

CHAPTER 10

BUSINESS REGULATIONS AND LICENSES

Article 1 General Provisions

10.0101 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.

10.0102 Licenses - Application

Any person desiring a license or permit under any ordinance of the city shall make a written application to the city therefor 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 his proposed sureties on his bond in his application.

10.0103 Licenses - 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 for license or permit for any purpose not named by ordinance, he shall report such application to the next meeting of the governing board for their action thereon.

10.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (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 succeeding year.
3. No license or permit shall be valid until signed and sealed, nor shall any person 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 the license shall commence on the first day of July 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 license record.

10.0105 Licenses - 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.

10.0106 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 city 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.

10.0107 Licenses - Posting of

All licenses and permits 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 area of the 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.

10.0108 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 July of each year.

10.0109 Licenses - Enforcement

All city officials having duties to perform with references to licensed premises, including all police officers, shall have authority to enter the licenses premises with or without a search warrant to check for violation of ordinances or state laws by the licensee.

10.0110 Licenses - Obligations to the City

No applicant shall be granted a license who is in default under the provisions of any city ordinance, or is indebted or obligated to the city, or is delinquent in the payment of any taxes in which the city shares.

Article 2 Transient Merchants

10.0201 Definitions

For the purposes of this Article:

1. "Transient Merchant" includes any person, individual, co-partnership, or corporation, either as principal or agent, who engages in, does, or transacts any temporary or transient business in the city, either in one locality, or in traveling from place to place within the city selling goods, wares, services, and merchandise, and who does not intend to become and does not become a merchant of the city on a regular and permanent basis, or 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 association 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. The provisions of this article shall not apply to city residents or to activities authorized by North Dakota School Districts.
2. "Merchandise" shall not include any livestock or agricultural product.
3. "Business" shall include the actual present sale and delivery of merchandise or services and the taking of orders for the future delivery of merchandise or services.

10.0202 License Required

It shall be unlawful to do business in the city as a transient merchant without having first secured a license therefor as is herein provided.

10.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business with 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.

10.0204 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 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 years;
5. The place or places in the city, where it is proposed to carry on applicant's business, and 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, services or merchandise to be sold or offered for sale by applicant, in the city, the invoice value and quality of such goods, wares, services and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and 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.

10.0205 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, services and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentation or deceptions were made or practice by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares, services or merchandise sold or any party thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person.

10.0206 Service of Process

Before any license as 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 of 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 said 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 acknowledgment of as herein provided, the city auditor shall send to the licensee at his last known address, by registered mail, a copy of said process.

10.0207 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 persons 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.

10.0208 Transfer

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

10.0209 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 within the city of the business licensed thereunder to assist and promote such enforcement.

10.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the governing body of the city, after notice of 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, wares, services 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 licensee at his last known address, at least five days prior to the date set for the hearing.

10.0211 Expiration of License

All licenses issued under the provisions of this article shall expire at the expiration of the period of which application has been made and prepaid, to be renewable by the city auditor upon application and payment therefore.

Article 3 Hawkers and Peddlers

(Repealed and Reserved for Future Use)

**Article 4
Runners, Solicitors and Canvassers**

(Repealed and Reserved for Future Use)

(Revisions to Article 2, Transient Merchants, and the repeal of Articles 3 and 4 were accomplished by Ordinance #10-02A, adopted by the City Council on the 4th day of October, 1982.)

**Article 5
Solicitation Without Invitation**

10.0501 Solicitation Without Invitation Prohibited

The practice of going in and upon private residence or privately owned property in the city by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of 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 a nuisance and unlawful.

10.0502 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 10.0501.

**Article 6
Alcoholic Beverages**

10.0601 Definitions

For the purposes of this article:

1. "Alcoholic Beverages" shall mean any liquid suitable for drinking by human beings, which contain one-half of one percent or more of alcohol by volume.
2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Liquor" shall mean any alcoholic beverage except beer.
4. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society, or any other organization; and shall include the singular and the plural.

5. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of, and keeping for sale of such alcoholic beverages.
6. "Package" and "original package" shall mean and include any 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.
7. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
8. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
9. "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.
10. "Licensee" shall mean any person, firm, corporation, association, or club which shall have secured a license pursuant to provisions of this chapter as their agent or employee.

10.0602 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.

