

ORDINANCE NO. 317

ALCOHOLIC BEVERAGES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLA, NORTH DAKOTA, THAT ORDINANCES NO. 116, 228, 270, 273, 284, 298, 306 AND 307 AND AMENDMENTS THERETO BE AND THE SAME ARE HEREBY REPEALED AND REENACTED TO READ AS FOLLOWS:

SECTION 1. DEFINITIONS.

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.

Beer shall mean any malt beverage containing more than one-half of one percent ($\frac{1}{2}$ of 1%) of alcohol by volume.

Liquor shall mean any alcoholic beverage except beer.

Wine shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent (24%) alcohol by volume.

Sparkling wine shall mean wine made effervescent with carbon dioxide.

Lodge or club shall mean and include any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports, which has at least seventy-five (75) members at the time a license is applied for pursuant to this chapter, and was in existence at the time of the adoption of the Liquor Control Act of this state. For the purposes of this section, the date of the adoption of the Liquor Control Act of this state shall be November 3, 1936.

Off-sale shall mean and include the sale of alcoholic beverages in the original package for consumption off or away from the licensed premises where sold, including permitted deliveries, and upon which premises the consumption of alcoholic beverages is unlawful.

On-sale shall mean and include the sale of alcoholic beverages for consumption on the licensed premises where sold and shall also include off-sale as defined above.

Package and original package shall mean and include any container or receptacle holding alcoholic beverages which is corked or sealed by the manufacturer and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.

Person shall mean any individual, domestic private corporation organized under the laws of North Dakota, a partnership, all the members of which are residents of the State of North Dakota, an association, a club, a society, or any other organization.

Premises shall mean that distinct portion of the building in which alcoholic beverages are sold or consumed.

Sale shall mean and include any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal proprietor, agent, servant, employee or corporation.

Sell at retail or sale at retail shall mean a sale to a consumer for use or consumption and not for the purpose of resale in any form.

Wholesaler shall mean and include any person engaged in the sale and distribution of liquor at wholesale to persons holding a retail license for the sale and distribution of alcohol and alcoholic beverages within the state or in interstate commerce.

SECTION 2. SALE OR USE ON PUBLIC SIDEWALKS, STREET, ALLEY OR OPEN LOT. PENALTY.

It shall be unlawful for any person to drink or consume any beer or alcoholic beverage, on any public sidewalk, street, alley, or in an open lot without due authorization of the owner or person in possession thereof, or on any parking lot or public grounds at any time, or on any open lot within fifty (50) feet of a licensed premises at any time, in the City of Rolla, and it shall be unlawful for any person to expose to public view any open bottle or open container of such beer or alcoholic beverage in any such place where it may not be lawfully consumed. Any person violating the provisions of this section shall, upon conviction, be punished by a fine not to exceed One Hundred Dollars (\$100.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

SECTION 3. REMAINING IN LICENSED PREMISES AFTER CLOSING HOURS. PENALTY.

A person is guilty of an offense if he remains in an establishment licensed to sell alcoholic beverages at retail, during hours or times when such establishment may not be lawfully open to the public, except that the establishment owner or his employee may so remain for janitorial work, repair work, redecorating or bookkeeping. Any person violating the provisions of this section shall, upon conviction, be punished by a fine of Twenty Dollars (\$20.00). Any police officer of the city is authorized to issue a municipal court summons to any person he finds in apparent violation of this ordinance.

SECTION 4. OWNERS, OPERATORS, EMPLOYEES ALLOWING PERSONS TO REMAIN AFTER CLOSING HOURS. PENALTY.

Any owner, operator or employee of an establishment licensed to sell alcoholic beverages, who knowingly permits and allows a person to remain in the licensed premises after closing hours or during hours when alcoholic beverages may not be sold, is guilty of an offense unless the person so remaining is regularly employed in janitorial, bookkeeping, repair, construction or redecorating work, and remains in the establishment only for the purpose of such work. Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court; the court to have power to suspend such sentence and to revoke the suspension thereof.

SECTION 5. LICENSING.

No person shall sell beer or alcoholic beverages within the City of Rolla without first having obtained a license therefor as herein provided. All licenses granted under the provisions of this ordinance shall expire on the 30th day of June in each year following their issuance.

