



CHAPTER 8 BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 **General Provisions**

8.0101 **Licenses** Unless otherwise specifically provided licenses and permits required for the carrying on of a business or trade within the city shall be applied for, issued, terminated and revoked according to the provisions of this article.

8.0102 **Licenses – Application** Any person desiring a license or permit under any ordinance of the city shall make a written application to the city there fore upon application blanks furnished by the City Auditor and file the same with the City Auditor, stating the purpose for which the same is desired, for what length of time, and specifying the place where his business is to be carried on; if required to file a bond before being licensed he shall also name is proposed sureties on his bond in his application.

8.0103 **Licensing – Granting** The City Auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If he shall not feel authorized to grant any particular application upon the terms and conditions specified by ordinance, he shall report such application to the next meeting of the governing board for their action thereon.

8.0104 **License – Term**

1. No license or permit shall be granted for a longer period that (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and the first day of July and expire on the last day of June and the last day of December respectively.
3. No license or permit shall be valid until signed and sealed nor shall any persons be deemed licensed until a license shall be duly issued to him.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced; if the business calls for a yearly license then a license shall commence on the first day of January in the year for which the license shall be issued.

5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

8.0105 License – Not Transferable No license or permit shall be assignable or transferable except by permission of the governing board. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The city may grant the continuance of the business licensed to any other portion of the city, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

8.0106 Licenses – Revocation All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the city's governing body. Any person who shall violate any provision of this article relating to his license may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked or forfeited in the discretion of the governing body or the court before which any action may be brought for the recovery of any fine or penalty.

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

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

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

8.0107 Licenses – Posting of All licenses and permit issued by the city for the operation of any business establishment, trade or any part of the operation thereof, shall be posted in a conspicuous place in the main business establishment. Where badges representing permits or licenses are issued to be worn by an individual such licensee shall wear such badge during the normal course of employment for which said badge was issued.

8.0108 Licenses – Short Term No license unless otherwise specified shall be issued for a fractional part of the year, but shall relate back if taken out subsequent to the first day of January of each year.

8.0109 Licenses – Enforcement All city officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the licenses premises with or without a search warrant to check for violations of ordinances or state laws by the licenses.

ARTICLE 2 Transient Merchants

8.0201 Definitions For the purpose of this article:

1. “Transient merchant” includes any person, individual, co-partnership or corporation, or limited liability company, either as principal or agent, who engages in, does, or transacts any temporary or transient business in the City of Bowman or within one-half (1/2) mile of the municipal limits, either in one locality, or in traveling from place to place selling, or soliciting orders for future delivery of, goods, wares, merchandise, personal property and personal services including spraying, trimming, or pruning of trees and shrubs of all species, painting or repairing buildings or structures, pest or rodent control, and taking photographs of present or future delivery, who does not intend to become and does not become a permanent merchant of the City of Bowman and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicle for the exhibition and sale of such goods, wares and merchandise. The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.
2. “Merchandise” does not include any livestock or agricultural product. (Revised 4-03-2001)

8.0202 License Required It shall be unlawful to do business in the city as a transient merchant without having first secured a license therefore as in herein provided. For the purpose of this article any merchant engaging or intending to engage in business as a merchant in the city for a period of time not exceeding 100 days shall be considered as a transient merchant, provided that peddlers shall not be considered transient merchants.

8.0203 License Fee The license fee to be required of all transient merchants for the transaction of such business within the city, is contemplated in and provided for in and by section 51-04-09, North Dakota Century Code, is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the city.

8.0204 License – Application for Applicants for license under this article, whether an individual, co-partnership or corporation, shall file a written sworn application signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, with the city auditor, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address, and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city;
3. The residence, business address, and type of business in which applicant has been engaged in the previous two (2) years;
4. The residence, business address, and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two (2) years;
5. The place or places in the city, where it is proposed to carry on applicant's business the length of time during which it is proposed that said business shall be conducted;
6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant, in the city, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

8.0205 Bond Before any license shall be issued to a transient merchant for engaging in business in this city, the applicant therefore shall file with the City Auditor a bond running to the

city in the sum of \$1,000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years' time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be canceled has been given to the City Auditor; said bond to be approved by the City Attorney, conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of the city and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said application for any violation of said ordinances or statutes, or any of them, together growing out of any together with all judgments and costs that may be recovered against him by any person or persons for misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentation or deceptions were made or practiced by the owners or by their servants, agents, or employees, of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person.