10.0603 License Required

No person shall sell at retail within the city limits of the city any alcoholic beverages without first having obtained a license therefore as herein provided. This section shall not apply in public carriers engaged in interstate commerce.

10.0604 License –Term of

1. All licenses issued hereunder shall be for a period of not more than one year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than a year any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees therefore shall be as follows:
 - a. If the short term be for three months or less, the license fee therefore shall be 25% of the annual license fee.
 - b. If the term be for more than three months and less than six months, the license fee therefore shall be 50% of the annual license fee.
 - c. If the term be for more than six months but less than nine months, the license fee therefore shall be 75% of the annual license fee.
 - d. For any term in excess of nine months, full annual license fee shall be paid.

10.0605 License – Classes of

1. On and off sale liquor licenses at an annual fee of \$1,500.00.
2. On and off sale beer license at an annual fee of \$500.00.
3. On sale beer and wine license at an annual fee of \$500.00.
4. Special event permit available for above licensees at a fee not to exceed Twenty-five (\$25.00) Dollars as set forth in Section 5-02-01.1 of the North Dakota Century Code. Provisions of said license are subject to North Dakota Century Code 5-02-01.1 and policies have been set in place by the City Council of the City of Thompson by way of resolution pertaining to the special event license.
5. On sale liquor license for limited events at an annual fee of \$200.00. Licensee shall pay the state license fee pursuant to Section 5-02-01 and 5-02-04 of the North Dakota Century Code and shall, for the annual fee of \$200.00, be permitted to serve not more than eight (8) events (from noon on one day until 1:00 a.m. on the following day). If the licensee under this license desires to serve more than eight (8) events, each event shall be licensed at \$25.00 per event payable in advance up to a maximum of fourteen events. The fee for this specific license shall be paid by July 1 of the current year. Licensee shall be subject to all other requirements applicable to applicants in Article 6.

One-half of the fees for licenses listed in items 1-3 above shall be paid by July 1 of the current year. The remaining one-half of the fee shall be paid by December 31 of the current year. If a license is applied for after January 1, the fee shall be one-half of the regular fee.

10.0606 License - Qualifications for

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a citizen of the United States, 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 citizens of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of State.

10.0607 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 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. 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.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. 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.
7. Whether the applicant had 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.
8. 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 place, and courts, in which said convictions were had.

9. 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.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, 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.
11. The name and address and the place of residence for a period of one 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.
12. 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 so held.
13. 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 provision 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.
14. The occupations which the applicant has followed during the past five years.
15. The names and addresses of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. 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.
18. The classification of license applied for.
19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.

20. 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 are delinquent, and whether or not the personal property taxes levied against the property to be used in conducting the business are delinquent.
21. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

10.0608 License - Applicant 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.

10.0609 License - Limit to One Applicant

Not more than one license of each classification shall be issued or granted to any applicant, and each license shall be valid only for the specific premises licensed.

10.0610 License - Limit of Number

The maximum number of licenses which may be issued shall be limited to two (2) licenses for on and off sale liquor; two (2) licenses for on and off sale beer; and three (3) licenses for on sale beer and wine.

10.0611 License - Location of

No license shall be issued or transferred to any person, firm, or corporation to engage in the sale of beer or alcoholic beverages 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. 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 regulation.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings, or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.

7. Proposed on or off sale or both of licensee.
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.

10.0612 License - Posting of

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

10.0613 License - Transfer of

No license under the provision of this Article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this Article.

10.0614 License Fees - Disposition of

All license fees collected under this Article shall be transferable to the treasurer of this city and credited to the general fund of the city.

10.0615 Hours and Time of Sale

No licensee shall sell, serve, or permit to be sold, served or consumed on the premises named in the license, any alcoholic beverages after 1:00 a.m. on Sundays, before 12:00 noon on Sundays, or between the hours of 1:00 a.m. and 8:00 a.m. on all other days of the week, or shall permit consumption of alcoholic beverages on the licensed premises on Christmas Day, after 1:00 a.m. on Thanksgiving Day, or after 6:00 p.m. on Christmas Eve. Any licensee desiring to sell alcoholic beverages on Sunday between 12:00 noon and 1:00 a.m. on Monday, shall apply for a Sunday Alcoholic Beverage License which, pursuant to NDCC 5-02-05.1, the Thompson City Council may issue a Sunday Alcoholic Beverage License to present license holders possessing an on-sale, off-sale, or on- or off-sale alcoholic beverage license, or to public owned or operated facility permitting the sale of alcoholic beverages between 12:00 noon Sunday to 1:00 a.m. Monday. There shall be no additional fee required for the issuance of a Sunday Alcoholic Beverage License but no licensed premises shall serve alcohol on Sunday within the hours indicated hereinabove without said license.

The Thompson City Council may, pursuant to NDCC 5-02-09, grant specific limited, or unlimited, requests of a licensee to sell, serve, or permit to be sold, served or consumed on the premises named in the license, any alcoholic beverages after the extended hour of 1:00 a.m., but not exceeding the hour of 2:00 a.m., on all days of the week, other than Sundays. If such a request is to be granted on a limited basis, the request by a licensee shall be limited to a specific 24 hour time frame in which the extended operating hours are permitted. Any permission given by the Thompson City Council shall be limited to the specific request, allowing the Thompson City Council to grant or deny any subsequent limited requests on a case-by-case basis.

October 7, 2013

10.0616 Licensee's Responsibility

Every licensee has the duty of keeping male or female dancers or entertainers on the stage area and at no time shall said dancers or entertainers be permitted to leave the stage area during the performance.

10.0617 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 existing license issued by the State of North Dakota.

10.0618 Cashing Certain Checks Prohibited

No licensee hereunder shall cash any bank check, voucher, order, or document of any kind drawn by a County Welfare Board, or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.

10.0619 Sales Prohibited - Items

No licensee shall sell on the licensed premises any item other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, peanuts, pretzels, potato chips and related sundries; except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to sales of alcoholic beverages in the dining area.

10.0620 Sales Prohibited, Persons

No licensee, his agent, or employee shall sell any alcoholic beverages to a person under 21 years of age, a habitual drunkard, an incompetent, or an intoxicated person.

10.0621 Minors in Licensed Premises

No licensee shall permit any person under 21 years of age to remain on the licensed premises which alcoholic beverages are being sold or displayed thereon, except that a person under 21 years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

10.0622 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 statement in writing and signed by said person of such person's age. 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.

10.0623 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley, or public way is prohibited.

10.0624 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 accommodate reasonably the patrons.

10.0625 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.

10.0626 Purchase from Licensed Wholesaler

No license hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title V of the North Dakota Century Code; and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages showing the name and license number of the wholesaler, and such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer in the State of North Dakota.

10.0627 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.

10.0628 Bottle Clubs

No person shall operate an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises.

10.0629 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage, to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.
3. Where any retail alcoholic beverage or beer licensee is a club or lodge, such licensee shall sell to members only.

10.0630 Termination of Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:
 - a. The death of the licensee unless upon application to the governing body by personal representative of the decedent, the governing body shall consent to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
 - c. When the licensee be adjudged bankrupt.
 - d. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this Article.
 - e. 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.
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 of the partners, if the licensee be a partnership, or one of the officers of the manager if the licensee be a corporation, be convicted in the municipal court of the city of drunkenness or disorderly conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.
3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by the 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, or the licensee voluntarily ceases his business, no portion of the licenses fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

10.0631 Persons Less Than Twenty-One Years Prohibited - Exceptions

It shall be unlawful for any person under twenty-one years of age to purchase, attempt to purchase or be in possession of alcoholic beverages or furnish money to any person for such purchase or enter any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian.

10.0632 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine not to exceed Five Hundred and no/100 Dollars (\$500.00), or to imprisonment not to exceed thirty (30) days or in the discretion of the court to both such fine and imprisonment; and in addition to both such fine and imprisonment all powers, rights and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with this chapter.

**Article 7
Shows, Carnivals and Circuses**

10.0701 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 show, continuous theatrical performance, shooting gallery, or other like exhibition without first obtaining license from the city.

10.0702 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	\$50.00

In addition to the above fees any carnival or circus granted a license shall deposit with the City Auditor cash bond in the amount of \$500.00 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 \$100.00 to \$1,000.00 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**

10.0801. 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**

10.0901. 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), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. 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 thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation thereof.

**Article 10
Cabaret License**

AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATION OF SEXUALLY ORIENTATED BUSINESSES AND EMPLOYEES AND PROVIDING FOR ADDITIONAL MISCELLANEOUS REGULATIONS OF SEXUALLY ORIENTATED BUSINESSES.