Amended
Sec. 6
in #331

SECTION 6. LICENSES TO BE ISSUED.

Licenses for the sale of beer, wine, and/or alcoholic beverages at retail as provided in this ordinance shall consist of five kinds, to-wit:

- (1) On-sale licenses,
- (2) Off-sale licenses,
- (3) On-sale dining room-lounge licenses,
- (4) On-sale draught beer licenses, and
- (5) Specialty restaurant licenses.

(A) The licenses hereafter issued defined as "on-sale" licenses shall include the right to sell alcoholic beverages for consumption on the premises for which the license is issued, as well as the right to make sales for consumption off the premises, subject to the regulations provided by ordinance.

(B) The licenses hereafter issued defined as "off-sale" licenses shall include only the right to sell alcoholic beverages for consumption off the licensed premises.

(C) The licenses hereafter issued and defined as "on-sale dining room-lounge" licenses shall include the right to sell alcoholic beverages for consumption on the premises for which the license is issued, only during times when meals or lunches are also being offered for sale on the premises, out of a premises kitchen, and shall include off-sales, all subject to the regulations provided by ordinance. However, food may be served during days and hours when it is not lawful to serve alcoholic beverages. Further, the licensee under an on-sale dining room-lounge license shall have the minimum obligation thereunder to offer food for sale at least during the hours the liquor lounge is open for business, provided, the mayor or council may consent to a closing during special holidays or cleaning or renovating days.

Repealed
Sec. D
in #332

(D) No license shall be issued hereunder for a term of less than one year, except for the period between the time of the filing of the application for a license and a June 30th following, and in such case the license fee shall be prorated if the license applied for is for a successor of a currently licensed business and premises, but the full license fee shall be payable for each new business or premises not succeeding a currently licensed business, and the full license fee shall be payable for any new business taking over the business or premises of a licensee who has lost his license or being closed through legal proceedings. Whenever licenses are prorated, one-quarter of the license fee shall be payable to operate at any time from April 1st to June 30th, one-half of the license fee shall be payable to operate at any time from January 1st to June 30th, three-fourths of the license fee shall be payable to operate from anytime from October 1st to June 30th, and the full license fee shall be payable to operate at any time from July 1st to June 30th following.

(E) The licenses hereafter issued defined as "on-sale draught beer" licenses shall include only the right to sell draught beer for consumption on the premises for which the license is issued provided pizza and similar items are also sold for consumption on the licensed premises. This license shall not permit the sale of bottled beer or any alcoholic beverage except the aforesaid draught beer and this license shall not permit any customer the carry out of draught beer, but requires consumption on the licensed premises.

(F) The "specialty restaurant" license shall be for the sale of tap beer and/or wine to be consumed on the premises in conjunction with the sale of restaurant food. No beer or wine shall be sold for removal from the premises, nor shall any other alcoholic beverage be served or consumed in the restaurant. Such restaurants must be constructed so that minors unaccompanied by adults are seated in an area separate from the area where tap beer and/or wine is served. The hours of sale of the specialty restaurant license shall be restricted to the hours between 10 o'clock A.M. and 12:00 o'clock P.M. The percentage of revenue from the sale of tap beer and/or wine shall not exceed thirty-five percent (35%) of gross sales. The beer and/or wine shall not be served at a counter and may only be served at tables or booths. There shall be no dancing on any premises to which a specialty restaurant license applies. Any applicant for such specialty restaurant tap beer and/or wine license shall be required to submit such evidence as may be required by the City Council for the purpose of determining whether or not such specialty restaurant is constructed or will be constructed to comply with the provisions of this ordinance. Any specialty license issued hereunder shall be cancelled if for any reason said licensee ceases to be qualified as the specialty for which the license was issued.

— (G) License fees shall be as follows:

1. On-sale license \$1500.00
2. Off-sale license \$1000.00
3. On-sale dining room-lounge license \$1500.00
4. On-sale draught beer license \$400.00
5. Specialty restaurant tap beer and/or wine license \$500.00

SECTION 7. APPLICATION.

