park Campground area without a permit.
(Ord. No. 104, § 1, 6-14-93)

Sec. 3-14. Same—Glass containers prohibited.

The use of any glass containers shall be prohibited in the park areas of the city.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-15. Same—From whom permit obtained.

A permit to bring alcoholic beverages onto park property, or to drink alcoholic beverages on park property, shall be obtained from the Grafton Police Department.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-16. Same—Permit application.

A person seeking issuance of a permit under sections 3-13 through 3-21 shall file an application with the Grafton Police Department stating:

- (1) The name and address of the applicant.
- (2) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
- (3) The park property for which such permit is desired.
- (4) An estimate of attendance.
- (5) Any other information which the Grafton Police Department shall find is reasonably necessary to a fair determination as to whether a permit should be issued.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-17. Same—Cost of permit.

The fee schedule for obtaining a permit for the use of alcoholic beverages under sections 3-13 through 3-21 is as follows:

- (1) The permit fee shall be ten dollars (\$10.00) per day for any group.
- (2) Season permit for softball teams, one hundred dollars (\$100.00).

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-18. Same—Standards for issuance of permit.

Standards for issuance of a permit under sections 3-13 through 3-21 shall include the following findings:

- (1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.

- (2) That the proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- (3) That the proposed activity or use is not reasonably anticipated to incite violence, crime, or disorderly conduct.
- (4) That the proposed activity will not entail extraordinary or burdensome expense or police operation.
- (5) That the proposed activity will be in accordance with all rules and regulations as set out by the park district authorities.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-19. Same—Effect of permit.

A permittee shall be bound by all park rules, regulations and ordinances as fully as if inserted in such permit. A permit shall be revocable by the Grafton Police Department. A permit is not a license to engage in the sale of alcoholic beverages.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-20. Same—Liability of permittee.

The person or persons to whom a permit is issued shall be liable for any loss, or damage, or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-21. Same—Enforcement.

The police department shall have authority to eject from the park property any person in violation of sections 3-13 through 3-21 of this article, and shall have authority to seize and confiscate any property, thing or device in the park, used in violation of sections 3-13 through 3-21 of this article or the rules and regulations of the park district.

(Ord. No. 54, § 1, 6-27-88)

Sec. 3-22. Special event permit—For possession and consumption of alcoholic beverages in public areas.

A special event permit to bring alcoholic beverages on to public property or to drink alcoholic beverages on public property shall be first obtained from the city council.
(Ord. No. 61, § 1, 5-8-89)

Sec. 3-23. Same—Application.

A person or organization seeking issuance of a special permit hereunder shall file an application with the city auditor at least thirty (30) days prior to the proposed event stating:

- (1) The name and address of the applicant.
- (2) The name and address of the person, persons, corporation or association sponsoring the activity if any.
- (3) The public property for which such permit is desired and the hours and dates requested.
- (4) An estimate of the attendance.
- (5) Any other information which the city council shall find is reasonably necessary to make a fair determination as to whether a permit should be issued.

Sec. 3-24. Same—Standards for issuance.

Standards for issuance of a permit hereunder shall include the following findings:

- (1) That the proposed activity of use of the public premises will not unreasonably interfere with or detract from the general public's use of other public and private facilities adjoining the designated area.
- (2) That the proposed special activity will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- (3) That the proposed activity or use is not unreasonably anticipated to incite violence, crime or disorderly conduct.

- (4) That the proposed activity will not entail extraordinary or burdensome expense upon police operations.
 - (5) That no glass containers shall be permitted if the permit is granted.
 - (6) That the proposed activity is in fact a special event, convention or community celebration.
- (Ord. No. 61, § 1, 5-8-89)

Sec. 3-25. Same—Effect.

A permittee shall be bound by all other ordinances of the city and such permit shall be revocable by the police department if any of the standards for issuance are violated. A permit is not a license to engage in the sale of alcoholic beverages.
(Ord. No. 61, § 1, 5-8-89)

ARTICLE II. LICENSE*

Sec. 3-26. Event permit for sale of alcoholic beverages at events designated by permit; penalty.

