



Alcohol Ordinance Review and Rewrite Committee

Monday, February 12, 2024, at 1:00 PM

City Council Chambers, City Hall (10 3rd Ave SW)

Any person needing special accommodation for the meeting is requested to notify the City Clerk's office at 857-4752.

1. ROLL CALL

2. APPROVAL OF MINUTES - JANUARY 22, 2024

**It is recommended the committee approve the minutes of the January 22, 2024, Alcohol Ordinance Review and Rewrite Committee meeting.**

Documents:

[01222024 MEETING MINUTES.PDF](#)

3. OLD BUSINESS

1. Discussion of the definition of transfer.
2. Discussion on adding in delinquent taxes as a cause for denial in application/renewal process.
3. Discussion of the definition of licensed premise.
4. Discussion of the theoretical value of a Retail Liquor, Beer, and Wine license.
5. Discussion on adding a preamble to the ordinance similar to Grand Forks.
6. Discussion of an Off-Sale License, a Domestic Distillery License, and a Brewery and Taproom License.

Documents:

[MEMO TO COMMITTEE\\_2.7.24 NMS.PDF](#)

4. DISCUSSION ON CURRENT LICENSING FEES

5. ADJOURNMENT

**January 22, 2024 Alcohol Ordinance Review and Rewrite Committee**

**Alcohol Ordinance Review and Rewrite Committee – January 22, 2024 AT 1:00 P.M.**

Members Present:

Kevin Black, Jon Hanson, Chairman Paul Pitner, Brett Tinnes

Members Absent:

Mayor Tom Ross

Also Present:

Mikayla McWilliams (City Clerk), Harold Stewart (City Manager), Stefanie Stalheim (City Attorney), Chief John Klug (Police Chief), Brian Billingsley (Community and Economic Development Director)

The meeting was called to order by Chairman Paul Pitner at 1:00 pm.

**APPROVAL OF MINUTES**

Jon Hanson moved the committee approve the minutes of the January 10, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

Motion seconded by Brett Tinnes and carried the following vote: ayes: Black, Hanson, Pitner, Tinnes; nays: none.

Chairman Paul Pitner asked new member Kevin Black for a brief introduction, along with the committee members and advisory staff.

**ALCOHOL LICENSING PROCESS**

Mikayla McWilliams, City Clerk, did a recap on the 2024 Alcohol Licensing process. This year's renewals were similar to the years prior for the business owner, but for city staff it became an electronic process in the Cityworks software system. Letters, applications, and invoices were sent out early October 2023 to all 2023 license holders. Applications include owner and business information, manager information, site/premise map, questions to the license holder, and food vs alcohol sales if minors on premise. The City Clerk entered all the applications into the Cityworks system to allow for the other departments to monitor the process electronically.

Emily Huetl discussed the many different ways the City of Minot utilizes the Cityworks software. The review process in Cityworks was shown to the committee. Discussion on Section 5-25 of the City Ordinances, which is the section stating City Council shall approve all applications prior to issuance of license, was had by Mikayla McWilliams. Once City Council approved the renewals, the City Clerk then sent out an e-mail with information about the Cityworks Portal and how to set up an account. This e-mail also included a copy of the 2024 license. Emily presented a slide showing the access page to the portal and also discussed the training videos on YouTube. She also mentioned a link to the online renewal process will be sent to the committee. They both discussed the tentative 2025 renewal process, which will include a generated e-mail from Cityworks and also a mailed letter from the City of Minot. By the end of October 2025, staff should be able to monitor the responses from the renewal and send out further information to the license holders who have yet to submit.

Emily and Mikayla also did a brief introduction and presentation of how the special event permit will look in the Cityworks software. This will allow for the event to be paid for online by the license holder and still go through the necessary approvals by city staff.

Mikayla also discussed how the City of Fargo holds meetings annually for license holders. It is mandatory to attend one of the three set meetings. This allows for open discussion about issues and/or process changes. They prior held mandatory one-hour meetings with each license holder. It was also brought up that other cities discuss in their application process delinquent taxes. Grand Forks also has a section in their ordinances about Premises nonoperable or under construction (21-0218).

## **ALCOHOL LICENSE TYPES**

As homework from the last meeting, the committee moved onto alcohol license types of the City of Minot vs other cities in North Dakota. Brett Tinnes began discussion with the capped Retail Liquor, Beer, and Wine license. He believed the City of Minot should create an off-sale only license with the clause of sampling within the store. This could free up 7-8 capped licenses if the business was willing to sell and obtain the new license. He also mentioned that Grand Forks has a higher initial license fee and an application fee. The group discussed if the new off-sale only license would be allowed to obtain a special event license. During the process it was mentioned special event permits should be only for license holders that serve/dispense alcohol and possibly only for the Retail Liquor, Beer, and Wine capped license. The committee did decide it was important to have an established and clearly defined tasting provision within the off-sale license.

Kevin Black mentioned the idea of if the City of Minot were to remove the cap but still provide value to Retail Liquor, Beer, and Wine licenses maybe the City of Minot could develop a grant program with the funds of the initial cost for the new licenses issued. The grant could cover up grades of buildings that maybe could not be done to the license cost for the capped license.

Chairman Pitner discussed how other cities have licenses such as a Renaissance Zone License, a DCP-E license for downtown associations for events, and brewery/Taproom and Distillery licenses. He would like for the committee to discuss the value of the capped license. The committee will look at the sale of the last 4 open licenses in 2021 and also the transfer of X-Golf.

Stefanie Stalheim, City Attorney, created the list for the next meetings discussion to include:

- Grand Forks definition of a transfer
- Delinquent taxes for renewal denial
- Off – Sale License
- Domestic Distillery License
- Brewery License
- Theoretical value of the capped Retail Liquor, Beer, and Wine license
- Adding the preamble from Grand Forks
- Current License fees and possible application fee
- Licensed Premise definition

There being no further business, Jon Hanson moved the committee meeting be adjourned. Motion seconded by Kevin Black and carried unanimously. Meeting adjourned at 2:46 pm.



**TO:** Alcohol Ordinance Ad Hoc Committee

**FROM:** Mikayla McWilliams, City Clerk  
Stefanie Stalheim, City Attorney  
John Klug, Chief of Police

**DATE:** February 7, 2023

**SUBJECT:** Off Sale Licenses, Brewery/Taproom Licenses/Domestic Distillery Licenses/ Definition of "Transfer"/Preamble/Delinquent Taxes/Definition of "Licensed Premises"

Below is a compilation of research assembled by City staff on topics requested by the Alcohol Ordinance Ad Hoc Committee, including language from Fargo, Grand Forks, Williston, and Bismarck's code of ordinances. This information can be updated upon request of the Committee.