Any person desiring a license under Section 6 of this Ordinance shall make and file with the City Council an application therefor accompanied by the proper fee, which application shall contain the following information, together with such other information as may, from time to time, be required by the City Council. Such application shall be verified by the person making the same, and if the applicant is a corporation, shall be verified by the president and secretary of the corporation, and if the applicant is a partnership, shall be verified by each member of the partnership. If the applicant is any other organization, the application shall be verified

Repealed
Sec. G
in #332

by the president, secretary and treasurer. The following information shall be required of all applicants and so stated in the application:

(a) The name of the applicant, and if the applicant is a corporation, the name and address of all persons holding one percent (1%) or more of the stock of the corporation, and if the applicant is a partnership, the name and address and residence of each member or person having a financial interest therein.

*Repealed
Sec 75
in # 324*

(b) Whether the applicant is a citizen of the U.S.A. and if a naturalized citizen, the details of such naturalization; whether the applicant is a resident of North Dakota, and the place of residence during the year preceeding the date of the application; if applicant is a corporation, the date and state of incorporation, the authorized capital, the amount of paid in capital, whether the corporation is a subsidiary of any other corporation and, if so, the same details as to the parent corporation together with its name, purpose for which organized, and names and addresses of its officers, directors, and managing agents.

(c) The local by legal description of the place for which the license is sought.

(d) The name and address of the owner of the premises described, and if other than the applicant, then the terms of the lease under which the applicant holds possession of the premises, insofar as the terms of the lease and the rental to be paid are concerned, and the applicant shall when required by the City Council furnish to said City Council a copy of the lease under which he holds possession of said premises. If the license is sought by the owner of the premises sought to be licensed, the applicant shall state the time that he acquired title thereto.

(e) Whether the taxes on such property are delinquent.

(f) Whether the applicant has ever engaged in the sale or distribution of beer or alcoholic beverages prior to such application, and if so, giving the date and type of business and the place where so engaged. If the application is for a renewal license, giving the date the applicant first began to operate.

(g) Whether applicant has ever had a license revoked or cancelled by any municipal, state or federal authority, and, if so, the date, place, authority and reason for such.

(h) Whether the applicant has ever been convicted of the violation of any law of the U.S.A. or any state, or of any ordinance with regard to the manufacture, sale, distribution or possession of intoxicating liquor, beer or alcoholic beverages, and, if so, the dates, names of places and courts in which such convictions were had.

(i) Whether the applicant has ever had a license for the sale of liquor, beer or alcoholic beverages revoked for any violation of the state laws or local ordinances and, if so, the name of the authority revoking such license, the date thereof and the reason therefor.

(j) Whether the applicant has ever been convicted of any other crime than stated in section (h) and (i) above, in this state or any other state or under any federal law, and, if so, the date of such, the name of the crime, the amount and terms of sentence passed, and the Court in which convicted.

(k) The names and addresses of all partners, all members of a partnership having any financial interest in the business, silent or otherwise, and the name and address of the person who will have charge, management or control of the establishment for which the license is sought.

(l) Whether any other person other than applicant has any right, title, estate or interest in the leasehold, or in the furniture, fixtures or equipment for the premises for which license is sought, and, if so, the names and addresses of such persons and a statement of their interest.

(m) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person, partnership or corporation to transfer the license for which application is made, or to obtain for any other person or for any other purpose than for the specific use of the applicant, such license, and, if so, the names and addresses of such other persons or the conditions of such agreement.

(n) Whether the applicant has any interest whatsoever, directly or indirectly, in any other liquor establishment, either at wholesale or retail, within or without North Dakota, and, if so, the names and addresses of such establishments.

(o) List of the occupations which the applicant has followed during the past five years prior to application.

(p) Whether the applicant is engaged in any other business than that for which the license is sought or intends to engage in any other business than the sale of beer and alcoholic beverages under the license applied for, and, if so, the type of business and if any employee, the name and address of the employer.

(q) The classification of license applied for.

(r) If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body, a list of the members belonging to such lodge or club.

(s) The following waiver of illegal search and seizure clause:

"The applicant does hereby consent that the mayor and the police officers of the City of Rolla, or any person or persons duly authorized by the City Council, may enter upon the premises described in this application, at any hour of the day or night and that they shall have free access for the purpose of inspecting said premises and the records of this applicant relating to the purchases and sale of beer, or liquor, whichever is applicable.