(a) In addition to the permit authorized by section 3-22, the Grafton City Council may by permit authorize a qualified alcoholic beverage licensee licensed under this article and Chapter 5-02 of the North Dakota Century Code to engage in the sale of alcoholic beverages at events designated by the permit. For the purposes of this section, "qualified alcoholic beverage licensee" has the same meaning as in section 3-1. An application fee in the sum of twenty-five dollars (\$25.00) shall be paid at the time of application. The permit shall not be valid for a period greater than fourteen (14) days, and may include Sundays. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.

(b) A person or organization seeking issuance of an event permit hereunder shall file an application with the city auditor at least thirty (30) days prior to the proposed event stating:

- (1) The name and address of the applicant.

*Cross reference—Gambling licenses site approval, § 14-16.

- (2) The name and address of the person, persons, corporation or association sponsoring the activity, if any.
- (3) The public property for which such permit is desired and the hours and dates requested.
- (4) An estimate of the attendance.
- (5) Any other information which the city council shall find is reasonably necessary to make a fair determination as to whether a permit shall be issued.

(c) Standards for issuance of a permit hereunder shall include the following findings:

- (1) That the proposed activity of use of the public premises will not unreasonably interfere with or detract from the general public's use of other public and private facilities adjoining the designated area.
- (2) That the proposed event will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- (3) That the proposed activity or use is not unreasonably anticipated to incite violence, crime or disorderly conduct.
- (4) That the proposed activity will not entail extraordinary or burdensome expense upon police operations.
- (5) That no glass containers shall be permitted if the permit is granted.

(d) A permittee shall be bound by all other ordinances of the city and such permit shall be revocable by the police department if any of the standards for issuance are violated.

(Rev. Ords. 1941, § 16-204; Ord. No. 164, § 1, 12-2-57; Ord. No. 364, § 1(16-302, 16-302i), 6-3-77; Ord. No. 105, § 4, 7-12-93)

State law reference—Licenses required, N.D.C.C. § 5-02-01.

Sec. 3-27. Exceptions.

(a) This chapter shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.

(b) This chapter shall not be construed to apply to the following articles, when they are unfit for beverage purposes:

- (1) Denatured alcohol produced and used pursuant to acts of congress, and the regulations thereunder;
 - (2) Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;
 - (3) Flavoring extracts, syrups, and food products;
 - (4) Scientific, chemical, and industrial products.
- (Ord. No. 364, § 1(16-303), 6-3-77)

Sec. 3-28. Location of licensed establishments authorized to sell alcoholic beverages.

(a) No license shall be issued to an applicant for the retail sale of alcoholic beverages, either on-sale or off-sale, unless the location to be licensed be situated as follows:

- (1) In areas within the city limits zoned B-1 or less restrictive;
- (2) On or immediately adjacent to a golf course within the city limits.

(b) No license shall be issued to an applicant for the wholesale of alcoholic beverages unless the location to be licensed be situated in areas within the city limits zone B-1 or less restrictive. (Rev. Ords. 1941, § 16-327; Ord. No. 51, § 3, 3-7-49; Ord. No. 121, § 1, 4-4-55; Ord. No. 205, § 1, 5-21-62; Ord. No. 213, § 1, 4-22-63; Ord. No. 219, § 1, 4-15-64; Ord. No. 243, § 1, 7-27-66; Ord. No. 272, § 1, 1-5-70; Ord. No. 333, § 1, 9-8-75; Ord. No. 364, § 1(16-311), 6-3-77)

State law reference—Local regulations, N.D.C.C. § 5-02-09.

Sec. 3-29. Qualification for retail license.

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing compliance with N.D.C.C. section 5-02-02. In addition to qualifications prescribed by law, no license autho-

rizing the sale of beer, liquor or alcoholic beverages shall be issued to any person by the city unless such applicant shall show in such application that he possesses the following qualifications:

- (1) Applicant must be a citizen of the United States and of the state and have legal and bona fide residence in the city.
- (2) Applicant shall not have been convicted of a felony, or of pandering or of keeping a house of prostitution, or have been convicted within five (5) years of the date of his application of any violation of the laws of the state or laws of the United States relating to beer, liquor, or alcoholic beverages.
- (3) Applicant shall not have had revoked, within five (5) years next preceding his application, any license issued to him pursuant to the ordinances or resolutions of a city, village, or city council, to the laws of this state, or any state, to sell beer, liquor or alcoholic beverages.
- (4) If applicant is a co-partnership, all members of the co-partnership must be personally qualified to obtain a license.
- (5) If applicant is a private corporation, all officers and directors thereof and any stockholder owning more than twenty (20) percent of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all of the qualifications required herein for an individual licensee; provided however, that the requirements as to being a resident and citizen of the state shall not apply to nonresident officers, directors, and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises in any capacity in the conduct or operation of the licensed premises.