8.0206 Service of Process Before any license has herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this city, such applicant shall file with the City Auditor an instrument nominating and appointing the City Auditor his true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by this article, or for the performance of the conditions of bond or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the said license under this article, according to the law of this state or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the City Auditor, as herein provided, the City Auditor shall send to the licensee at his last known address, by registered mail, a copy of said process.

8.0207 Exhibiting License The license issued under this article shall be posted conspicuously in the place of business named therein. In the event that such person or person applying for said license shall desire to do business in more than one place within the city, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

8.0208 Transfer No license issued to a transient merchant in the city shall be transferred.

8.0209 Enforcement by Police It shall be the duty of the police officers of the city to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating the same. The City Auditor shall deposit with the Chief of Police a record of each license number, together with the location with the city of the business licensed thereunder to assist and promote such enforcement.

8.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the governing body of the city, after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, ware, or merchandise;
 - c. Any violation of this article;
 - d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or;
 - e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licenses at his last known address, at least five (5) days prior to the date set for the hearing.

8.0211 Expiration of License All licenses issued under the provisions of this article shall expire at the expiration of the period for which application has been made and prepaid, to be renewable by the City Auditor upon application and payment therefore.

ARTICLE 3 Hawkers and Peddlers

8.0301 Definitions The word “person” as used herein shall include the singular and the plural and shall also mean and include and person, firm or corporation, association, club, co-partnership or society, or any other organization. The words “hawker” and “peddler” as used herein shall include any person, whether a resident of the city or not, traveling by food, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who without traveling from place to place, shall sell or offer the same for sale from an automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits as a part of a scheme or design to evade the provisions of this article shall be deemed a hawker or peddler subject to the provision of this article.

8.0302 License Required It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefore, except for items stated in 8.0303.

8.0303 Exceptions No license shall be requested for peddling, vending or marketing farm products raised in the State of North Dakota, fish, vegetables, fruits, nuts, cake, candy, ice cream, or other light products or refreshments.

8.0304 License – Application for Application for license under this article must file with the City Auditor a sworn application in writing, which shall give the following information:

1. Name, age and sex of the applicant;
2. Address (legal and local);
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to business is desired;
6. If a vehicle is to be used, a description of the same, together with license number; and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed, therefore.

8.0305 Fees The license fee to be required of all hawkers and peddlers for the transaction of business within the city shall be in the sum of \$25.00 per day for each day or portion of the day which any such hawker or peddler shall transact business in the city.

8.0306 Exhibition of License Hawkers and peddlers are required to exhibit their licenses at the request of any citizen.

8.0307 Transfer No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

8.0308 Use of Streets No hawker or peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted to a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public.

For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

8.0309 Enforcement It shall be the duty of any police officer of this city to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this article against any person found to be violating the same.

8.0310 Revocation

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

ARTICLE 4 Runners, Solicitors and Canvassers

8.0401 Definitions A “runner”, “canvasser”, or “solicitor” is defined as any individual whether resident of the city or not, traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself, or for another person, firm, or corporation,

hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

8.0402 Exceptions No license shall be required hereunder for runners, solicitors, or canvassers of regular retailers of goods, wares and merchandise, and personal property, but only for those runners, solicitors, and canvassers selling directly to the consumer.

8.0403 License Required It shall be unlawful for any person to engage in the business of runners, solicitors and canvassers of any merchandise, article or thing without having first secured a license therefore.

8.0404 License – Application for Applicants for license under this article must file with the City Auditor a sworn application in writing, which shall give the following information:

1. Name age and sex of the applicant;
2. Address (legal and local);
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number; and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and punishment or penalty assessed therefore.