"Applicant further understands and agrees that failure of applicant, or applicant's agents or employees to admit to the licensed premises during hours that the licensed establishment is closed, properly identified members of the Rolla Police Department for the purposes of inspection and examination of the licensed premises is ground for suspension or

revocation of the license issued. To effect such suspension or revocation the City Council shall issue a notice of hearing, set forth therein a time and place of hearing, and serve such notice on the applicant at least seven (7) days before the hearing."

(t) Such other information as the City Auditor or City Council may reasonably require.

SECTION 8. BOND.

No license shall be issued until the applicant shall first file with the City a bond issued by some surety company authorized to transact business in North Dakota in the sum of \$1,000.00 for an "off-sale" license and in the sum of \$2,000.00 for an "on-sale" license. Such bond shall be approved as to legality and form by the city attorney and as to sufficiency by the City Council, or in lieu of such bond, cash or bonds of the U.S.A. of a par value of said amounts. The bond shall be conditioned as follows:

(1) That the licensee will obey all laws and ordinances relating to the business licensed.

(2) That the licensee will pay when due, all taxes, personal property taxes on the property used in the business for which license is sought, all license fees, penalties and other charges as provided by law or by this ordinance.

(3) That in the event of any violation of any provisions of the laws of the State of North Dakota relating to the business for which license has been granted for the sale of alcoholic beverages, or in the event of any violation of this ordinance, the licensee will pay all fines and costs assessed against him by any court or authority having jurisdiction over such violation.

(4) That the licensee will pay to the extent of the amount of such bond, any damages for death or injury caused by or resulting from the violation of any provisions of law or of this ordinance relating to the business for which such license has been granted, and further conditioned that such recovery may also be had against the surety of such bond. The amount specified in any bond required hereunder is hereby declared to be a penalty and the amount recoverable shall be measured by the actual damages; and provided that the surety on such bond shall not be liable for any amount in excess of the penal sum of such bond. All such bonds shall be for the benefit of the obligee, to-wit: the City of Rolla, issuing the license and of all persons suffering damages by reason of the breach of the conditions thereof. Such bond shall run to the City of Rolla as obligee. In case of the deposit of government bonds, the licensee shall be permitted to clip and take all interest bearing coupons from such bonds as such time as the bonds indicate such coupons to be payable.

SECTION 9. INSPECTION OF PREMISES.

Prior to acting upon any application received for a license, a transfer of location of an existing license, or an application for a renewal of an

existing license, it shall be the policy of the City Council to require a complete inspection of the building or plans, when new construction, where the proposed business is to be conducted, or is being conducted, whichever is applicable. As applications for a transfer of location, or an application for a new license, or application for renewal of an existing license are received at the office of the City Auditor, such application shall be immediately referred to the building inspector as to the proposed site location and structure thereon. The building inspector shall then fully and completely examine the proposed structure and/plans and make a written report to the City Council with regard to the general condition, light, air, structural soundness, general sanitation, and other items as may be required in the opinion of the building inspector.

SECTION 10. INVESTIGATION OF FITNESS.

The City Council or such other persons or officer as may be designated by the City Council shall, upon the application being filed, investigate the facts as stated in the application, and the character, reputation and fitness of the applicant and shall report all such matters to the City Council.

SECTION 11. LICENSE ISSUED TO WHOM.

No license shall be issued to any applicant unless he be a citizen of the United States of America, or a corporation organized under the laws of North Dakota, or a partnership unless the members are all citizens as aforesaid. No license shall be issued to any person, firm or corporation engaged in business as the representative or agent of another, and the license may be issued only to the owner or owners of the business being conducted at the location for which license is sought. No license shall be issued to any person under the age of 21 years or to any person deemed by the City Council to be morally unfit to engage in the business for which the license is sought.

SECTION 12. TAXES UNPAID.

No license shall be granted to any person where the personal property taxes on the property to be used in such business for which license is sought are delinquent or where the individual seeking the license or any member of a partnership or person financially interested therein has any delinquent personal property taxes whatsoever.

SECTION 13. SELLING OR SERVING WHOM.

No licensee, his agent or employee, shall sell, serve or dispense any beer or alcoholic beverage to any habitual drunkard or person under guardianship, or to any person under 21 years of age, and no licensee shall permit any person under the age of 21 years to be furnished with any liquor on the premises for which the license is granted, and no person under 21 years of age shall purchase, attempt to purchase, receive, or drink or possess any beer or any alcoholic beverage in any public place, or in any place licensed hereunder, or in any street or alley within the limits of this city. No person shall in any way procure, furnish or deliver to any person hereinabove prohibited from being served or purchasing, any beer or alcoholic beverage.