WHEREAS, the City Council of the City of Thompson has authority under North Dakota Century Code section 40-05-01(1) to enact ordinances that the general welfare of the municipality may require and has specific authority under North Dakota Century Code section 5-02-09 to regulate dancing and other entertainment on the premise of licensed liquor establishments; and

WHEREAS, the City Council recognizes that expressive conduct within the perimeters of the First Amendment of the Constitution is protected and further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with those rights; and

WHEREAS, however, the City Council is aware that there is convincing documented evidence that sexually oriented businesses create secondary effects which this Council believes are detrimental to the public health, safety, and welfare to the citizens of Thompson; and

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WHEREAS, other communities with sexually oriented businesses have experienced documented secondary effects that include: lowered property values, deterioration of businesses and residential areas, exposure of children to negative behaviors, littering, traffic problems, disorderly conduct, criminal activity (both sexual and non-sexual), violence, sexual harassment, spread of sexually transmitted diseases, prostitution, and negative impressions of the community; and

WHEREAS, some of this evidence indicates that the secondary effects of sexually oriented businesses will be magnified in smaller towns; and

WHEREAS, some of these negative effects are already occurring in Thompson including, disorderly conduct, traffic problems, a negative impression of the community, and stunted community growth in the area of the sexually oriented business.

WHEREAS, the City Council enacts the following ordinance to minimize, prevent, and control the aforementioned secondary effects and thus protect the health, safety, and general welfare of the citizens of Thompson; and

WHEREAS, however, this ordinance is not intended to suppress any speech protected by the First Amendment; this content neutral ordinance aims only to address the secondary effects of sexually oriented businesses.

THEREFORE, the City Council of the City of Thompson, North Dakota, hereby ordains the following:

10.1001. Definitions.

- a. Entertainment – shall be defined for purposes of this Ordinance to mean all forms and types of performing or entertaining for patrons on licensed premises without regard as to whether such entertainment is provided by means of live performances or manually operated, electronic systems designed for stereophonic playback of prerecorded signals; provided, however, that entertainment shall not be deemed to include the use of any television, radio or coin operated music machine.
- b. Live performances – shall be defined for the purpose of this Ordinance to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premises as a singer, musician, dancer, comedian, model, or any other type of entertainer.

10.1002.

No licensee under this Chapter shall permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.

10.1003.

The license fee for cabaret license shall be \$250.00 per year.

10.1004.

The license fee set forth in subsection 3 of this Section shall be for a period of one year from July 1 to June 30 and shall be payable in advance at the time of the issuance of the license and thereafter on or before June 10 of each subsequent year for renewal of said license.

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10.1005.

The application for cabaret license shall be made by the licensee on forms provided by the City Auditor's office of the City of Thompson. The granting of a cabaret license shall be subject to the approval of the commission and it may be suspended or revoked in conformance with procedures established under Section 10.0106.

10.1006.

No live performances are permitted on a licensed premises which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musicians which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license.

10.1007.

No live performances are permitted on a licensed premises which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suitcoat, sportcoat, jacket, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a cabaret license.

10.1008.

No entertainment on a licensed premises shall contain:

- a. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- b. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
- c. The actual or simulated displaying of the pubic hair, anus, vulva or genitals; or the nipples of a female.

This restriction applies to all licensed premises whether or not they have a cabaret license.

10.1009. Prohibited contact:

- A. No employee entertainer or performer may touch the breasts, buttocks, anus or genitals of another person.
- B. No patron, using any part of his or her body including the hands, may knowingly make contact with the breasts, buttocks, anus or genitals of any employee, entertainer or performer.
- C. A patron may not place any money on the person or in or on the costume of an employee, entertainer or performer, provided that incidental hand to hand contact occurring during the act of tipping is not prohibited.

10.1010.

A licensee shall have the duty and responsibility to make available for inspection by a member of the Thompson Police Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premises. The licensee shall not permit a person to make a live performance on the licensed premises if the licensee is not able to obtain the required identification from the performer.

10.1011.

A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license issued by the City of Thompson.

10.1012.

Any person who violates Article 10 of Chapter X as indicated hereinabove, shall be found guilty of a Class B Misdemeanor subject to punishment by a fine of not more than \$1,000.00 and 30 days in jail or any other penalty as set forth by the laws of the State of North Dakota as amended.

10.1013.

This Ordinance shall take effect upon passage and publication as required by law.