

**AMENDED ALCOHOL BEVERAGES ORDINANCE  
(CHAPTER 8, ARTICLE 6)**

EXPLANATION: *Matter in bold italics is new*; Matter with strikeouts (-----) is material to be omitted.

ORDINANCE NO. 2015-2 (MC)

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 6: "ALCOHOLIC BEVERAGES" OF THE MUNICIPAL CODE BY ESTABLISHING NEW AND AMENDING EXISTING LANGUAGE PERTAINING TO: 1) EXPANDING THE CLASSES OF ALCOHOL SALES; 2) MODIFYING EXISTING CAPS ON THE NUMBER OF PERMITS THAT CAN BE ISSUED; 3) RAISING THE YEARLY RENEWAL FEE; 4) ESTABLISHING A NEW "CITY ISSUANCE FEE"; AND 5) OTHER TEXT AMENDMENTS AS APPROPRIATELY RELATED TO ITEMS 1-4. UPON ADOPTION, THE ORDINANCE WILL BE EFFECTIVE TO ALL LANDS LOCATED IN ZONING DESIGNATIONS THAT PERMIT THE SALE OF ALCOHOL WITHIN THE CITY OF BOWMAN AND ITS ½ MILE EXTRATERRITORIAL ZONE IN BOWMAN COUNTY, NORTH DAKOTA, TOGETHER WITH OTHER MATTERS PROPERLY RELATING THERETO.

THE CITY COMMISSION OF THE CITY OF BOWMAN hereby finds, determines, and declares the following:

WHEREAS, it appears in the best interest of the City of Bowman that new regulations pertaining to the sale of alcoholic beverages be adopted; and

WHEREAS, tourism and related entertainment, recreation and hospitality businesses are important to the economic well-being of the City of Bowman; and

WHEREAS, the City Commission recognizes that the selling of alcohol is a legitimate activity, the City also seeks to encourage safe and responsible alcohol practices by consumers and alcohol serving businesses.

WHEREAS, the City desires to set standards that treat businesses that desire to obtain an alcoholic beverage license with parity in its application process and in the manner it dispenses licenses.

WHEREAS, the City seeks to provide additional tools in order to reduce the costly and harmful impacts of irresponsible alcohol sales and consumption practices on local businesses, residents, law enforcement, medical care, education, preventative treatment and rehabilitation resources.

THEREFORE, THE CITY COMMISSION OF THE CITY OF BOWMAN DO ORDAIN:

SECTION 1. Amend Chapter 3, Article 2 "Use and Care Of Streets, Sidewalks and Public Places" as follows:

## **ARTICLE 6   Alcoholic Beverages**

### **8.0601   Definitions** For the purpose of this article:

1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof, whether or not such product is subsequently reduced, for nonindustrial use.
2. "Alcoholic Beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
3. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
4. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine, or alcohol.
5. "Licensed premises" means the premise on which beer, liquor, or alcoholic beverages are normally sold or dispensed and must be delineated by diagram or blueprint which must be included with the license application or the license renewal application.
6. "Liquor" shall mean any alcoholic beverage except beer.
7. "Sparkling Wine" means wine made effervescent with carbon dioxide.
8. "Wine" means the alcoholic beverage obtained by fermentation of agricultural products containing neutral or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.
9. "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.
10. "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.
11. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
12. "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.
13. ***"Off-Sale" shall mean the sale of alcoholic beverages for consumption off the premises. Liquor stores, food markets and convenience stores are examples.***

14. **“Owner” is the person, corporation, partnership, joint venture or other enterprise having lawful possession of the premises upon which the on/off sale establishment is operated.**

15. **“Employee” is the person, corporation, partnership, joint venture or group enterprise legally responsible for the day to day operation of the retail establishment.**

(Revised June 16, 2015)

#### **8.0602 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.

**8.0603 License Required** No person shall sell at retail within the City limits of this City any alcoholic beverage without first having obtained a license **via the Liquor License Application procedure** as herein **described** provided. This section shall not apply to public carriers engaged in interstate commerce.