8.0405 Fees The license fee to be required of all runners, solicitors and canvassers for the transaction of business within the city shall be in the sum of \$25.00 per day for each day or portion of the day which such runner, solicitor or canvasser shall transact business in the city.

8.0406 Exhibition of License Runners, solicitors, and canvassers are required to exhibit their licenses at the request of any citizen.

8.0407 Transfer No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

8.0408 Use of Streets No runner, solicitor, or canvasser shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might be impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

8.0409 Enforcement It shall be the duty of any police officer of this city to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this article against any person found to be violating the same.

8.0410 Revocation

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

ARTICLE 5 Solicitation Without Invitation

8.0501 Definition The practice of going in and upon private residence or privately owned property in the city by solicitors, peddlers, hawkers, itinerant merchants, transient vendors or merchandise, photographers and magazine and periodical subscription agents, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private

residences or private property, for the purpose of soliciting orders for the sale of goods, wares, and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or periodicals and/or for the purpose of taking photographs is hereby declared to be nuisance and unlawful.

8.0502 Enforcement The Chief of Police and all police officers in the City are hereby required and directed to suppress the same and to abate any such nuisance as described in 8.0501.

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” means any malt beverage containing more than one-half (1/2) of one (1) 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” means 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 (24%) alcohol by volume.
9. “Alcohol Tastings” means alcohol is poured in minimal amounts allowing customers to taste the product prior to purchase. Typical amounts include two (2) ounces for wine; four (4) ounces of beer and one (1) ounce of liquor and fortified wine. Tastings may occur at any on-sale or off-sale site, and may not be charged for. (Revised July 18, 2017)
10. “Package” and “original package” means 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.

11. "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 two-hundred (200) members at the time of application for license and which was in existence on November 3, 1936.
12. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
13. "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.
14. "Off-Sale" shall mean the sale of alcoholic beverages for consumption off the premises. Liquor stores, food markets and convenience stores are examples.
15. "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.
16. "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)
17. "Conditional Use Permit" is a review process of the applicant's requests during a public hearing before the Planning and Zoning Commission. The Commission may specify conditions for which the liquor or beer outlet may operate under and will render a decision of approved, approved with conditions, or denied based on the merits of the application. The Planning and Zoning Commission decision may be appealed to the City Commission by any aggrieved party. Conditional Use Permits are required for all alcohol licenses except Class IX specified in Section 8.0604.

(Revised June 16, 2015) (*Revised July 18, 2017*)

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. This section shall not apply to public carriers engaged in interstate commerce. (Revised June 16, 2015)

8.0604 Licensing Classifications Every establishment seeking a license in the City of Bowman shall be identified under one of the following classifications listed below. You must have one (1) or more of the licenses below to serve alcohol tastings as defined in Section 8.0601(9).

(Revised August 2010) (Revised June 16, 2015) (*Revised July 18, 2017*)

1. Class I: On-Sale and Off-Sale Liquor and Beer. Issued to any applicant for the retail on-sale and off-sale of both liquor and beer.
2. Class II: On-Sale Liquor and Beer. Issued 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. Issued 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. Issued 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. Issued to any applicant for the on-sale of both retail wine and beer only.
6. Class VI: Off-Sale Wine and Beer only. Issued to any applicant for the off-sale of both retail wine and beer only.
7. Class VII: Eating Establishments. Issued 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. Issued to any applicant operating a lodging establishment that provides restaurant and/or conference facilities that offer retail liquor and beer for 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 (No Conditional Use Permit Required). Issued to any applicant operating a business that provides food and alcohol service at a remote site or a site such as a hotel, private home, place of business, a building open to the public, at a public park (please see requirements for parks below) or other location for a meeting or function where retail liquor and beer will be sold. This license is exempt from the Conditional Use Permit requirement since the point of sale of alcohol changes. For remote events that are located in the City's public parks, the City of Bowman's "Remote Alcohol Service Permit" must be obtained, completed and approved by the Chief of Police, City Auditor, or Planning and Zoning Director three (3) days prior to the event. Multiple events may be requested. If not completed, furnished and approved by the City, the event could be cited under the provisions of the Municipal Code, which includes, among other items, citations for outdoor events under the "open container" provisions (the responsible party will be the name and/or organization listed on the Remote Alcohol Service Permit unless the Bowman Police Chief determines otherwise):