Repealed
Sec. 11
in #324

SECTION 14. PERSONS UNDER 21 NOT ON PREMISES.

No person under 21 years of age shall be permitted to enter any establishment selling, serving or dispensing beer or alcoholic beverages, except that in places where the licensee is engaged in the business of furnishing meals, such person under 21 years of age may enter said premises for the purpose of obtaining meals but shall not be served or purchase or in any manner procure or be permitted by the licensee or his employee in any manner to purchase or procure beer or alcoholic beverage while upon said premises.

SECTION 15. TIME OF SALE.

No licensee shall sell, serve or permit to be sold or served or consumed on the licensed premises, any alcoholic beverages before 8:00 A.M. or after 1:00 A.M. on any day, and at no time may alcoholic beverages be sold, served or consumed on any licensed premises in violation of North Dakota law. The specialty restaurant license is taken care of in Section 6 (f) of this ordinance and therefore the provisions in this section will not apply to the specialty restaurant license.

SECTION 16. NO CONSUMPTION ON "OFF SALE" PREMISES.

No person holding any "off sale" license hereunder shall permit the consumption of beer or alcoholic beverage upon the licensed premises, or the opening of the contents of the original package in which sale is made, on the premises where sold.

SECTION 17. PROHIBITION AS TO PERSONS UNDER 21 YEARS OF AGE. EXCEPTIONS.

Any licensee who dispenses alcoholic beverages to a person under 21 years of age or who permits such a person to remain on the licensed premises where alcoholic beverages are being sold or displayed is in violation of North Dakota law and this ordinance. Any person under 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, if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area and if (1) accompanied by a parent or legal guardian, (2) employed by the restaurant as a food waiter, food waitress, busboy or busgirl under the direct supervision of a person 21 or more years of age and not engaged in the sale, dispensing, delivery or consumption of alcoholic beverages or (3) if the person is a law enforcement officer entering the premises in the performance of official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age.

SECTION 18. TRANSFERRABILITY. No license issued hereunder shall be transferrable to any other person, and no licensee shall be allowed to change his licensed location without first making application and receiving approval of the City Council.

SECTION 19. RESPONSIBLE FOR CONDUCT. 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 he

served beer or alcoholic beverage. No gambling or gambling device shall be permitted on the licensed premises, except as permitted by law, and unlawful gambling on the licensed premises shall be sufficient cause for the revocation of the license issued hereunder.

SECTION 20. INSPECTION, SEARCH.

In addition to the requirements as hereinbefore stated to be set forth in the application made by persons seeking the license herein provided for, such person seeking such license shall state therein that he consents to any police officer, sheriff, or any peace officer of the City of Rolla, County of Rolette, or State of North Dakota, may enter upon the premises licensed hereunder, and any part thereof, at any time, and that such person seeking such license waives all right, constitutional or otherwise, against unreasonable searches or seizures and further consents that any liquor, beer or alcoholic beverage found upon said premises or any property found therein which is so held on said premises in violation of the laws of North Dakota or of this ordinance, may be seized and taken away by such officer, and that such alcoholic beverage or other property so seized may be received in evidence against him in any procedure brought pursuant to the laws of the State of North Dakota or this ordinance.

SECTION 21. LICENSE TO BE POSTED.

Licenses issued hereunder shall be posted in a conspicuous place in the premises licensed.

SECTION 22. ONE LICENSE PER PERSON. Not more than one retail license shall be directly or indirectly issued or granted to any person, nor shall more than one license be issued for one premises.

SECTION 23. STAMP TAX PAID.