(Revised June 16, 2015)

**8.0604 Licenses – Class of Fee Classes of Licenses** **Every establishment seeking a license in the City of Bowman shall be identified under one of the following classifications:**

- ~~1. On and off-sale beer and liquor licenses are established at an annual fee of \$900.00.~~
- ~~2. On and off-sale “restricted” beer and wine licenses are established at an annual fee of \$450.00.~~
- ~~3. On sale “Beer and Wine Only” license – restricted is established at an annual fee of \$450.00~~

(Revised August 2010) (Revised June 16, 2015)

1. ***Class I: On-Sale and Off-Sale Liquor and Beer. To any applicant for the retail on-sale and off-sale of both liquor and beer.***
2. ***Class II: On-Sale Liquor and Beer. To any applicant for the on-sale of both retail liquor and beer. Off-sale is not permitted.***
3. ***Class III: Off-Sale Liquor and beer. To any applicant for the off-sale of retail liquor and beer. On-sale is not permitted.***
4. ***Class IV: On-Sale and Off-Sale Wine and Beer only. To any applicant for the on-sale and off-sale of both retail wine and beer only.***
5. ***Class V: On-Sale Wine and Beer only. To any applicant for the on-sale of both retail wine and beer only.***
6. ***Class VI: Off-Sale Wine and Beer only. To any applicant for the off-sale of both retail wine and beer only.***
7. ***Class VII: Eating Establishments. To any applicant operating an eating establishment for retail on-sale only. The food sales must be equal to or greater than fifty (50) percent of the total gross sales of the restaurant. The City may, at its discretion, require certification of any statement of sales by the licensee by a CPA retained and paid by the license holder.***

***Class VII-A: On-Sale liquor and beer.***

***Class VII-B: On-Sale wine and beer only.***

8. ***Class VIII: Hotels/Motels. To any applicant operating a lodging establishment that provides restaurant and/or conference facilities that offer retail liquor and beer for retail on-sale only.***

***Class VIII-A: On-Sale liquor and beer.***

***Class VIII-B: On-Sale wine and beer only.***

9. ***Class IX: Catering-Established Catering Business. To any applicant operating a business that provides food service at a remote site or a site such as a hotel, private home or public building, or other location for a meeting or function where retail liquor and beer will be sold.***

***Class IX-A: On-Sale liquor and beer.***

***Class IX-B: On-Sale wine and beer only.***

10. ***Class X: Other. On sale limited wine and beer for barber shops, beauty shops, massage parlors, juice bars, coffee shops (not including restaurant coffee houses), tearooms, etc.***

***Class X-A: On-Sale liquor and beer.***

***Class X-B: On-Sale wine and beer only.***

**Class X-C: Off-Sale liquor and beer.**

**Class X-D: Off-Sale wine and beer only.**

**11. Class XI: Catering- Event License for an Established Liquor License Holder. To any applicant operating a business that provides food service at a remote or secondary site for a special event where retail liquor and beer will be sold.**

**See Section 8.0605 for “Event Fees” (Revised June 16, 2015)**

**8.0604.1 City Issuance Fee.**

- 1. City Issuance Fee. An applicant who meets the requirements for licensure, and who has not applied for a transferred license, shall pay to the city a “City Issuance Fee” for the liquor license class set forth in this Section.**
- 2. License Transfer. If the applicant is applying for a liquor license transfer, the City Issuance Fee shall be assessed at a rate of fifty percent (50%). At submittal of the application for a liquor license for City Commission review, thirty percent (30%) of the City Issuance Fee shall be paid to the City Auditor. If the City Commission approves the application, the remaining seventy percent (70%) shall be paid prior to the City issuing the liquor license. In the event the liquor license application is not approved, the paid portion of the license (thirty percent [30%]) will be returned to the applicant minus the application processing fee, which is five percent (5%) percent of the City Issuance Fee.**
- 3. License Upgrade. Should an existing license holder want to apply for an upgrade to an existing liquor license, the difference between the existing license and the requested license shall be paid prior to the issuance of the liquor license. Thirty percent of the difference between the licenses shall be paid prior to the City issuing the upgraded license. In the event the liquor license application is not approved, the paid portion of the license (thirty percent [30%]) will be returned to the applicant minus the application processing fee, which is five percent (5%) percent of the City Issuance Fee.**
- 4. City Issuance Fee Classification. The following fees are required:**