- (6) That the real estate taxes or special assessments levied upon the property or premises to be licensed are not delinquent.
- (Rev. Ords. 1941, §§ 16-203, 16-307; Ord. No. 364, § 1(16-314), 6-3-77; Ord. No. 259, § 1, 3-14-11)
 State law reference—Qualifications, N.D.C.C. § 5-02-02.

Sec. 3-30. Applications for retail license.

Applications for licenses required by the provisions of this ordinance shall be written, under oath, setting forth:

- (1) Name of applicant;
- (2) Residence of applicant;
- (3) Citizenship;
- (4) Legal description of premises where it is proposed to sell;
- (5) A consent to allow city officials and police officers to enter the premises described at any reasonable time for inspection;
- (6) Evidence that applicant has all permits or licenses required by the state or the United States;
- (7) That applicant possess the qualifications required by this chapter, all city ordinances, and state laws;
- (8) That the proposed sale at the described premises complies with the zoning requirements of the city;
- (9) The name of any person to be in charge of the licensed premises if not to be personally conducted by the applicant;
- (10) A statement that the applicant will abide by all future amendments of this chapter;
- (11) A statement that applicant is at least twenty-one (21) years of age;
- (12) Name and address of owner of premises if other than applicant and terms of lease under which applicant holds possession, and agreement to furnish a copy if requested;

- (13) Whether applicant has any interest in any other business licensed under this chapter;
- (14) Occupational record for prior five (5) years;
- (15) Names and addresses of three (3) local business references;
- (16) Whether or not personal property or real estate taxes of applicant or premises are paid to date;
- (17) Whether applicant is engaged or intends to be engaged in any other business than that for which a license is sought;
- (18) The form of license which he desires be issued to him;
- (19) Such other information as may be required to act upon the application.

(Rev. Ords. 1941, §§ 16-101, 16-208, 16-304; Ord. No. 364, § 1(16-315), 6-3-77)

Sec. 3-31. Classes of licenses; fees and terms.

(a) The following are the classes of licenses and fees:

- (1) *Wholesale* \$ 2,000.00
- (2) *Retail*:
 - a. On- and off-sale liquor and beer 2,000.00
 - b. Off-sale liquor and beer 1,150.00
 - c. Lodge, annual (general on- and off-sale liquor and beer) 1,000.00
 - d. On-sale beer 250.00
 - e. On-sale wine 250.00
 - f. Club, short-term (monthly) 40.00

(b) The issuance of off-sale liquor and beer licenses shall, effective July 11, 2005, be limited to three current licenses at any given time based on the current population of the city. Thereafter, an additional license may be issued for each one thousand (1,000) incremental increase in said population.

(c) All licenses shall expire on January 1, next following date of issuance and, except in the case of a club license, no license shall be issued for a shorter term.

(Rev. Ords. 1941, §§ 16-102, 16-213, 16-303; Ord. No. 23, § 1, 6-26-46; Ord. No. 29, § 1, 1-6-47; Ord. No. 34, § 1, 12-1-47; Ord. No. 51, § 1, 3-7-49; Ord. No. 76, § 1, 11-7-47; Ord. No. 91, § 1, 12-27-57; Ord. No. 364, § 1(16-312), 6-3-77; Ord. No. 4, § 1, 10-8-84; Ord. No. 57, § 1, 11-14-88; Ord. No. 222, § 6, 7-11-05)

State law references—State and local regulations, N.D.C.C. § 5-02-01; local license fee, N.D.C.C. § 5-02-03.

Sec. 3-31.5. Alcohol server training; retail license fee reduction.