No beer or alcoholic beverage shall be permitted to be owned, held or possessed upon any licensed premises unless the stamp tax as provided by the laws of North Dakota has been properly affixed and unless taxes on such beer and alcoholic beverage have been paid, and the possession of any container of any kind in which beer or alcoholic beverage is found which does not bear the proper stamps issued by the State pursuant to law shall be deemed to be illegal and in violation of this ordinance. No licensee hereunder shall purchase, have or possess any alcoholic beverage as defined by the laws of North Dakota, unless he has purchased the same from a wholesaler duly licensed pursuant to the laws of North Dakota, and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages, showing the name and license number of the wholesaler and the name of the authority issuing such wholesale license, and such records shall be retained in possession of the licensee and shall at all times be open to inspection by any police officer or peace officer in the State. Each licensee under this ordinance shall keep a book showing the kinds and quantities of all alcoholic beverages purchased by him, together with the name of the persons from whom purchased, the license number of the wholesaler selling such alcoholic beverage to such licensee, and the name of the authority issuing such wholesale license.

SECTION 24. LOCATION.

No license shall be issued for any building, room or place within 150 feet of any church or school, and in determining such distance, the distance shall be measured by the ordinary route of travel from the nearest point upon the grounds upon which such church or school is located, to the entrance of the premises for which license is sought. No license shall be issued to any applicant outside of the fire limits or areas zoned as business district. No license shall be issued for a basement or below the first floor of any building unless such basement has at least one outside window of at least 4 square feet in area which shall remain unobstructed, said window to be at least one foot in height, and unless such basement has a satisfactory public entrance from the street. No license shall be issued for any premises above the first or ground floor of any building provided, however, that nothing herein shall be construed as to prohibit any hotel keeper or inn keeper holding a license hereunder from delivering alcoholic beverages to duly registered guests in their room in such hotel or inn.

SECTION 25. BOOTHS AND WINDOWS.

No licensee hereunder shall maintain or suffer to be constructed in the licensed premises, any side room, closed booth, or other enclosure for patrons. All booths located in such premises shall be open to the main part of the premises, and shall not have thereon any screen, curtain, partition, door or blind, or any obstruction of any kind preventing clear view into said booth from the main room of the premises. No licensee shall be permitted to place in the windows or doors of the licensed premises, any sign, advertising matter, paper, cards, or any other matter which shall in any manner obstruct the view into the premises and through the same from the street level in front of said premises, and the view from the street level and through the window and door of said premises shall be at all times maintained in an open, clear and unobstructed manner from the street, and no screen, partition or other matter obstructing the view through any portion of the licensed premises shall be maintained at any time.

SECTION 26. REVOCATION OF LICENSE.

Licenses issued pursuant to this ordinance shall be cancelled for the following causes:

- (a) The death of the licensee.
- (b) When the licensee ceases business at the location licensed, and a permit for change of location has been denied.
- (c) When the licensee is adjudged bankrupt.
- (d) When the licensee has been convicted of a violation of any of the provisions of this ordinance or of a felony under the laws of the U.S.A. or of the State of North Dakota, or of any of the other states of the United States.
- (e) When the licensee ceases to be a legal resident of the State of North Dakota, or ceases to be a citizen of the U.S.A.

(f) When the license or permit of the licensee from the U.S.A. to sell alcoholic beverages has been terminated or revoked.

(g) 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.

(h) When the licensee has made any false statement in his application for license hereunder. Such causes as hereinbefore described shall not be deemed to be exclusive, and such license may be terminated at any time by the City Council and said license revoked for any cause deemed by the City Council to be sufficient cause and justified by reason of public health or public morals and subject only to review by the courts of this state. 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 anyone claiming under or through him.

SECTION 27. DISPOSITION OF FEES.

All license fees collected by the City shall be paid over to the City Treasurer and credited to the general fund of the City.

SECTION 28. SANITATION.

All premises licensed pursuant to this ordinance must provide adequate and sufficient lavatories and toilets as may be required from time to time by the City Council.

SECTION 29. DELIVERY IN ORIGINAL PACKAGE.

Beer and alcoholic beverages sold to purchasers shall be delivered by the licensee only in the original package.

SECTION 30. POLICE POWERS. This ordinance is declared to be an exercise of the police powers, directly affecting and designed to promote the peace, safety, public health and public morals and well being of the people of the City.

SECTION 31. SAVING CLAUSE. If any portion of this ordinance shall be adjudged unconstitutional or contrary to the laws of the State of North Dakota, such portion shall not invalidate the remaining portions of this ordinance, and it is hereby expressly declared that all of the remaining portions of this ordinance would have been adopted notwithstanding the invalid portions thereof, and that such portions not declared unconstitutional or contrary to law shall remain in full force and effect.