<b>Class I</b>	<b>\$10,000</b>
<b>Class II</b>	<b>\$ 7,500</b>
<b>Class III</b>	<b>\$ 7,500</b>
<b>Class IV</b>	<b>\$ 5,000</b>
<b>Class V</b>	<b>\$ 3,500</b>
<b>Class VI</b>	<b>\$ 3,500</b>
<b>Class VII:</b>	
<b>VII-A</b>	<b>\$ 8,000</b>
<b>VII-B</b>	<b>\$ 5,000</b>

<b>Class VIII</b>	
<b>VIII-A</b>	<b>\$ 8,000</b>
<b>VIII-B</b>	<b>\$ 5,000</b>
<b>Class IX</b>	
<b>IX-A</b>	<b>\$ 8,000</b>
<b>IX-B</b>	<b>\$ 5,000</b>
<b>Class X</b>	
<b>X-A</b>	<b>\$ 3,000</b>
<b>X-B</b>	<b>\$ 2,000</b>
<b>Class XI</b>	<b>See Section 8.0605 for "Event Fees"</b>

*(Revised June 16, 2015)*

**8.0604.2 Annual Fees (Renewal). Annual Fees for renewing an alcohol beverage license issued pursuant to this chapter are as follows:**

<b>Class I</b>	<b>\$950</b>
<b>Class II</b>	<b>\$800</b>
<b>Class III</b>	<b>\$800</b>
<b>Class IV</b>	<b>\$700</b>
<b>Class V</b>	<b>\$500</b>
<b>Class VI</b>	<b>\$500</b>
<b>Class VII</b>	
<b>VII-A</b>	<b>\$500</b>
<b>VII-B</b>	<b>\$300</b>
<b>Class VIII</b>	
<b>VIII-A</b>	<b>\$500</b>
<b>VIII-B</b>	<b>\$300</b>
<b>Class IX</b>	
<b>IX-A</b>	<b>\$500</b>
<b>IX-B</b>	<b>\$300</b>
<b>Class X</b>	
<b>X-A</b>	<b>\$400</b>
<b>X-B</b>	<b>\$200</b>

*(Revised June 16, 2015)*

**8.0605 Event Fees. Event Fees for an alcohol beverage licensee issued pursuant to this chapter are as follows:**

11. **Class XI**

<b>XI-A</b>	<b>\$200 per each event application</b>
<b>XI-B</b>	<b>\$100 per each event application</b>

*(Revised June 16, 2015)*

### **8.0605 License – Limit of Number**

1. ~~On and off sale beer and liquor license — five (5)~~
2. ~~Off sale beer and wine licenses — “restricted” two (2). The restricted license shall authorize the off sale beer and wine only.~~
3. ~~On sale “Beer and Wine Only” license — “restricted” one (1). The restricted license shall authorize the “on-sale” of beer and wine only.~~

(Revised August 2010) *(Revised June 16, 2015)*

### **8.0606 Licenses – Term of**

1. All licenses issued hereunder shall be for a period of not more than twelve (12) months and shall expire on December 31<sup>st</sup>. Where a license is granted for a period less than twelve **(12) months, it** shall expire on December 31<sup>st</sup>. Where a license is granted for a period less than twelve (12) months, any subsequent renewal thereof must be made for the full annual term.

*(Revised June 16, 2015)*

2. If an application is made for license hereunder during the annual period for the unexpired portion of such half years the fees for said license shall be proportional to represent the number of whole months which said license will be in effect.
3. In the event ~~that~~ **that** an existing license holder fails to renew their license within the period **forty-five (45) days as** prescribed by the notice to renew sent to them by the City Auditor, the City of Bowman may choose not to renew the license or, in the event the City of Bowman does choose to renew the license, the cost **for the renewal** of the license shall be doubled. **If no renewal is granted, and/or no payment is made within seventy-five (75) days after the notice has been received, termination of the license is automatic, and no revocation proceedings are required by the City Commission. The business will be required to re-establish and comply with all provisions of this ordinance as a new licensee, including paying the City Issuance Fee and the application fee. Additionally, the business shall be required to comply with and abide by the amended zoning regulations set out.**