(a) It is encouraged that all persons owning or working for any premises licensed under this chapter for the sale of alcoholic beverages, whether on or off sale, successfully complete server training presented by the Grafton Police Department or a trainer approved by the Grafton Police Department within six (6) months after the first day of active employment.

(b) All certificates of training issued under this chapter shall be valid for one year from the date of issuance.

(c) Each licensee under this article shall maintain on file at its licensed premises a listing of each person employed by the licensee, identifying all employees who have obtained training under this article, and date of training.

(d) Server training will be offered once in the spring and once in the fall of each year, or upon request from the license holder.

(e) All training programs and instructors must be approved by the Grafton Police Department.

(f) All training programs shall minimally include the following topics:

- (1) Reducing accessibility of alcohol to minors.
- (2) Over-consumption/over-serving of alcohol.
- (3) Server liability.
- (4) ID scanner.

(g) The Grafton Police Department shall establish and approve a test for those persons completing the alcohol server training.

(h) Any person having completed the approved training must attain a minimum score of seventy-five (75) percent on the test administered by, under the direction of, or approved by the Grafton Police Department in order to successfully complete the training and obtain a certificate.

(i) Each person successfully completing the training and test will be issued a certificate by the Grafton Police Department establishing the date of successful completion of training.

(j) Each license holder which has seventy-five (75) percent of its employees working in the sale of alcoholic beverages, whether on or off sale, as an owner, manager, bartender, waiter, waitress, or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed under this chapter or whose job description entails the checking of identification for the purchase of alcoholic beverages or admission into licensed premises, which completes the voluntary server training program offered by the Grafton Police Department prior to the renewal of its liquor license will receive a ten (10) percent reduction in its liquor license fee. (Ord. No. 295, § 1, 4-13-15)

Sec. 3-32. Transfer and change of location.

(a) No license issued hereunder shall be transferable except as provided by N.D.C.C. Title 5, and no change of location shall be permitted without first making application and receiving the approval of the council therefor.

(b) Provided, however, in the event of a bona fide sale of a retail liquor establishment by a licensee, the buyer may make application for a new license to expire at the end of the calendar year and shall tender a license fee which shall be in an amount which is the same proportion of the annual license fee as the remainder of the calendar year bears to the whole calendar year. Thereupon, the licensee (the seller) may make application for the refund of such proportion of the licensee fee already paid by him as the remainder of the calendar year bears to the whole

calendar year. Provided, further, that in no case shall the amount refunded to the seller exceed the amount tendered by the buyer.

(c) Except as herein provided, the applicant for a short-term license shall meet all of the qualifications of an applicant for a full-term license; and nothing herein contained shall be construed as requiring the council to either grant a short-term license or to refund any part of the license fee received in payment of an annual license.

(Rev. Ords. 1941, §§ 16-206, 16-309; Ord. No. 242, § 1, 6-27-66; Ord. No. 364, § 1(16-316), 6-3-77)

Sec. 3-33. Termination and revocation.

(a) Licenses issued pursuant to this chapter shall be cancelled for the following causes:

- (1) When the licensee ceases business at the location licensed and a permit for change of location has been denied;
- (2) When the licensee has been convicted of a violation of any provision of this chapter or of a felony under the laws of the United States; the state or of any other state of the United States;
- (3) When the licensee ceases to be a legal and bona fide resident and citizen of the state;
- (4) When the license or permit of the licensee from the United States government or state to sell intoxicating liquor has been terminated or revoked;
- (5) When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the city, the state or the United States government;
- (6) When the licensee has made any false statement in his application;
- (7) Upon the death of the licensee, provided, however, that the licensee may then, upon vote of the council, be reinstated for the balance of the term in the name of the administrator or executor of the estate of the licensee.

(b) Such termination shall be subject only to review by the courts of the state.

(c) When any license is revoked or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to any one claiming under or through him.

(d) Such clauses as hereinbefore described shall not be deemed to be exclusive and such license may be terminated at any time by the council and the license revoked for any cause deemed by the council to be sufficient cause and justified by reason of the public health or public morals.

(Rev. Ords. 1941, §§ 16-213, 16-312; Ord. No. 28, § 1, 1-6-47; Ord. No. 51, § 2, 3-7-49; Ord. No. 364, § 1(16-317), 6-3-77)