(Revised July 18, 2017)

- a. First offence. The business owner will be given a warning.
- b. Second offence. The business owner will be issued a Notice of Violation, and potentially cited under the "open container" law. The business owner must work with the Chief of Police to provide corrective measures acceptable to the City of Bowman.
- c. Third offence. The business owner could have their Alcohol License revoked by the City Commission for non-compliance. If revoked, the business owner cannot re-apply for another license until thirty (30) days transpire. No new fee will be required if the license is renewed.

(Revised July 18, 2017)

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

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

10. Class X: Other. Issued for on-sale and off-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 and Off-sale wine and beer only.

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

Class X-C: Off-Sale wine and beer only.

11. Class XI: Catering – Remote Event License for an Established Liquor License Holder who has a business approved for on or off-site sales under the classifications of 1-9 (I-X) listed in this section. Issued to any applicant operating a business under the classifications of one (I) through nine (9) specified above in this section that also provides off-site catering services at a remote or secondary site for an event where retail liquor and beer will be sold. For remote events located in the City's public parks, the City of Bowman's "Remote Alcohol Service Permit" must be obtained, completed and approved by the Chief of Police, City Auditor, or Planning and Zoning Director three (3) days prior to the event. Multiple

events may be requested. If not completed, furnished and approved by the City, the event could be cited under the provisions of the Municipal Code, which includes, among other items, citations for outdoor events under the “open container” provisions (the responsible party will be the name and/or organization listed on the Remote Alcohol Service Permit unless the Bowman Police Chief determines otherwise):

- a. First offence. The business owner will be given a warning.
- b. Second offence. The business owner will be issued a Notice of Violation. The business owner must work with the Chief of Police to provide corrective measures acceptable to the City of Bowman.
- c. Third offence. The business owner could have their Alcohol License revoked by the City Commission for non-compliance. If revoked, the business owner cannot re-apply for another license until thirty (30) days transpire. No new fee will be required if the license is renewed.

(Revised June 16, 2015) (Revised July 18, 2017)

8.0604.1 “Alcohol Limited Event Permit” for Non-Liquor Licensees (No Fees).

1. Issued to any non-liquor license holder that will serve alcohol at a public park. Businesses, organizations or individuals serving alcohol at functions held in City parks must have an “Alcohol Limited Event Permit” (no fee is required). The Alcohol Limited Event Permit form must be obtained, completed and approved by either the Chief of Police, City Auditor, or Planning and Zoning Director three (3) days prior to the event. If not completed, submitted and approved by the City, the event could be cited under the “open container” provision in the Municipal Code. The citation will be issued to the responsible party or organization listed on the form unless the Bowman Police Chief determines otherwise.

(Revised July 18, 2017)

8.0604.2 Alcohol Service and Pour Areas.

1. All licensees listed in Section 8.0604(1-11) shall prohibit the access of minors to the area/s where alcohol is poured.

(Revised July 18, 2017)

8.0604.3 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 (30%) 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%) of the City Issuance Fee.
4. City Issuance Fee Classification. The following fees are required:

Class I	\$10,000
Class II	\$ 7,500
Class III	\$ 7,500
Class IV	\$ 5,000
Class V	\$ 3,500
Class VI	\$ 3,500
Class VII:	
VII-A	\$ 8,000
VII-B	\$ 5,000
Class VIII	
VIII-A	\$ 8,000
VIII-B	\$ 5,000
Class IX	
IX-A	\$ 8,000
IX-B	\$ 5,000
Class X	
X-A	\$ 4,000
X-B	\$ 3,000
X-B	\$ 2,000
Class XI	No Fee

(Revised June 16, 2015) *(Revised July 18, 2017)*

8.0604.4 **Annual Fees (Renewal)** Annual Fees for renewing an alcohol beverage license issued pursuant to this chapter are as follows:

Class I	\$950
Class II	\$800
Class III	\$800
Class IV	\$700
Class V	\$500
Class VI	\$500
Class VII	
VII-A	\$500

VII-B	\$300
Class VIII	
VIII-A	\$500
VIII-B	\$300
Class IX	
IX-A	\$500
IX-B	\$300
Class X	
X-A	\$500
X-B	\$300
X-C	\$200
Class XI	No Fee

(Revised June 16, 2015) (Revised July 18, 2017)

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 31st. Where a license is granted for a period less than twelve (12) months, it shall expire on December 31st. 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 licensure 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 an existing license holder fails to renew their license by not remitting their annual fee by December 31st as prescribed by the notice to renew sent to them by the City Auditor, revocation of the license shall be automatic.

(Revised 10-20-09) (Revised June 16, 2015, and on August 8, 2017)

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 by not remitting their annual fee by December 31st, as prescribed by the notice to renew sent to them by the City Auditor, revocation of the license shall be automatic.

(Revised June 16, 2015, and again on August 8, 2017)

8.0607 License – Qualification for No retail license shall be issued to any person/applicant unless the person/applicant 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 or exterior improvements are desired during the licensure year, the applicant shall submit a new floor plan to the Planning and Zoning Office prior to constructing said improvements for review and approval.
(Revised June 16, 2015) (Revised 8/18/20)
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 (5) 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 failure to answer 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. Proposed on or off-sale or both licenses.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. 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 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 (1) 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 An existing license for an existing establishment may be transferred to a new business owner under the provisions of Section 8.0604.3, Subsection (2). 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. *No conditional use permit is required.*

(Revised June 16, 2015) (Revised July 18, 2017)

8.0614.1 License – New Location An existing license for an existing business 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 a 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 Outdoor 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.

8.0624A Outdoor Sales, Open Container or Consumption Prohibited - Exceptions

1. 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)

2. On-sale establishments that have outdoor seating with a railing system that was approved by the City Commission, are exempt from Section 8.0624 as long as they are contained within the railing system. Access to this outdoor seating must be accessed from inside of the licensed establishment and the railing system must have an escape route in case of fire or an emergency. This escape route gate must be accessible from the interior side only. (Enacted 8/18/20)

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 the patrons.

(Revised July 18, 2017)

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.

If the on-sale licensed establishment has an exterior floor plan where alcohol is served, that area must be monitored by means of a view through window or by video camera monitored by employees at the main alcohol pour area. (Enacted 8/18/20)

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 anyone (1) 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 managers 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 (\$2,000.00) 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)

ARTICLE 7 Shows, Carnivals and Circuses

8.0701 License Required No person, firm, association or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural or artificial curiosity or conduct a circus, menagerie, tent show, carnival, or carnival shoe, continuous theatrical performance, shooting gallery, or other like exhibition without first obtaining license from the city.

8.0702 Fees for The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as follows:

Any carnival, per day...\$50.00

Any circus, per day...\$100.00

In addition to the above fees any carnival or circus granted a license shall deposit with the City Auditor cash bod in the amount of One Thousand and No/100 Dollars (\$1000.00) guaranteeing that the premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the City Engineer and upon certification of the City Engineer to the City Auditor or if the city has no City Engineer upon determination of the City Auditor that the same has been done said cash deposit shall be returned to the licensee. Provided, further, that in addition to such fees, an additional fee in an amount from \$50.00 to \$500.00 to be fixed by the governing body shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

ARTICLE 8 Validity

8.0801 Validity If any section, part, article or provision of this chapter or the application thereof to any person, firm, corporation, or association, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of this ordinance or the application to persons, firms, corporations, or circumstances other than those as to which it is held to be invalid, shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

ARTICLE 9 Penalty

8.0901 Penalty Any person, firm, corporation, or association violating any of the terms, article, or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed Five Hundred and No/100 Dollars (\$500.00). The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit of such violator, or terminate or revoke all powers, rights, and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation thereof.

(Revised 4-03-2001)