SECTION 32. SALES PROHIBITED.

The father, mother, husband, wife, of any inebriate, or habitual drunkard, with the approval of the Mayor of the City, or the Mayor and City Council, may notify any licensee in writing not to sell or permit to be sold or dispensed to any such inebriate or habitual drunkard, any beer or alcoholic beverage, and after the serving of such written notice, it shall be unlawful for any licensee or any employee of said licensee to sell, give or dispense, directly or indirectly, to such inebriate or habitual drunkard, any alcoholic beverage or beer.

SECTION 33. REAL ESTATE TAXES UNPAID.

No license shall be granted for either "on sale" or "off sale" of beer or alcoholic beverages, to any person, partnership, or corporation, for any location or place of business when the real estate taxes for said location are delinquent.

SECTION 34. NUMBER OF LICENSES LIMITED.

At no time shall there be in existence more than five combination on and off-sale licenses and dining room-lounge licenses, more than one off-sale license, issued under the provisions of this ordinance.

SECTION 35. SUNDAY CONVENTION PERMIT.

Notwithstanding anything in this chapter to the contrary, the City Council may authorize the issuance of the Sunday convention alcoholic beverage permit to (1) any private club licensee, or (2) any general licensee whose licensed premises is located in a motel under the following conditions or limitations:

(1) The private club or motel will serve as the business meeting site for the holding of a convention which is attended by a substantial number of delegates or registrants from throughout the state or throughout the nation. The word "convention" as used in this section means a meeting of members of an incorporated or unincorporated association organized for civic, fraternal, social, or business purposes, or for the promotion of sports.

(2) A permit issued to a general licensee shall allow the delivery and consumption of alcoholic beverages upon temporary licensed premises only, which premises are specifically reserved for the activities of the convention for which the permit is issued.

(3) The permit issued to a private club shall allow the delivery and consumption of alcoholic beverages within only rooms or places specially reserved for the activities of the convention.

(4) The permits shall allow the delivery and the consumption of alcoholic beverages only during the hours from 12:00 noon Sunday through 1:00 A.M. the next Monday.

(5) The licensee may deliver alcoholic beverages only to persons who are delegates or registrants to the convention and only they may consume alcoholic beverages pursuant to the permit.

(6) Only one permit each calendar year will be issued in respect to any one organization holding a convention and that permit may cover only one Sunday.

The application for a permit shall be made to the City Auditor at least forty-five (45) days before the date for which the permit is requested on such form as he may provide. He may issue the permit upon payment to him of the sum of Twenty-Five Dollars (\$25.00) if the City Council first approves such issuance.

The special permit authorized by this section is designed to create a limited exception to the Sunday closing laws, but not to create an exception to other parts of this chapter, except insofar as an exception must be inferred to accomplish the purpose of this section.

A general licensee when distributing alcoholic beverages pursuant to this section shall not sell alcoholic beverages off-sale and shall not deliver alcoholic beverages beyond the boundaries of the temporary licensed premises covered by the permit.

"General licensee" means a retail licensee other than a lodge or club as defined. "Temporary licensed premises" means commercial property owned or controlled by a general licensee which is located in the same building or complex as his licensed premises, but which does not ordinarily form a part thereof but which commercial property is used on special occasions for the delivery of alcoholic beverages.

SECTION 36. PENALTY.

Any person which or who shall violate any of the provisions of this ordinance, except as otherwise provided in specific sections, shall upon conviction thereof be fined not more than One Hundred Dollars (\$100.00) and costs, or imprisoned not exceeding thirty (30) days, or by both such fine and imprisonment, and in addition thereto the license issued hereunder shall be cancelled or suspended. The court shall have the power to suspend said sentence and to revoke the suspension thereof. The license cancellation or suspension shall be by action of the City Council, after hearing held after 15 days notice.


SECTION 37. EFFECTIVE WHEN.


This ordinance shall be in full force and effect immediately upon its final passage and the publication of its title and penalty clause.

FIRST READING: February 1, 1982, and continued on February 11, 1982

SECOND READING AND FINAL PASSAGE: March 1, 1982

APPROVED: March 1, 1982


s/ DONALD ENGBRECHT
Mayor, City of Rolla, North Dakota

ATTEST:

s/ CAROLINE SIMMERING
City Auditor