### **Off Sale Licenses**

#### **City of Fargo:**

Class B. - A "Class B" license shall authorize the licensee to sell "off-sale" only. No Class "B" license shall be issued to any applicant whose primary business is not, or upon the issuance of the license applied for, shall not be the sale of alcoholic beverages on an off-sale basis.

Class D. - A "Class D" license shall authorize the licensee to sell beer "off-sale" only.

Class "E", in the nature of a special serving permit, shall authorize the holder of an existing "off-sale" license to hold wine and sparkling wine demonstrations and tastings on such premises as may be designated in the Class "E" license subject to the following restrictions and conditions:

- a. Class "E" license issued under this section may be issued only to persons currently holding a Class "B" license.
- b. Class "E" license issued under this section may be issued for a period of time not to exceed 14 days, and may include Sundays.
- c. Except as otherwise provided, a Class "E" license shall not include days or times when sale of alcoholic beverages is prohibited by state law and/or city ordinances.

- d. Only wine or sparkling wine may be served under the Class "E" special serving permit.
- e. There shall be no charge of any kind made by the Class "B" license holder.
- f. The Class "E" special serving permit issued hereunder shall be only for events held by governmental, fraternal, or other regularly organized non-profit groups or societies.

Class "B-Limited" - A "B-Limited" license shall authorize the licensee to sell "off-sale" only, subject to the following restrictions and conditions:

- 1. Class "B-Limited" license shall authorize a licensee to sell "off-sale" only, and no licensee hereunder may conduct any "on-sale" liquor sales. No Class "B-Limited" license shall be issued to any applicant whose primary business is not, or upon the issuance of the license applied for, shall not be the sale of alcoholic beverages on an off-sale basis.
- 2. A Class "B-Limited" licensee under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the current Fargo parking program (presently POP), or any subsequently adopted parking program, may be considered as compliance with this provision.
- 3. No person, partnership, or other form of business entity may hold more than two (2) "B-Limited" licenses, nor may more than two (2) "B-Limited" licenses be owned by any individual, partnership or other business entity in which a person holding more than a 5% ownership interest in the business entity also holds more than a 5% ownership interest in another business entity that holds a "B-Limited" license or an "A", "AB", "ABH", or "ABH-RZ" license.
- 4. The initial fee for a "B-Limited" license, as well as the annual renewal fee shall be as set forth in city ordinance.
- 5. A "B-Limited" license shall be essentially non-transferable. In the event the holder of a Class "B-Limited" license shall voluntarily go out of business, the license shall revert to the city. It is the intent of this provision that the city of Fargo desires to control the issuance of additional liquor licenses and restrict any artificial appreciation in value of said licenses. Additional terms, conditions and restrictions on transferability shall be as set forth in section 25-1508.
- 6. The initial issuance of a "B-Limited" license shall consider all of the factors set forth in section 25-1508
- 7. hereinafter. In the event the applications for said license shall exceed the number then available, any applications meeting all of the requirements shall be determined by a drawing in the presence of the governing body of the city and in such manner as it shall direct.
- 8. In addition to the foregoing, the Class "B-Limited" license shall be governed by all the terms of this article applicable to Class "B" licenses provided, however, that in the event the provisions should conflict with this section, provisions of this section shall prevail.

### **City of Grand Forks:**

Class 2. Off-sale alcoholic beverages. The Grand Forks City Council may issue an unlimited number of off-sale alcoholic beverage licenses to permit the sale of alcoholic beverages off-sale. A license holder possessing such a license may, in addition to off-sales of liquor, wine and beer, be permitted to provide to their customers, free of charge, samples of alcoholic beverages as a promotion for the sale of the same so long as each sample does not exceed one (1) ounce in volume per customer.

### **City of Bismarck:**

### **City of Williston:**

A "general off-sale beer license" shall authorize the licensee to sell beer, in the original package or container at retail as provided herein. The license fee for a general off-sale beer license shall be established by resolution of the City Commission. The license fee must be submitted with the application for said license. Licenses issued under this subsection shall be limited in number to one for each 2,000 people residing in the City as shown by the most recent Federal or State census.

A "general off-sale liquor license" shall authorize the licensee to sell intoxicating liquor in the original package at retail as provided herein. The license fee for a general off-sale liquor license shall be established by resolution of the City Commission. The license fee must be submitted with the application for said license. Licenses issued under this subsection shall be limited in number to one for each 3,000 people residing in the City as shown by the most recent Federal or State census.

### **NDCC:**

The NDCC includes language for off-sale in the specific statutes for each type of alcohol. See: NDCC § 5-01-17(2), NDCC § 5-01-19(2), and NDCC § 5-01-19.2(2).

### **Brewery/Taproom Licenses**

### **City of Fargo:**

Class "Y" - A Class "Y" license is a brewer taproom license. A brewer taproom licensee may manufacture on the licensed premises, store, transport, sell and export a total number of barrels of malt beverages annually not to exceed the amount allowed by the North Dakota Century Code § 5-01-21, and must comply with all other provisions of N.D.C.C. § 5-01-21. A brewer taproom licensee may sell malt beverages manufactured on the licensed premises directly to consumers for consumption on or off the premises subject to the limitations set forth hereinafter. Licenses granted under this subsection entitle the brewer taproom licensee to sell malt beverages manufactured on the premises for off-premises consumption in brewery-sealed containers holding at least 12 ounces and not more than 5.16

gallons (19.53 liters) in contents. Complimentary samples of malt beverages may be served on the premises in amounts not exceeding 16 ounces (.47 liters) per patron. All sales and delivery of malt beverages to licensed retailers within the state must be made in accordance with § 5-03-07, N.D.C.C. and N.D.C.C. § 5-01-21(2) (f). Additional sales may be made through a wholesaler licensed in this state. Malt beverages manufactured on the licensed premises and sold by a brewer taproom licensee directly to the consumer for consumption on or off the premises are subject to the taxes imposed pursuant to § 5-03-07, N.D.C.C., in addition to any other taxes imposed on brewers and retailers. A brewer taproom licensee is also subject to the following restrictions and conditions:

1. The initial fee for a "Y" license as well as the annual renewal fee shall be as set forth in city ordinance.
2. The initial issuance of a "Y" license shall consider all of the factors set forth in section 25-1508.
3. All restrictions on sale, service or dispensing of alcoholic beverages as contained in section 25-1509 shall be applicable to a brewer taproom licensee.
4. A Class "Y" licensee shall obtain any brewery license required by the state of North Dakota.
5. Special events for which a permit has been obtained from the state tax commissioner allowing the brewer taproom licensee to give free samples of its beer and to sell its beer by the glass or in enclosed containers at off-premises events are, as a result of such permit, authorized within the city, so long as notice of the special event to which the permit is issued is given to the City Auditor and Chief of Police no less than seven (7) days before the event is to occur.
6. Multiple brewer taproom licenses may be issued to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. Class "Y" licensees with multiple taprooms must produce malt beverages at each location and the total amount of malt beverages produced at all locations combined may not exceed twenty-five thousand barrels of malt beverages annually.

#### **City of Grand Forks:**

Class 16. Brewer taproom license. The Grand Forks city council may issue an unlimited number of brewer taproom licenses to sell beer "on-sale" and "off-sale", subject to the following restrictions and conditions:

1. Such license may be issued only to a person or entity holding a license from the state tax commissioner pursuant to N.D.C.C. § 5-01-14 and/or § 5-01-21.
2. Any license issued hereunder will only authorize the licensee to sell beer produced on the premises by the licensee at "on-sale".

3. Any license issued hereunder will only authorize the licensee to sell beer produced on the premises by the licensee at "off-sale" in brewery sealed containers of not more than 5.16 gallons (19.35 liters).
4. A licensee under this section may apply for a Class 11 special or limited license as provided in this article.
5. A licensee under this section may offer complimentary samples of beer produced on the premises provided that the size of each sample is no greater than two (2) fluid ounces and that the total of all samples not exceed eight (8) fluid ounces per customer.

#### **City of Bismarck:**

Class O. A Class O license shall authorize the licensee to operate a microbrewery and to sell beer produced on the premises by the licensee "on" and "off-sale", and to sell beer making supplies and related services, subject to the following restrictions and conditions:

1. A Class O license may be issued only to a microbrewery owner or operator who obtains a microbrew pub license pursuant to NDCC Section 5-01-14 or a brewer taproom license pursuant to NDCC Section 5-01-21 from the State Tax Commissioner allowing for the production of beer.
2. A Class O license will authorize the licensee to sell, on the microbrewery premises, beer produced by that microbrewery on the premises at on-sale or off-sale, in retail lots of not less than 5 ounces or more than 5.16 gallons. A microbrewery licensed as a microbrew pub under NDCC Section 5-01-14 may produce no more than ten thousand barrels of malt beverages annually. A microbrewery licensed as a brewer taproom under NDCC Section 5-01-21 may produce no more than twenty-five thousand barrels of malt beverages annually and may sell beer wholesale as allowed by that section in containers of not more than 5.16 gallons. A microbrewery may utilize ingredients not produced by the microbrewery in brewing its beer.
3. A Class O licensee that holds a microbrew pub licensed pursuant to NDCC Section 5-01-14 may sell beer produced off of the premises, on-sale only.
4. A Class O licensee that holds a brewer taproom license pursuant to NDCC Section 5-01-21 may be issued a special permit under Section 5-01-13 to sell alcoholic beverages "on-sale" at special locations as designated in the permit.
5. The Class O license shall be governed by all the provisions of this chapter generally applicable to all license classifications.
6. A Class O licensee who is licensed by the state as a brewer taproom under NDCC Section 5-01-21 and obtains a special event permit under NDCC Section 5-01-21(3) from the state tax commissioner may give free samples of its beer and sell its beer by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the tax commissioner.

#### **City of Williston:**



A "microbrew pub license" authorizes the licensee to produce and manufacture beer at retail for consumption upon the licensed premises, in accordance with the **requirements and limitations of N.D.C.C. § 5-01-14, which are incorporated herein** by reference. A microbrew pub licensee is also subject to the following specifications and restrictions:

- a. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than 10,000 barrels of beer per year.
- b. The initial fee for a microbrew pub license shall be established by resolution of the City Commission and must be submitted with the application for said license. The annual renewal fee for a microbrew pub license shall be established by resolution of the City Commission and must be submitted with the application for renewal.
- c. A microbrew pub license will authorize the licensee to sell:
  1. Growlers, sold off-sale only; and
  2. Beer that has been brewed on the premises of the licensee, which may be sold either on-sale or off-sale.
- d. A microbrew pub licensee may not engage in wholesaling activities. All sales and delivery of beer to any other retail licensed premises may be made only through a wholesale beer licensee. A microbrew pub licensee must comply **with all statutory provisions for taxation under N.D.C.C. § 5-01-14.**
- e. A microbrew pub licensee is not precluded from retailing beer it purchases from a wholesaler.
- f. Complimentary samples of beer may not be in an amount exceeding 16 ounces per patron.
- g. A microbrew pub licensee shall abide by the provisions of Section 3-76 of Article V of this Chapter 3, governing hours and days of sale.
- h. Except as modified in this subsection, a microbrew pub licensee shall comply with and be subject to all of the remaining qualifications for licensees.

A "brewer taproom license" authorizes the licensee to manufacture on the licensed premises, store, transport, sell, and export 25,000 barrels or less of beer annually **in accordance with the requirements of N.D.C.C. § 5-01-21, as amended from time to time, which are incorporated herein by reference.** A brewer taproom licensee is also subject to the following restrictions and limitations:

- a. The initial fee for a brewer taproom license shall be established by resolution of the City Commission and must be submitted with the application for said license. The annual renewal fee for a brewer taproom license shall be established by resolution of the City Commission and must be submitted with the application for renewal.
- b. A licensee may sell malt beverages manufactured on the licensed premises for consumption on the premises of the brewery or a restaurant owned by the licensee and located on property contiguous to the brewery.

- c. A brewer taproom licensee may sell beer manufactured on the licensed premises for off-premises consumption in brewery-sealed containers of not less than 12 ounces, growlers, and in brewery-sealed kegs not to exceed 5.16 gallons.
- d. A licensee may sell and deliver beer produced by the brewery to licensed beer wholesalers.
- e. A brewer taproom licensee shall abide by the provisions of Section 3-76 of Article V of this Chapter 3, governing hours and days of sale.
- f. A brewer taproom licensee shall obtain any brewery license required by the State of North Dakota.
- g. Multiple brewer taproom licenses may be issued to the owner or operator of a brewery producing no more than 25,000 barrels of malt beverages annually. Brewer taproom licensees with multiple taprooms must produce beer at each location and the total amount of beer produced at all locations combined may not exceed 25,000 barrels of malt beverages annually.
- h. **To the extent the following activities are authorized under N.D.C.C. § 5-01-21(2), as amended from time to time, the same shall also be authorized within the City:**
  - 1. A licensee may dispense free samples of beer offered for sale. Complimentary samples may not exceed 16 ounces per patron.
  - 2. A licensee may sell and deliver beer produced by the brewery to licensed retailers within the State of North Dakota, subject to the conditions set forth in N.D.C.C. § 5-01-21(2)(f), as amended from time to time.
  - 3. Special events for which a permit has been obtained from the State Tax Commissioner allowing the brewer taproom licensee to give free samples of its beer and to sell its beer by the glass or in enclosed containers at off-premises events are, as a result of such permit, authorized within the City, so long as notice of the special event to which the permit is issued is given to the City Auditor, who shall forward to the Chief of Police, no less than three days before the event is to occur.
  - 4. A licensee may participate in Pride of Dakota events, for which a special events permit has been obtained from the State Tax Commissioner is, as a result of such permit, authorized within the City.
- i. All sales and delivery of beer to licensed retailers within the State must be made in accordance with N.D.C.C. § 5-03-07 (governing tax rate) and N.D.C.C. § 5-01-21(2)(f) (governing sale and delivery of beer to licensed retailers within the State). Additional sales may be made through a wholesaler licensed in this State. Beer manufactured on the licensed premises and sold by a brewer taproom licensee directly to the consumer for consumption on or off of the premises are subject to the taxes imposed pursuant to N.D.C.C. § 5-03-07, in addition to any other taxes imposed on brewers and retailers.

**NDCC § 5-01-01(14) Microbrew pubs:**

"Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per year and sells beer produced or manufactured on the premises for consumption on or off the premises or serves beer produced or manufactured on the premises for purposes of sampling the beer.

**NDCC §5-01-14. Microbrew pubs - Licensing – Taxes:**

1. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises; and sell or direct ship malt beverages manufactured on the licensed premises to an individual in this state for consumption in accordance with section 5-01-16. A microbrew pub may not engage in any wholesaling activities. Except as provided in subsection 3, all sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee. Beer manufactured on the licensed premises and sold by a microbrew pub directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is required to file a monthly sales report with the tax commissioner by the fifteenth day of the month following the month in which the sales are made. The report must be prepared and submitted in a form and manner as prescribed by the tax commissioner. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron. A licensee may sell beer to any person for off-premises consumption if sold in a brewery-sealed container and the total amount sold to each person does not exceed five and sixteen-hundredths gallons [19.53 liters] per day. This section may not be superseded under chapters 11-09.1 and 40-05.1.

2. The tax commissioner may issue a special event permit for not more than forty events per calendar year to a microbrew licensee allowing the licensee, subject to local ordinance, to give free samples of beer manufactured by the licensee, sell beer manufactured by the glass or in closed containers, or dispense beer manufactured by the licensee, at off-premises events.

3. A microbrew pub may transfer beer in bulk, as defined by section 5-01-01, manufactured by the microbrew pub to an affiliated microbrew pub licensee. For purposes of this subsection, "affiliated microbrew pub licensee" means a microbrew pub of which at least an eighty-five percent interest is owned by the microbrew pub measured annually and:

a. The microbrew pub does not own more than three affiliated microbrew pub licensees;

b. The microbrew pub licensee receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;

c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the microbrew pub licensee receiving the beer; and

d. For purposes of determining whether the ten thousand barrel production limit under subsection 1 is being exceeded, the beer being transferred is credited to the microbrew pub that manufactured the beer.

4. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:

a. The contractee brewer and the contractor brewer must be licensed and owned separately;

b. The contractee brewer must have a proper license issued under this section and maintain a physical brewing presence in the state;

c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;

d. The contractee brewer retains ownership of the product; and

e. Each brewer is separately and distinctly responsible for compliance with this chapter.

#### **NDCC § 5-01-21 Brewer Taproom license:**

1. The tax commissioner may issue multiple brewer taproom licenses to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. A brewer with multiple taproom licenses must produce malt beverages at each location and the total amount of malt beverages produced at all locations combined may not exceed twenty-five thousand barrels of malt beverages annually. Each brewer taproom license may be issued and renewed for an annual fee of five hundred dollars, which is in lieu of all other state license fees required by this title. All provisions of this chapter which apply to a retail license must apply to a license issued under this section unless the provision is explicitly inconsistent with this section.

2. A brewer holding a brewer taproom license may:

a. Manufacture on the licensed premises, store, transport, sell, and export no more than twenty-five thousand barrels of malt beverages annually.

b. Sell malt beverages manufactured on the licensed premises or through a contract for consumption on the premises of the brewery or a restaurant owned by the licensee and located on property contiguous to the brewery.

c. Sell beer manufactured on the licensed premises or through a contract for off premises consumption in brewery-sealed containers of not more than five and sixteen-hundredths gallons [19.53 liters].

d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.

e. Dispense free samples of beer offered for sale. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron.

f. Sell and deliver beer produced by the brewery to licensed retailers within the state, but only if:

(1) The brewer uses the brewer's own equipment, trucks, and employees to deliver the beer;

(2) Individual deliveries, other than draft beer, are limited to the case equivalent of eight barrels per day to each licensed retailer;

(3) The total amount of beer sold or delivered directly to all retailers does not exceed ten thousand barrels per year; and

(4) A common carrier is not used to ship or deliver the brewery's product to the public or to licensed retailers. All other sales and deliveries of beer to licensed retailers in this state may be made only through a wholesaler licensed in this state.

g. Sell or direct ship beer produced by the brewery to an individual in this state for consumption in accordance with section 5-01-16.

3. The tax commissioner may issue special event permits for not more than forty events per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer, sell its beer by the glass or in closed containers, or dispense beer manufactured by the licensee, at off-premises events.

4. For any month in which a brewery has made sales to a wholesaler licensed in this state, that brewery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day.

5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all beer sold by the licensee at retail or to a retail licensee, including all beer sold directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports

are due January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report be submitted in an electronic format approved by the tax commissioner.

6. A brewer may have multiple taproom licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of any other manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof, whether the affiliation is corporate or by management, direction, or control. A brewer may transfer beer in bulk, as defined by section 5-01-01, manufactured by the brewer to an affiliated brewer. For the purposes of this subsection, an "affiliated brewer taproom" means a licensed brewer taproom of which at least an eighty-five percent interest is owned by the brewer taproom, measured annually and:

a. The brewer does not own more than three affiliated brewer taprooms;

b. The licensed brewer taproom receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;

c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the licensed brewer taproom receiving the beer; and

d. For purposes of determining whether the twenty-five thousand barrel production limit under subsections 1 and 2 is being exceeded, the beer being transferred is credited to the brewer that manufactured the beer.

7. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:

a. The contractee brewer and the contractor brewer must be licensed and owned separately;

b. The contractee brewer must have a proper license issued under this section and maintain a physical presence in the state;

c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;

d. The contractee brewer retains ownership of product produced by a contractor brewer; and

e. Each brewer is separately and distinctly responsible for compliance with this chapter.

### **Domestic Distillery Licenses**

#### **City of Fargo:**

Class DD. - A Class "DD" license shall authorize the distilling of spirits and the limited sale thereof in accordance with the requirements and limitations set forth in N.D.C.C. §5-01-19, the provisions of which are incorporated herein by reference. In addition, a domestic distiller may obtain a domestic distillery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the domestic distillery. A domestic distiller also may own or operate a winery. A domestic distillery is also subject to the following restrictions and conditions:

1. A Class "DD" license shall only be issued to a domestic distillery owner or operator who has obtained a license from the North Dakota State Tax Commissioner allowing the production of distilled spirits.
2. To the extent the following activities or events are authorized under N.D.C.C. §5-01-19 subd. 2, the same shall also be authorized within the city:
  - a. A licensee may dispense free samples of the spirits offered for sale.
  - b. Special events for which a permit has been obtained from the state tax commissioner allowing the domestic distillery to give free samples of its product and to sell its product by the glass or enclosed containers at off-premises events are, as a result of such permit, authorized within the city.
  - c. Participation in pride of Dakota events for which a special events permit has been obtained from the tax commissioner is, as a result of such permit, authorized within the city.
3. Restrictions on sale, service or dispensing of alcoholic beverages contained in section 25-1509 shall be applicable to a domestic distillery.
4. A Class "DD" license will authorize the licensee to sell glassware, wine literature and accessories, cheese, cheese spreads, and other snack food items.
5. A Class "DD" license shall be essentially non-transferable. In the event the holder of a Class "DD" license shall voluntarily go out of business, the license shall revert to the city. It is the intent of this provisions that the city of Fargo desires to control the issuance of additional liquor licenses and restrict any artificial appreciation in value of said licenses. Additional terms, conditions and restriction on transferability shall be as set forth in section 25-1508.

#### **City of Grand Forks:**

Class 12. Domestic distillery license. The Grand Forks City Council may issue an unlimited number of domestic distillery licenses to sell distilled spirits "on-sale" and "off-sale" subject to the following restrictions and conditions:

1. Such license may be issued only to a person or entity holding a license from **the state tax commissioner pursuant to N.D.C.C. § 5-01-19.**
2. Any license issued hereunder will only authorize the licensee to sell distilled spirits produced on the premises by the licensee at on-sale or off-sale.
3. A licensee under this section may offer complimentary samples of distilled spirits produced on the premises provided that the size of each sample is no greater than one (1) fluid ounce and that the total of all samples not exceed three (3) fluid ounces per customer. No other alcoholic beverages may be sampled on the premises.
4. A licensee under this section may apply for a class 11 special or limited license as provided in this article.
5. A licensee under this section may sell glassware, accessories, publications, snack food items, and promotional items, excluding other alcoholic beverages, in addition to the sale of distilled spirits.

Class 17. Manufacturing distillery.

1. The Grand Forks City Council may issue an unlimited number of manufacturing distillery licenses to distilled spirits "on-sale" and "off-sale" subject to the following restrictions and conditions:
  - a. The licensee has been issued a manufacturing distillery license pursuant to **N.D.C.C. § 5-01-19.2 from the North Dakota tax commissioner.**
  - b. A licensee may dispense free samples of spirits offered for sale only in **accordance with N.D.C.C. § 5-01-19.2.** The size of each sample can be no greater than one (1) fluid ounce and the total of all samples to a single individual may not exceed three (3) fluid ounces per day.
  - c. Hours and times of sales by the licensee shall be in accordance with **Grand Forks City Code § 21-0221 (1), except the hours and times for off sale on Sundays shall be from twelve noon until 11:59 p.m.**
  - d. A licensee under this section may apply for a class 11 special or limited license as provided in this article.
2. A licensee under this section may operate one satellite location in addition to its licensed premises for the purpose of providing samples, as defined in **N.D.C.C. § 5-01-19.2(3)(a), and for on-sale or off-sale retail sales upon the following conditions:**
  - a. The licensee has been issued a retail license for the satellite location under this article.
  - b. **The licensee complies with and meets all the requirements of N.D.C.C. § 5-01-19.2(3)(b).**
  - c. The size of each sample can be no greater than one (1) fluid ounce and the total of all samples to a single individual may not exceed three (3) fluid ounces.
3. A licensee under this section shall not be issued a class 12 license.



4. A licensee under this section may be issued a class 1 or class 4 license allowing for the sale of on-sale alcoholic beverages at a restaurant owned by the licensee and located at the licensee's satellite location.

#### **City of Bismarck:**

Class U. A Class U license shall authorize the licensee to operate a domestic distillery and to sell spirits produced on the premises by the licensee and spirits produced by other North Dakota licensed domestic distilleries "on-sale" and "off-sale", subject to the following restrictions and conditions:

1. A Class U license may be issued only to a domestic distillery owner or operator who obtains a domestic distillery license pursuant to NDCC Section 5-01-19 from the State Tax Commissioner allowing for the production of spirits.
2. A Class U license will authorize the licensee to sell, on the domestic distillery premises, spirits produced by that domestic distillery on the premises and spirits produced by other North Dakota licensed domestic distilleries at on-sale or off-sale, in the amounts listed by state and federal law.
3. The Class U license shall be governed by all the provisions of this chapter generally applicable to all license classifications.
4. A Class U licensee who is licensed by the state as a domestic distillery under NDCC Section 5-01-19 and obtains a special event permit under NDCC Section 5-01-19 from the State Tax Commissioner may give free samples of its spirits and sell its spirits by the glass or in closed containers, as allowed by the State Tax Commissioner.

#### **City of Williston:**

A "domestic distillery license" authorizes the licensee to produce distilled spirits and authorizes the sale of distilled spirits in accordance with the requirements and limitations of N.D.C.C. § 5-01-19, which are incorporated herein by reference. A domestic distillery licensee is also subject to the following restrictions and conditions:

- a. A domestic distillery licensee may sell spirits produced by that distillery at on-sale or off-sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the State in a manner consistent with the laws of the place of the sale or delivery in total quantities not to exceed 25,000 gallons in a calendar year. Direct sales within the State of North Dakota are limited to 2.38 gallons or less per month per person for personal use and not for resale. The packaging for spirits must conform with the labeling requirements set forth in N.D.C.C. § 5-01-16.
- b. The initial fee for a domestic distillery license shall be established by resolution of the City Commission and must be submitted with the application for said license. The annual renewal fee for a domestic distillery license shall

be established by resolution of the City Commission and must be submitted with the application for renewal.

- c. A domestic distillery licensee may obtain a domestic distillery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the domestic distillery. A domestic distillery licensee may also own or operate a winery.
- d. A domestic distillery license shall only be issued to a domestic distillery owner or operator who has obtained an annual manufacturing license from the North Dakota State Tax Commissioner allowing the production of distilled spirits.
- e. A domestic distillery licensee shall abide by the provisions of Section 3-76 of Article V of this Chapter 3, governing hours and days of sale.
- f. **To the extent the following activities are authorized under N.D.C.C. § 5-01-19(2), the same shall also be authorized within the City:**
  - 1. A licensee may dispense free samples of the distilled spirits offered for sale.
  - 2. Special events for which a permit has been obtained from the State Tax Commissioner allowing the domestic distillery to give free samples of its product and to sell its product by the glass or in closed containers at off-premises events are, as a result of such permit, authorized within the City.
  - 3. Participation in Pride of Dakota events for which a special events permit has been obtained from the State Tax Commissioner is, as a result of such permit, authorized within the City.
- g. A domestic distillery license authorizes the licensee to sell glassware, distilled spirits literature and accessories, cheese, cheese spreads, and other snack food items.

### **City of Minot:**

#### **Winery.**

- a. A winery license shall be for the on-sale and/or off-sale of wine produced by the winery on the licensed premises, in retail lots, and not for resale, in total quantities not to exceed twenty-five thousand (25,000) gallons in a calendar year. The sale of wine must occur on the licensed premises.
- b. Fee. The fee for a winery license shall be three hundred twenty-five dollars (\$325.00).
- c. Restrictions.
  - 1. A winery licensee must hold a license from the state tax commissioner allowing for the production of wine on the licensed premises.

2. A winery licensee may offer complimentary samples of wine produced on the licensed premises provided that the size of each sample does not exceed two (2) fluid ounces per customer.
3. A winery licensee may obtain and utilize special event permits issued by the state tax commissioner.

**NDCC § 5-01-17 Domestic Winery License:**

1. The tax commissioner may issue a domestic winery license to the owner or operator of a winery located within this state to produce wine. A domestic winery may purchase, at wholesale or retail, brandy for use of on premises fortification. A domestic winery license may be issued and renewed for an annual fee of one hundred dollars, which is in lieu of all other license fees required by this title.
2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between eight a.m. and twelve midnight. The tax commissioner may issue special events permits for not more than forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.
3. A domestic winery may obtain a domestic winery license and a retailer license allowing the on premises sales of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the winery.
4. A domestic winery may purchase wine in bulk from within and outside the state, excluding label approved containers and not to exceed four thousand gallons [15142 liters] per calendar year.
5. A domestic winery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all wines sold by the licensee at retail, including all wines shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due

January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The report must provide such detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

**NDCC § 5-01-20. Direct sale by licensed wineries:**

1. A licensed winery that produces no more than twenty-five thousand gallons [94635 liters] of wine per year may sell and deliver, onsite or offsite, the wine produced by the winery directly to licensed retailers. The licensed winery may sell and deliver wine onsite to a licensed retailer who presents the retailer's license or a photocopy of the license. The winery may deliver the wine offsite if the winery:

- a. Uses the winery's equipment, trucks, and employees to deliver the wine;
- b. Contracts with a licensed distributor to ship and deliver the wine to the retailer; or
- c. Contracts with a common carrier to ship and deliver the wine to the retailer directly from the winery or the winery's bonded warehouse.

2. The shipments delivered by a winery's equipment, trucks, and employees in a year may not exceed four thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].

3. Individual shipments delivered by common carrier may not exceed three cases a day for each licensed retailer. The shipments delivered by a common carrier in a year may not exceed three thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].

**NDCC § 5-01-19 Domestic Distillery:**

1. The tax commissioner may issue a domestic distillery license to the owner or operator of a distillery that is located within this state. A domestic distillery license may be issued and renewed for an annual fee of one hundred dollars. This fee is in lieu of all other license fees required by this title. The tax commissioner may not issue the domestic distillery license until the applicant has established that the applicant has applied for and obtained the necessary federal registrations and permits, as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits plant.

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to

two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between eight a.m. and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special event permits for not more than forty events per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at off-premises events. A domestic distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

3. A domestic distillery may obtain a domestic distillery license and a retailer license allowing the on premises sale of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the domestic distillery. A domestic distillery also may own or operate a winery.

4. A domestic distillery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at retail or to a retail licensee, including all spirits shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

#### **NDCC § 5-01-19.1. Direct sale by domestic distilleries:**

1. A domestic distillery that produces no more than twelve thousand proof gallons [42000 liters] of spirits per year may sell and deliver, onsite or offsite, the spirits produced by the distillery directly to licensed retailers. The distillery may sell and deliver spirits onsite to a licensed retailer that presents the retailer's license or a photocopy of the license. The distillery may deliver the spirits offsite if the distillery:

a. Uses the distillery's equipment, trucks, and employees to deliver the spirits;

b. Contracts with a licensed distributor to ship and deliver the spirits to the retailer; or

c. Contracts with a common carrier to ship and deliver the spirits to the retailer directly from the distillery or the distillery's warehouse.

2. The total amount of spirits each domestic distillery may sell or deliver directly to all licensed retailers may not exceed two hundred cases per year. Individual shipments delivered by common carrier may not exceed three cases a day for each licensed retailer. A case may not exceed two and thirty-eight hundredths gallons [9 liters].

3. As used in this section, "proof gallon" means a gallon [3.78 liters] of liquid at sixty degrees Fahrenheit [15.5 degrees Celsius] which contains fifty percent ethyl alcohol by volume or its equivalent.

### **Definition of Transfer**

#### **City of Fargo:**

"Ownership transfer" shall mean any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article. A transfer shall be deemed to have occurred upon the assignment, sale, exchange or other conveyance of the ownership interest in a licensee sole proprietorship, general partnership, corporation, limited liability company, limited liability partnership or other form of business entity that is or has been issued the license whether such assignment, sale, exchange or other conveyance of 50% or more of the ownership interest occurred in one single transaction or whether such assignment, sale, exchange or other conveyance occurred in multiple transactions within the prior thirty-six (36) months resulting in a change of more than 50% of the ownership interest of such licensee business entity. Recognizing that the licensee may be a business entity in which the "owners" are, themselves, business entities and recognizing that the city has an interest in knowing who are the natural persons who own 5% or more ownership in a licensee and in knowing when an ownership interest of such natural persons has occurred, in addition to the foregoing said ownership transfer shall be deemed to occur whenever said change in ownership interest occurs by a direct change in ownership of the licensee business entity or by indirect change of ownership whenever there is a 50%, or more, change in ownership held by any single natural person.

"Transfer" shall mean a change in location of the licensed premises; or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article.

#### **City of Grand Forks:**

Transfer. Any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article. A transfer shall be deemed to have

occurred upon the assignment, sale, exchange, or other conveyance of fifty (50) percent or more of the interest in a license holder partnership or stock in a license holder corporation, whether such assignment, sale, exchange or other conveyance occurred in one (1) single transaction or multiple transactions. However, the term "transfer" shall not apply to the following described conveyances:

- a. When an individual possessing a license issued pursuant to the provisions of this article has become deceased, the license may, upon application of the personal representative of the decedent, be transferred to another individual, partnership, firm or corporation.
- b. When any corporation possessing a license issued pursuant to the provisions of this article voluntarily dissolves, the license may be issued to any individual shareholder in such corporation who held the stock at the time of the issuance or last renewal of the license and whose application is approved by the holders owning a majority of the outstanding shares of stock in the corporation prior to the time of dissolution; provided, however, that such shareholder shall be subject to all the requirements of this article relating to the application for a license and the qualifications of license holder.
- c. When an individual license holder desires to transfer a license to a corporation in which the license holder is the owner of at least a majority of the outstanding shares of stock in the corporation; provided, however, that such license holder's stock ownership in the transferee corporation does not fall below the majority of the outstanding stock in the corporation without the prior approval of the city council and reapplication for license by the transferee corporation. The transferee corporation shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a license holder.
- d. When a license holder is a corporation or partnership which desires to transfer a license to another corporation or partnership having substantially the same partners or stockholders; provided, however, that such transferee corporation or partnership shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a license holder.
- e. When an individual license holder desires to transfer a license to a blood relative of the first degree, as defined by the North Dakota Century Code, or to a grandchild of the individual license holder if the grandchild's parents are deceased. For purposes of this subsection only, a similar conveyance of shares of stock in a license holder corporation shall not be considered a "transfer" if the person seeking to convey shares of stock own sat least a majority of the outstanding shares of stock in the corporation or is seeking to convey shares or stock to a blood relative of the first degree as defined by the North Dakota Century Code, or to a grandchild if the grandchild's parents are deceased.
- f. When a majority of the entire city council adopts a resolution and declares the conveyance not to be a transfer for the purposes of this article.

### **City of Bismarck:**

"Transfer" means any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this chapter. A transfer is deemed to have occurred upon the assignment, sale, exchange or other conveyance of fifty percent or more of the interest in a partnership or stock in a corporation, whether such assignment, sale, exchange or other conveyance occurred in one single transaction or multiple transactions. However, the term "transfer" does not apply to the following described conveyances:

- a. When an individual holding a license issued pursuant to the provisions of this chapter dies, and, upon application to the Board of City Commissioners by the personal representative of the decedent, the license is transferred to another person.
- b. When any corporation holding a license issued pursuant to the provisions of this chapter voluntarily dissolves and a license is issued to any individual shareholder in the corporation who held said stock at the time of the issuance or last renewal of the license and whose application is approved by the holders owning a majority of the outstanding shares of stock in the corporation prior to the time of dissolution; provided, however, that such shareholder is subject to all the requirements of this article relating to the application for a license and to the qualifications of a licensee.
- c. When an individual licensee transfers a license to a corporation in which the licensee is the owner of at least a majority of the outstanding shares of stock in the corporation; provided, however, that such licensee may not permit his stock ownership in the transferee corporation to fall below the majority of the outstanding stock in the corporation without the prior approval of the board of commissioners and reapplication for license by the transferee corporation. The transferee corporation is subject to all the requirements of this chapter relating to the application for a license and the qualifications of a licensee.
- d. When a corporate or partnership licensee transfers a license to another corporation or partnership having substantially the same partners or stockholders; provided, however, that such transferee corporation or partnership is subject to all the requirements of this chapter relating to the application for a license and the qualifications of a licensee.
- e. When an individual licensee transfers a license to a blood relative of the first degree, as defined by the North Dakota Century Code, or to a grandchild of the individual licensee if the grandchild's parents are deceased. For purposes of this subsection only, conveyance of shares of stock in a corporate licensee are not a "transfer" if the person seeking to convey shares of stock owns at least a majority of the outstanding shares of stock in the corporation.
- f. When a majority of the Board of City Commissioners adopts a resolution and declares the conveyance not to be a "transfer" for the purposes of this ordinance.

### **City of Williston:**



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

**City of Minot:**

Sec. 5-31. License to constitute a defeasible property right, transfer or other change in status, operation, or form of license, fee for approval of same.

- a. A licensee under this chapter shall enjoy a defeasible property right in the license. It is defeasible in the sense that it may be revoked by the city "for cause" without compensation to the licensee as provided in section 5-32 of this Code. Subject to that reservation of rights in the city, the licensee may sell, pledge, grant or retain a security interest in, give away in a will, or otherwise deal with the license.
- b. No transaction affecting a license, including a transfer (whether full or partial), lease, grant or retention of a security interest, or other change in its status, operation, or form (hereafter a "license amendment"), is binding on the city until application for the license amendment has been filed by the licensee or other interested person with the city clerk and approved by the city council. However, as provided hereafter, the chief of police has the power to approve a license amendment for a temporary period of time, and if the chief does so it has the same force and effect as an approval by the city council during such temporary period of time.
- c. The license amendment application shall include the information required in section 5-18 and a detailed description of any consideration received in exchange for the license transfer.
- d. Before being submitted to the city council for its decision thereon, a license amendment application shall be forwarded to the chief of police for such investigation and such recommendation to the council concerning its merits as the chief believes is warranted or advisable under the circumstances. Moreover, if the license amendment application relates to the physical characteristics of the licensed premises it shall likewise be forwarded to the building official for the same purpose.
- e. The chief of police shall have the authority to approve a license amendment application for a period of time not to exceed forty (40) consecutive days upon a showing satisfactory to the chief of pressing circumstances requiring action before the city council can take under consideration and act upon a license amendment application in the ordinary course of its business, as when, for example, a licensee dies or a secured party or lien holder forecloses on its security interest in a license. However, the chief or the council itself may revoke or suspend provisional approval given under this subsection, provided that reasonable notice of such contemplated action is first provided to the affected party or parties.

- f. In the absence of provisional or final approval of a transfer as provided for in subsections (b) and (e), no person other than the named licensee may rely on the grant of the license as a defense to prosecution or a civil action brought under this chapter or otherwise provided in law for an offense or cause of action involving the sale of alcoholic beverages without a license.
- g. No license amendment application may be acted upon until the applicant has paid a non-refundable application-review fee of two hundred fifty dollars (\$250.00).

**NDCC § 5-02-02. Qualifications for license:**

A retail license may not be issued to any person unless the applicant files a sworn application, accompanied by the required fee, showing the following qualifications:

1. The applicant, other than an organization, must be a legal resident of the United States and be a person of good moral character.

2. If the applicant is:

a. A corporation, then:

(1) The manager of the licensed premises and the officers and directors must be legal residents of the United States and persons of good moral character; and

(2) The shareholders:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants which are organizations. Corporate applicants must first be properly registered with the secretary of state.

b. A limited liability company, then:

(1) The manager of the licensed premises and the managers and governors must be legal residents of the United States and of good moral character.

(2) The members:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

(3) The applicant must first be properly registered with the secretary of state.

c. A limited partnership, then:

(1) The manager of the licensed premises must be a legal resident of the United States and of good moral character.

(2) The general partners and limited partners:

(a) If individuals, must be legal residents of the United States and of good moral character; and

(b) If organizations, must meet the requirements of this section for applicants that are organizations.

(3) The applicant must first be properly registered with the secretary of state.

d. A general partnership, then:

(1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and

(2) The partners:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

e. A limited liability partnership, then:

(1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and

(2) The partners:

(a) Who are individuals, must be legal residents of the United States and of good moral character; and

(b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

Limited liability partnership 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 attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer, or, following conviction of any offense, is determined not to be sufficiently rehabilitated under section 12.1-33-02.1.

4. The building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.

5. The applicant for a state license must have first secured a local license.
6. The attorney general, or local governing body, may require the applicant to set forth such other information in the application as necessary to enable them to determine if a license should be granted.
7. The applicant may not have any financial interest in any wholesale alcoholic beverage business.
8. As a condition precedent to a background check, the attorney general may require the applicant to pay, in advance, an estimated additional fee necessary to defray the actual cost of a background check of a person for whom adequate background information sources are not readily available. The estimated additional fee must be placed in the attorney general's refund fund for use to defray the actual expenses of the background check. The remainder of the funds must be returned to the person within thirty days of the conclusion of the background check. In addition, the attorney general may require the applicant or such other person subject to a background check to execute a written consent if needed by the attorney general to obtain background or criminal history information.

## **Preamble**

**City of Fargo: N/A**

**City of Grand Forks:**

The City of Grand Forks finds that the safety and welfare of its citizens and neighborhoods are of highest priority and the judicious dispensing of alcohol is in keeping with this premise. The possession of an alcoholic beverage license in the city is a privilege, not a right; a privilege that must not be taken for granted, but rather must be continually conditioned by the license holder's adherence to applicable laws and regulations.

**City of Bismarck: N/A**

**City of Williston: N/A**

## **Application Process: Delinquent Taxes**

**City of Fargo: Currently not in the Fargo Ordinances.**

**City of Grand Forks:**

(G) Applicants must not be delinquent in payment of property taxes, special assessments, parking assessments, nor in default to the City of Grand Forks in any manner. If the applicant is a partnership, limited partnership, limited liability limited partnership, limited liability partnership, company, limited liability company or any other similar entity, each partner and/or member must be current in such taxes, assessments, fees and all other matters to the City of Grand Forks.

(H) The property for which application for license is made must not be delinquent nor in default in any property taxes, special assessments, parking assessments, fees or any other matters to the City of Grand Forks.

**City of Bismarck:**

5-01-05. License Qualifications.

1. A license may not be issued or transferred under this chapter except to persons possessing the following qualifications:
  - a. Applicant, if an individual, must be a legal resident of the United States and a resident of the State of North Dakota and be a person of good moral character.
  - b. If applicant is a partnership or a corporation, the manager of the licensed premises must be a resident of the State of North Dakota and a person of good moral character and the partners or officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must be properly registered with the Secretary of State. The manager must possess all of the qualifications required of an applicant.

- c. Applicant cannot have had revoked, in the previous five years, any license for the sale of alcoholic beverages.
- d. Applicant must be the owner or lessee of the licensed premises during the entire period licensed.
- e. The building in which the business is conducted must meet all local and state requirements regarding sanitation and safety.
- f. Property taxes for the building in which the licensed premises are located may not be delinquent.

**City of Williston:**

The following information, together with such other information as may, from time to time be required by the board of city commissioners shall be contained in the application required by the preceding section:

(5) Tax delinquencies. Whether the taxes on such property are delinquent. Whether or not the personal property taxes of the applicant are delinquent and if a co-partnership, whether or not the personal property taxes of each member of the co-partnership and each person financially interested therein are delinquent, and whether or not the personal property taxes levied against the property to be used in conducting the business are delinquent.

**Definition of Licensed Premise**

**City of Fargo:**

"Licensed premises" shall mean the bar area, dining rooms, meeting rooms, outdoor dining areas as provided in Article 18-03 of the Fargo Municipal Code, and all other areas or spaces where alcoholic beverages are regularly or occasionally sold, served or dispensed. In the alternative, any person applying for a license under the provisions of this article may describe, depict or otherwise identify in his application for a license various areas or spaces which shall constitute the licensed premises. The commission, in its discretion, may require any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this article.

**City of Grand Forks:**

Licensed premises. The premises on which alcoholic beverages are normally sold or dispensed. Licensed premises includes all areas where alcoholic beverages are routinely stored, displayed, opened or mixed, and all lounges, bars and restaurants where alcoholic beverages are dispensed or such other location or area as authorized by the Grand Forks City Council, and shall be designated by diagram or blueprint which shall be included with the license application or the license renewal application.

**City of Bismarck:**

"Licensed premises" means the premises on which alcoholic beverages are normally sold or dispensed and shall be delineated by diagram or blueprint which shall be included with the license application or the license renewal application. Licensed premises includes all areas where alcoholic beverages are routinely stored, displayed, opened or mixed, and all lounges, bars and restaurants where alcoholic beverages are dispensed. Meeting rooms, banquet rooms, the Event Center arena, or other rooms not part of the licensed premises may be leased and designated by groups or Individuals for events such as receptions, banquets, Event Center events, or similar events at which alcoholic beverages may be consumed provided that the licensee does not open, mix or dispense alcoholic beverages in those areas not licensed.

**City of Williston:**

PREMISES The distinct portion of the building, lot, or public way upon which alcoholic beverages are sold or consumed.

**City of Minot:**

*"Licensed premises"* shall mean the premises on which beer, liquor, or alcohol 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.

**NDCC § 5-01-01(10)**

"Licensed premises" means the premises 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.