(Revised 10-20-09) *(Revised June 16, 2015)*

4. **In the event that an existing “grandfathered” license holder (a holder who was in business prior to the establishment of the City Issuance Fee, and therefore was not required to pay such fee) fails to renew their license within forty-five (45) days as the period prescribed by the notice to renew sent to them by the City Auditor, the City of Bowman may choose not to renew the license or, in the event the City of Bowman does choose to renew the license, the cost for the renewal of the license shall be doubled. If no renewal is granted and/or no payment is made within seventy-five (75) days after the notice has been received, termination of the license is automatic and no revocation**

***proceedings are required by the City Commission. The business will lose its designation as “grandfathered” and will be required to re-establish and comply with all provisions of this ordinance as a new licensee, including paying the City Issuance Fee and the application fee. Additionally, the business shall be required to comply with the amended zoning regulations set out.***

*(Revised June 16, 2015)*

**8.0607 License – Qualification for** No retail license shall be issued to any person/***applicant*** unless the ***person***/***applicant*** shall files a sworn application, accompanied by the required fee, showing the following qualifications:

*(Revised June 16, 2015)*

1. The applicant, other than corporate, must be a legal resident of the United States and the State of North Dakota and be a person of good moral character.
2. If applicant is a corporation, the manager of the licensed premises and the officers, directors and stockholders must be local residents of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of State.
3. The applicant or manager must not have been convicted of an offense determined by the governing body to have a direct bearing upon an applicant’s or manager’s ability to serve the public as an alcoholic beverage retailer.
4. The building in which business is to be conducted must meet local and state requirements’ regarding sanitation and safety.
5. Taxes on property for which application for license is made must not be delinquent.
6. If applicant’s place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.
7. The applicant may not have any financial interest in any wholesale alcoholic beverage business.

**8.0608 Application for Liquor License** Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the governing body of this City, filed with the City Auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a

period of one (1) year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.

3. The legal description and the address of the premises for which license is sought.
4. A diagram or blueprint of the building or property showing the area to be designated as the licensed premises. If any interior structural changes occur during the licensure year, **the applicant shall** submit ~~a~~ **and** new drawing to **the Planning and Zoning Office City Hall** as soon as possible.

*(Revised June 16, 2015)*

5. 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.
6. Whether there are any delinquent taxes against the premises sought to be licensed.
7. 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.
8. Whether the applicant **has** ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority cancelling the same, and the reason for such cancellation.
9. 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 the place, and courts, in which said convictions were had.
10. 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.
11. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) here-of, 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.

12. The name and address and the place of residence for a period of one (1) 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.
13. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures, or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest.
14. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provisions is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, and within the borders of the United States.
15. The occupations which the applicant has followed during the past five years.
16. The names and address of at least three (3) business references.
17. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
18. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.
19. The classification of license applied for.
20. If the applicant is a lodge or 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.
21. A statement by the applicant that they or their employees consent to entry and inspection of the premises for which a license is sought or any part thereof at any time by any police officer, sheriff, or any peace officer to the City of Bowman or the State of North Dakota. Failure to abide by **these requirements and therefore** deny entry into premises, ~~or by not~~ **or failure to** answering an officers request to gain entry, when evidence supports that an applicant or employee/s are inside the establishment, shall be considered a violation and a report shall be submitted per **8.0609 License – Application Fitness**.

*(Revised June 16, 2015)*

\*\*It shall be the responsibility of the applicant and his or her employees to report as soon as practical to law enforcement, matters involving violent acts occurring in or on the applicant's licensed property. The manner of violent acts that shall be reported as soon as practical are physical assaults, threats of physical assaults, sexual assaults, or threat of sexual assault or any crimes that would result in injury or threats of injury. Failure to report on said acts shall be submitted by report per **8.0609 License – Application Fitness**.

22. Such other and further information as the governing body may from time to time require.

23. Whether any applicant has any financial interest in any wholesale alcoholic beverage business.

(Revised 11-19-2013) (*Revised June 16, 2015*)

**8.0609 License – Application Fitness** The Chief of Police or such other person or officer as may be designated by the governing body shall, upon the filing of an application investigate the facts as stated in the application and the character, reputation and fitness of the applicant, and shall report on said matters to the governing body.

**8.0610 License – Location of** No license shall be issued or transferred to any person, firm or corporation to engage in the sale of alcoholic beverages or beer within the City without approval as to the location of said licensed business by the governing board. The application for approval shall be in writing filed with the board. At the time of hearing the board shall, in its discretion, determine if said location is in harmony with the public interest and welfare of the community, and shall consider among other things the following factors:

1. The convenience of police regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. ***Zoning Regulations, including the requirement for successfully obtaining a conditional use permit when required.***
5. Proximity of schools, churches, funeral homes, public buildings, or buildings used by or for minors.
6. Any protests of neighboring property owners or occupants.
7. ~~Zoning regulations.~~
8. Proposed on or off-sale or both licensee.
9. Interference with or proximity to residential property.
10. Interference with neighboring property.

11. Suitability of premises for sale of beer, liquor or alcoholic beverages.

12. Public convenience and necessity.

(Revised June 16, 2015)

**8.0611 License – Granting** After the governing body of the City has received the application as provided herein they shall meet and consider the same. If they find that the applicant meets the qualifications for a license and are satisfied as to the completeness and the accuracy of the information contained in the application, they may grant the license. If they find that the applicant does not meet with the qualifications of they are not satisfied as to the completeness or accuracy of the information they may request that the applicant supply more verified information to the governing body or they may reject the application.

**8.0612 License – Limit to One Applicant** Not more than one license of each classification shall be issued or granted to any location; and each license shall be valid only for the specific premises licensed. (Revised 5-16-2006)

**8.0613 License – Posting of** License issued here under shall be posted in a conspicuous place in the premises for which the license has been issued.

**8.0614 License – Transfer of** ~~No~~ ***An existing license for an existing establishment may be transferred to a new business owner*** under the provisions of **Section 8.0604.1, Subsection 2.** ~~This article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this article~~ ***includes, but is not limited to successful approval of an application with background check by the City Commission and the payment of required fees. The transfer shall occur within 180 days of the closure of any business operating under an existing approved license. After 180 days of closure, no transfer may occur and all provisions of this Article and all provisions of the zoning ordinances must be met.***

(Revised June 16, 2015)

**8.0614.1 License – New Location** ***An existing license for an existing businesses may move to a new location providing that all zoning regulations and their associated fees be met. This includes, but is not limited to locational requirements and the successful approval of a conditional use permit.***

(Revised June 16, 2015)

**8.0615 License Fees – Disposition of** All ***“Annual”*** license fees collected under this article shall be transferable to the Auditor of this City and credited to the general fund of the City. ***All “City Issuance Fees” collected under this article shall be transferable to the Auditor of this City and credited to the “Alcohol Education and Awareness Fund” to be utilized by the Bowman Police Department for education, equipment and law enforcement purposes related to the use and abuse of alcohol.***

(Revised June 16, 2015)

**8.0616 Hours and Time of Sale** Anyone who dispenses or permits the consumption of alcoholic beverages on licensed premises between one o'clock a.m. and twelve o'clock p.m. on Sundays or between the hours of one o'clock a.m. and eight o'clock a.m. on all other days of the week or who dispenses or permits such consumption after one o'clock a.m. on Thanksgiving Day, on Christmas Day, or after six o'clock p.m. on Christmas Eve is guilty of an offense.

(Source: North Dakota Century Code Section 5-02-05, 5-02-05.1) (Revised 3-01-2008)

**8.0616.1 Hours of Operation of Licensed Premises** All licensed premises under this article shall be closed between the hours of one a.m. and eight a.m. on Monday through Saturday. On Sunday, all licensed premises under this article shall be closed between the hours of one a.m. and twelve p.m. Any licensee who permits persons to remain on the licensed premises between the specified closed hours shall be guilty of violation of this article.

(Revision effective 3-01-2008)

**8.0616.2 Sunday Alcohol Beverage Permit** REPEALED by Enactment of 8.0616 (3-01-08)

**8.0617 Licensee's Responsibility** 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, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.

**8.0618 Gambling Prohibited – Exceptions** No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board, or any other machine or device of similar nature, nor shall gambling, whether by cards, dice, or otherwise, of any nature, be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder, and such license shall be revoked upon conviction of any such violation. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting license issued by the State of North Dakota.

**8.0619 Cashing Certain Checks Prohibited – REPEALED 1991**

**8.0620 Sales Prohibited – Items REPEALED 1991**

**8.0621 Sales Prohibited – Persons** No licensee, his agent, or employee shall sell any alcoholic beverages to an person under twenty-one (21) years of age, a habitual drunkard, an incompetent or an intoxicated person.

**8.0622 Minors on Licensed Premises** No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

**8.0623 Age Identification** Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises a licensee, his agent or employee, may require a driver's license or other State issued ID. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this article.

(Revised 11-19-13)

**8.0624 Sales, Open Container or Consumption Prohibited** The sale, consumption, or possession of an open container of any alcoholic beverage upon any sidewalk, street, alley, parking lot, to which the public has right of access to, or public way or public property within the city limits is prohibited. Upon approval by the City Commission at a regularly scheduled board meeting, portions of this ordinance may be suspended for a specified length of time during special community events, promotions or celebrations.

(Enacted 4-03-2001)

**8.0625 Premises, Equipment of** Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths, and stools in a sufficient number to *reasonably* accommodate ~~reasonable~~ the patrons.

**8.0626 Closed or Screened Areas** No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths, or other screened enclosures, nor shall any screen, partition, curtain, blind, or obstruction of any kind, prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

**8.0627 Purchase from Licensed Wholesaler REPEALED 2003**

**8.0628 Toilets Required** That the premises where on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, is not, at all times strictly observed.

**8.0629 Termination or Revocation of Licenses**

1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:
  - a. The death of the licensee unless upon application to the governing body by personal representative of the decedent, the governing body shall consent to the carrying on of the business by the personal representative.
  - b. When the licensee ceases business at the location licensed, unless a new location has been approved.

- c. When the licensee be adjudged bankrupt.
- d. When the licensee has been convicted of the violation of any provisions of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages, or of a felony under the laws of the United States, the State of North Dakota, or of any other state of the United States.
- e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
- f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or been revoked.
- g. When the licensee does not pay all associated fees required to maintain the license as specified in Sections 8.0606, Subsections (3) and (4).**

*(Revised June 16, 2015)*

2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:
  - a. When the licensee has been convicted of violating any of the provisions of this article.
  - b. 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.
  - c. When the licensee, if an individual, or one (1) of the partners, if the licensee be a partnership, or one of the officers or manager if the licensee be a corporation, be convicted in the municipal court of the City of drunkenness or disorderly conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.
3. Such causes as are herein before detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by governing body for any cause deemed by said governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
4. When any license is terminated or revoked for cause. No portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.
5. If the licensee voluntarily ceases his business due to the sale of said business to another entity; the license fee will be refunded at a prorated monthly rate to the licensee.

*(Revised 1-7-14)*

**8.0630 Penalties** Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed **Two-thousand dollars (\$2000.00)** and in addition to such fine all powers, right, and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with section 8.0629 of this article.

(Revised 4-03-2001) (*Revised June 16, 2015*)

SECTION 2. This Ordinance shall be in effect from and after its passage, adoption and publication in one issue of the City's official newspaper, The Pioneer, printed and published in the City of Bowman.

SECTION 3. The City Zoning Director of the City of Bowman is hereby authorized and directed to have this Ordinance published in one issue of the Bowman Pioneer, a newspaper printed and published in the City of Bowman.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote of the Commission:

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED this \_\_\_\_\_ day of June, 2015.

PRESIDENT OF THE CITY OF BOWMAN CITY COMMISSION

\_\_\_\_\_  
LYN JAMES, PRESIDENT

ATTEST:

\_\_\_\_\_  
ZONING DIRECTOR

\_\_\_\_\_  
CITY AUDITOR

OF THE CITY OF BOWMAN, NORTH DAKOTA

EFFECTIVE DATE: