

CHAPTER X

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 must 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 must make a written application to the city upon application blanks furnished by the city auditor and file it with the city auditor, stating the purpose for which it is desired, for what length of time, and specifying the place where the business is to be carried on; if required to file a bond before being licensed, the proposed sureties must be named on the bond in the application.

10.0103 Licenses -- Granting

The city auditor shall receive applications for licenses and permits and grant them in all cases where expressly authorized upon the terms and conditions specified by ordinance. If an application for license or permit for any purpose is questioned by the city auditor, the auditor may report the application to the next meeting of the governing board for action thereon.

10.0104 Licenses -- Term

1. No license or permit may be granted for a period longer than one (1) year.
2. All yearly licenses or permits commence on the first day of July in each year and expire on the last day of June in each succeeding year, unless stated otherwise herein.
3. No license or permit is valid until signed by the parties, nor is any person deemed licensed until a license is duly issued to the applicant.

4. Each license must be dated the day of issuance; but if the applicant or applicants have been acting without a license, the license commences with the date business commenced; if the business requires a yearly license, then the license commences on the first day of July in the year for which the license is issued.
5. The date of issuance of the license, together with the time of commencing and expiration, must be stated in the license and license record.

10.0105 Licenses -- Not Transferable

No license or permit is assignable or transferable except by permission of the governing board. No person other than the person to whom the license is granted is 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 may be issued that authorizes 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 violates any of the provisions of this section is deemed to be acting without a license and is subject to the same penalty as prescribed for acting without a license.

10.0106 Licenses -- Revocation

All licenses granted are subject to ordinances in force at the time of issuing the license or which may be subsequently passed by the city's governing board. Any person who violates any provision of this article relating to a license may be proceeded against for any fine or penalty imposed thereby, and the license may be revoked or forfeited in the discretion of the governing board 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" includes, but is not 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.

When the license is terminated or revoked for cause, the licensee or those claiming under the licensee, are not 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, must 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 the licensee shall wear such badge during the normal course of employment for which the badge is issued.

10.0108 Licenses -- Short Term

No license, unless otherwise specified, can be issued for a fractional part of the year, but must relate back if taken out subsequent to the first day of July each year.

10.0109 Licenses -- Enforcement

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

10.0110 Licenses -- Obligations to the City

No applicant may 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 undisputed taxes, special assessments, invoices or billings in which the city shares.

ARTICLE 2

Transient Merchants

10.0201 Definitions

For the purpose of this article:

1. "Transient Merchant" includes any person, individual, co-partnership, corporation, or limited liability company, either as principal or agent, who engages in, does, or transacts any temporary or transient business in the City of Hazen, either in one locality, or in traveling from place to place within the City, selling, or soliciting orders for future delivery of, goods, wares, merchandise, personal property and personal services including spraying, trimming, or pruning of trees and shrubs of all species, painting or repairing buildings or structures, pest or rodent control, and taking photographs for present or future delivery, who does not intend to become and does not become a permanent merchant of the City of Hazen. The person, individual co-partnership, corporation, or limited liability company so engaged is not relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or other business, 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, or other business.
2. "Merchandise" does not include any livestock or agricultural product raised or produced in North Dakota.

10.0202 License Required

It is unlawful to do business in the city as a transient merchant without having first secured a license as is herein provided. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the city for a period of time not exceeding 100 days is considered as a transient merchant, provided that peddlers, as defined in subsection 4-30-01(58) NDCC, are not considered transient merchants. In addition, a transient merchant selling merchandise only in flea markets, craft fairs, fairs, carnivals, circuses, or similar activities regulated by city or county governments, fair associations, convention bureaus, other political subdivisions, or local trade associations is exempt from the licensing requirements herein.

10.0203 License Fee

The license fee required of all transient merchants for the transaction of business within the city, as contemplated in and provided for in and by Section 51-04-09, NDCC, is hereby fixed at the sum of \$25.00 per day for each and every day during which any transient merchant transacts business in the city.

10.0204 License - Application For

Applicants for license under this article, whether an individual, co-partnership, corporation, or limited liability company, must file a written sworn application signed by the applicant, if an individual, by all partners if a partnership, by the president if a corporation, and by the president or other authorized manager or agent if a limited liability company, with the city auditor, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation or limited liability company, under the laws of what state the same is incorporated or organized;
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 is to be conducted;
6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and
8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant, in the city, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or 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 the goods or products are located at the time the application is filed.

9. A statement of the nature of the service to be performed or provided, and the names and qualifications of the persons who will be providing the service.

10.0205 Bond

Before any license is issued to a transient merchant for engaging in business in the City, the applicant shall file with the City Auditor a bond running to the City in the sum of \$5,000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota. The bond is 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. The bond is to be reviewed by the City Attorney, and approval granted conditioned upon the following:

1. That the applicant complies fully with all of the provisions of the ordinances of the City and statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise, or the providing of a service; and
2. That the applicant will pay all judgments rendered against the applicant for any violation of ordinances or statutes, or any of them, together with all judgments, and costs that may be recovered against the applicant by any person or persons for damage arising from any misrepresentation or deception practiced on any person transacting business with the applicant, whether the misrepresentation or deceptions were made or practiced 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 and merchandise sold, or service to be performed or provided, or any part thereof.
3. 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 is issued for engaging in business as a transient merchant, as herein defined, in this city, the applicant shall file with the City Auditor an instrument nominating and appointing the City Auditor as the applicant's true and lawful agent with full power and authority to acknowledge service of notice of process for

and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license and the bond given as required by this article, or for the performance of the conditions of the bond or for any breach thereof. The instrument must also contain recitals to the effect that the applicant for the license consents and agrees that service of any notice or process may be made upon the agent, and when so made must be taken and held to be as valid as if personally served upon the person or persons applying for the 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 service or manner of service. Immediately upon service of process upon the city auditor, as herein provided, the city auditor shall send to the licensee at the licensee's last known address, by registered mail, a copy of the process.

10.0207 Exhibiting License

The license issued under this Article must be posted conspicuously in the place of business named therein. In the event that the person or persons applying for a license desires to do business in more than one place within the city, separate licenses will be issued for each place of business, and must be posted conspicuously in each place of business.

10.0208 Transfer

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

10.0209 Enforcement by Police

It is 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 enforcement.

10.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the governing board of the City, after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise, or the providing of a service;

- 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 must be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice must be mailed, postage prepaid, to the licensee at the licensee's last known address, at least five days prior to the date set for the hearing.

10.2011 Expiration of License

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

ARTICLE 3

Solicitation Without Invitation

10.0301 Solicitation Without Invitation Prohibited

Except as set forth below, the practice of going in and upon private residences 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, 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. This provision does not apply to authorized school fund raising activities and solicitation carried on by local non-profit organizations or churches.

10.0302 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 nuisance as is described in 10.0301.

ARTICLE 4

ALCOHOLIC BEVERAGES

10.0401 Definitions

For the purpose of this article:

1. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume.
3. "Liquor" means any alcoholic beverage except beer.
4. "Person" means a natural person, corporation, limited liability company, partnership, trust, agency, or other entity as well as the individual officers, directors or other persons in active control of the activities of each such entity. "Person" also includes heirs, assigns, personal representatives, conservators, and guardians.
5. "Sale" and "sell" 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" mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
7. "Club" or "lodge" include any corporation, limited liability company, or association organized for civic, fraternal, social, or business purposes, or the promotion of sports, which has a least 200 members at the time of application for license.
8. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.
9. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license authorizes the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and does not permit the opening of the package sold on the premises where

Ordinance

AN ORDINANCE OF THE CITY OF HAZEN, NORTH DAKOTA, ADOPTING AN AMENDMENT TO CHAPTER X, ARTICLE 4 ENTITLED "ALCOHOLIC BEVERAGES" TO ALLOW DOMESTICE WINERIES TO SELL AND DISPENSE WINE AT SPECIAL EVENTS AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA:

Section 1. Chapter X, Article 4, Section 10.0403 of the Hazen City Ordinances entitled "License Required" is hereby amended to read as follows:

10.0403 License Required

No person may sell retail within the city limits of this city any alcoholic beverage without first having obtained a license as herein provided. This section does not apply to public carriers engaged in interstate commerce.

In addition, no license is required for a domestic winery having a current, valid license from the state tax commissioner allowing the production of wine and in possession of a special event permit issued by the state tax commissioner under N.D.C.C. section 5-01-17 provided that the domestic winery presents the state tax commissioner permit to the city auditor and obtains a permit for each event from the city auditor in the same manner as a licensee in section 10.0414 herein.

This ordinance becomes effective upon final passage and approval.

Passed 1st Reading: May 7, 2007

Passed 2nd Reading: May 21, 2007

APPROVED:

Published: NOT REQUIRED



President

ATTEST:



CITY AUDITOR

sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.

10. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license authorizes the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.
11. "Wine" means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.
12. Additional definitions found in section 5-01-01 NDCC are incorporated herein by reference.

10.0402 Exceptions

1. This article does not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article may 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; and
 - c. Flavoring extracts, syrups, and food products.

10.0403 License Required

No person may sell retail within the city limits of this city any alcoholic beverage without first having obtained a license as herein provided. This section does not apply to public carriers engaged in interstate commerce.

10.0404 License ---Term Of

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

10.0405 Licenses -- Classes of

The annual fees for all classes of liquor licenses will be in such amount as established from time to time by resolution of the Board of City Commissioners.

10.0406 Charges for Licenses

Charges for licenses may be paid on a semi-annual basis, or on or before January 1st and July 1st of each year. Failure to renew a license on or before its expiration date, or to pay the semi-annual installment due July 1st of each year, will ipso facto constitute a revocation or non-renewal, as the case may be.

10.0407 License -- Qualifications For

No retail license may 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 a resident of this state, and be a person of good moral character.
2. If 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.
- 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 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 to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage vendor; or, following conviction of any offense, is determined not to be sufficiently rehabilitated.
4. The building in which business is to be conducted must meet local and state requirements regarding sanitation and safety.
5. The taxes and special assessments on property for which application for license is made must not be delinquent.
6. If the applicant's place of business is to be conducted by a manager or agent, the manager or agent must possess the same qualifications required of the licensee.
7. The applicant or manager must be a resident of the City of Hazen.

10.0408 License -- Application For

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 board of this city, filed with the city auditor, containing the following information:

1. The legal description and the address of the premises for which license is sought.
2. 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 the applicant holds possession of said premises.

3. Whether there are any delinquent taxes or special assessments against the premises sought to be licensed.
4. 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, and the date the applicant first began to operate.
5. Whether the applicant has ever had a license revoked or canceled by any municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling same, and the reason for such cancellation.
6. 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 places, and courts, in which said convictions were had.
7. 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.
8. Whether the applicant has ever been convicted of any other crime than stated in subsections (6) and (7) 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.
9. 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.
10. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixture, 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.
11. 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 holder of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, and within the borders of the United State.

12. The occupations which the applicant has followed during the past five years.
13. The names and addresses of at least three business references.
14. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
15. 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.
16. The classification of license applied for.
17. If the applicant is a lodge or club, the date of organization, the number of members, the purpose for which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.
18. A statement by the applicant that the applicant 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.
19. The name and address of the applicant; if the applicant is a limited, limited liability, or general partnership, the name and address and place of residence of each member of said partnership and the manager of the licensed premises; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises; and if the applicant is a limited liability company, the name and address of the members of the limited liability company and the manager of the licensed premises.

10.049 License -- Applicant Fitness

The chief of police or other person or officer as may be designated by the governing board 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.

10.0410 License -- Limit to One Applicant

Unless special permission is obtained from the governing board, no more than one license of each classification may be issued or granted to any applicant, and each license is valid only for the specific premises licensed.

10.0411 License -- Limit of Number

1. Combined on and off sale licenses -

The maximum number of combined on and off sale licenses that may be issued is limited to one per each complete 650 population according to the last official census. This limitation is exclusive of licenses issued to lodges and clubs, motels and hotels having 35 or more guest rooms and restaurant facilities, to bowling alleys with a minimum of eight lanes, and of beer licenses issued to liquor licensees.

2. Off sale liquor license ("package") -

The maximum number of off sale liquor licenses that may be issued is limited to one per each complete 1000 population according to the last official census.

3. Off sale beer licenses -

The maximum number of off sale beer licenses that may be issued is limited to one per each complete 1000 population according to the last official census.

4. On sale beer licenses -

The maximum number of on sale beer licenses that may be issued is limited to one per each complete 500 population according to the last official census, except that one on sale beer license is allowed for each 1000 population, or major portion thereof, when the license is issued to an ethnic specialty food establishment, such as pizza parlors, taco shops, Mexican restaurants, Italian restaurants, or other such ethnic oriented food service establishments wherein the beer will be served to customers eating on the premises.

10.0412 License -- Location Of

No license may be issued or transferred to any person to engage in the sale of beer or alcoholic beverages within the city without approval as to the location of the licensed business by the governing board. The application for approval must be in writing filed with the board. Public hearing must then be had on the application, after notice published in the official newspaper of the city two (2) times, the first publication to be at least 15 days before the hearing date. At the time of hearing, the board may, in its discretion, determine if the location is in harmony with the public interest and welfare of the community, and may 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 combination licenses.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, wine, liquor or alcoholic beverages.
11. Public convenience and necessity.

10.0413 Event Permit Authorized

The governing board may by permit authorize an alcoholic beverage licensee licensed under this Article, to engage in the sale of alcoholic beverages at events designated by the permit. The fee for the permit will be as set by resolution of the governing board, but may not exceed the sum of \$25.00. The permit may extend up to 14 days, and may include Sundays. The governing board, by resolution, may establish additional rules it deems necessary to regulate and restrict the operation of an event permit. The application for the event permit must be in the following form:

ORDINANCE NO. 99-02

**CHAPTER X
ARTICLE 4
ALCOHOLIC BEVERAGES**

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Chapter X, Article 4 be amended by addition of the following provision:

10.0411 License--Limit of Number

5. On sale liquor licenses -

The maximum number of on-sale liquor licenses that may be issued is limited to one per each complete 500 population according to the last official census, except that one on-sale liquor license is allowed for each 1,000 population, or major portion thereof, when the license is issued to an ethnic specialty food establishment, such as pizza parlors, taco shops, Mexican restaurants, Italian restaurants, or other such ethnic-oriented food service establishments wherein the liquor will be served to customers eating on the premises.

First Reading: January 11, 1999

Roll Call: 4 aye
0 nay
1 absent

Second Reading: January 25, 1999

Roll Call: 4 aye
0 nay
1 absent

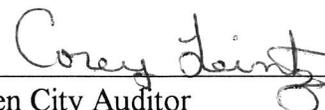
Final Passage: January 25, 1999

Published: Not Required



President, Hazen City Commission

ATTEST:



Hazen City Auditor

RESOLUTION

Whereas, the City of Hazen establishes the rates for certain fees by resolution;
and

Whereas, the City of Hazen has determined that event permits require revision
due to increased costs of administration; and

Whereas, the City of Hazen has determined that the following rate change is
necessary to address the increased costs;

Effective January 1, 2007, Event Permits will cost \$25.00.

Therefore, Be it resolved that the City of Hazen, adjusts rates for Event Permits
as shown above effective January 1, 2007, and continuing until modified by further
action of the Hazen City Commission.

Approved this 29th day of August, 2006.

Commissioners present: Schramm, Axtman, Peterson, Grant and Link

Vote in Favor: Peterson, Link, Grant, Schramm

Vote Against: Axtman

City Commission:



Delmar Schramm, President

Attest:



Sandra K. Bohrer, Hazen City Auditor

PERMIT

The above named licensee is hereby authorized to sell alcoholic beverages in accordance with law and ordinances at the premises and on the date(s) set forth in this application subject to such rules and regulations as have been established. The conditions established by the Hazen City Commission are as follows (if applicable):

Dated this _____ day of _____, 19__.

Auditor
City of Hazen

DESCRIPTION OF PREMISES:

1. Give address of premises: _____
(street address)
2. Name of building where event will be held, if applicable: _____
3. Do premises meet local and state requirements regarding sanitation and safety? ()yes () no
4. Draw a clear and understandable floor plan of the premises. Show all exits, bars, dining areas (if any), beverage coolers, and beverage storage areas. Indicate which are solid walls, half walls, dividers, and moveable partitions. If any area is enclosed by fences or the like, explain the type and height.

If the designated premises is not within a permanent structure, draw a clear and understandable description of the temporary structure to be used and where is its to be located.

5. What part of the building or temporary structure will be used for the alcoholic beverage business (sale of beverages and consumption of the beverages sold)?

() All () Less than all.

If less than all, fully explain and clearly indicate on the floor plan (outline with a different color):

10.0414 Bowling Alleys - Permit

The governing board may by permit authorize the consumption of alcoholic beverages in the recreation area of a commercial bowling facility, according to the terms and conditions as are stated on the permit. The fee for any such permit will be set by resolution of the governing board.

The governing board hereby establishes the following requirements and conditions to be met by the licensee to obtain or retain a permit:

1. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
2. The proposed activity or use will not entail unusual, extra-ordinary or burdensome expense or police operation by the City.
3. No alcoholic beverages may be consumed except during those hours when the licensed premises are licensed to sell and dispense alcoholic beverages in the City of Hazen and the State of North Dakota, and in no case may alcoholic beverages be consumed in the area covered by the permit during any hour or on any day during which the consumption of alcoholic beverages is prohibited on the licensed premises by any applicable law.
4. No alcoholic beverages may be consumed in any area or room of the premises, except the area containing the bowling lanes or in a designated bar area, which must be identified as the licensed premises for the purpose of sale and consumption of alcoholic beverages generally. This permit may be issued only to the owner or operator of the bowling facility, and only for the hours and days specified in the permit. All permits issued hereunder may be for a maximum period of one (1) year and will expire on June 30th of each calendar year.
5. The person to whom the permit is issued is responsible for the conduct of all persons in the area covered thereby, and is, further, responsible for complying with all ordinances dealing with the sale or consumption of alcoholic beverages. This person is also liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person, or persons, to whom the permit is issued. This person is also responsible for complying with all applicable state and local licensing requirements and laws.

6. This permit may be revoked by the governing board if the requirements and conditions stated herein are not fully complied with. The revocation process requires a hearing before the governing board, after proper notice to the permit holder. A temporary suspension of the permit may be necessary and is authorized to be ordered by the governing board, should the circumstances require such action prior to the hearing.
7. The application and permit must be in the following form:

**APPLICATION FOR PERMIT FOR CONSUMPTION OF ALCOHOLIC
BEVERAGES AT A COMMERCIAL BOWLING FACILITY**

Complete two copies of this application. Submit both copies to the Hazen City Commission. If approval is granted, the Hazen City Commission will retain one copy and forward the other executed copy to the licensee.

STATE OF NORTH DAKOTA)
)s
COUNTY OF MERCER)

_____, after being first duly sworn, states as follows:

1. Name and address of licensee: _____.
2. Name of business: _____.
3. Location of business: _____.
4. Mailing address: _____.
5. State license beverage number: _____.
6. Local license number: _____.
7. Days and hours for which permit is requested: _____
_____.

Dated this ____ day of _____, 19_

Licensee

Subscribed and sworn to before me this ___ day of _____, 19_.

My Commission Expires:

Notary Public
Mercer County, North Dakota

PERMIT

**SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES
IN COMMERCIAL BOWLING FACILITY**

The above-named licensee is hereby authorized to allow the consumption of alcoholic beverages in accordance with law and the ordinances of the City of Hazen at the premises designated herein, subject to such rules and regulations as are specifically stated in this Permit, and in Section 10.0415 of the Hazen City Ordinances.

- (1) Name of licensee:_____.
- (2) Location of premises: _____.
- (3) Area consumption authorized:_____.
- (4) Dates and hours of consumption:_____.
- (5) Other conditions/restrictions:_____.

Dated this ____ day of _____, 19 __.

City Auditor

10.0415 Sunday Alcoholic Beverage Permit

1. The governing board may issue a Sunday alcoholic beverage permit to an alcoholic beverage licensee licensed under this Article or to a publicly owned and operated facility.
2. A permit may be granted only upon proper application to and approval by the governing board. The permit granted may be effective for any number of Sundays as determined by the governing board.
3. Under this permit, alcoholic beverages may be distributed and dancing may be permitted in an establishment or a facility only between the hours of 12:00 noon on Sunday and 1:00 a.m. on Monday. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority of this permit. The establishment or facility granted this permit must enforce the requirements of this Section and any other conditions the governing board may attach to the permit.
4. The fee for a Sunday alcoholic beverage permit will be as set by resolution of the governing board.
5. Any person who dispenses, sells or permits the consumption of alcoholic beverages in violation of this section or the conditions of a Sunday permit, or who furnishes information required by this section which is false or misleading is guilty of an offense.

APPLICATION FOR SUNDAY ALCOHOLIC BEVERAGE PERMIT

Complete two copies of this Application. Submit both copies to the Hazen City Auditor. If approval is granted, the Hazen City Commission will retain one (1), and a fully approved copy will be given to the applicant.

STATE OF NORTH DAKOTA)
)s
COUNTY OF MERCER)

_____, after being first sworn on oath, answers the questions below as follows:

- 1. Name of Applicant: _____
- 2. Name of Licensee: (if different) _____
- 3. Applicant's Address: _____
- 4. State Alcoholic Beverage License No. of Applicant of Licensee:

- 5. Local License No(s): _____
- 6. Sundays to be open: _____

Local Fee: \$_____/Sunday x Sundays = \$_____.00

Dated this ___ day of _____, 19__.

Applicant: _____

By: _____

Subscribed and sworn to before me this ___ day of _____, 19__.

My Commission expires:

Notary Public

PERMIT

The above-named applicant is hereby authorized to distribute alcoholic beverages in accordance with the applicable laws and ordinances at the premises/location and on the dates set forth in this Application, subject to such rules and regulations as have been established. The hours of distribution are from 12 noon Sunday to one a.m. Monday, unless otherwise stated below. The conditions established by the Hazen City Commission are as follows (if applicable):_

Dated this ___ day of _____, 19__.

Hazen City Auditor

DESCRIPTION OF PREMISES:

1. Address of Premises: _____
2. Name of Building/Business Where Event Will Be Held: _____
3. Draw a clear and understandable floor plan of the premises and indicate which areas have been reserved for event activities:

10.0416 License -- Required Posting of

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

10.0417 License -- Transfer of -- Fees

Required fees for the transferring of any license under the provisions of this Article will be as established from time to time by resolution of the governing board.

10.0418 License Fees -- Disposition of

All license fees collected under this article must be transferable to the treasurer of this City and credited to the general fund of the City.

10.0419 Hours and Time of Sales

No licensee may sell, serve or permit to be sold, served or consumed on the premises named in the license any alcoholic beverages during the hours and days when the sale, service or consumption is prohibited by the state law then in effect.

10.0420 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and sobriety in the place of business, permitting no disorderly conduct on the premises.

10.0421 Gambling Prohibited

Except as otherwise provided by law, no licensee hereunder is permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board, or any other machine or device of similar character, nor is gambling, whether by cards, dice, or otherwise, of any nature, permitted upon the premises, other than games of chance as are authorized by Chapter 53-06.1 of the North Dakota Century Code and the related rules and requirements therein as to the conducting of games of chance on licensed premises. Any violation of this section is sufficient cause for the revocation of the license issued hereunder, and the license may be revoked upon conviction of any violation.

10.0422 Sales and Delivery Prohibited, Person

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

10.0423 Minors in Licensed Premises

Except as permitted in this section, no licensee may dispense alcoholic beverages to a person under twenty-one years of age, or permit such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed, if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if (1) employed by the restaurant as a food waiter, food waitress, busboy or busgirl, under the direct supervision of a person twenty-one or more years of age, and not engaged in the sale, dispensing, delivery or consumption of alcoholic beverages, or (2) if the person is a law enforcement officer entering the premises in the performance of official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person over twenty-one years of age.

10.0424 Age Identification

Before selling alcoholic beverages to any person, or before determining whether any person may remain upon the licensed premises, a licensee, its agent or employee may require, in addition to photo identification, a statement in writing and signed by the person of the person's age. Any person who makes a false statement as to his age or her age, or signs a name other than his own or her own to any such statement, is guilty of a violation of this article.

10.0425 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited, without first obtaining a special permit as authorized in Section 10.0414. Such sales must be confined to the area designated in the special permit, which area must be partitioned in some manner and restricted to persons twenty-one or more years of age.

10.0426 Purchase from Licensed Wholesaler

No licensee hereunder may 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 5 of the State of North Dakota Century Code; and each licensee hereunder must keep on file all invoices covering purchases of such alcoholic beverages showing the name and license number of the wholesaler, and the records must be retained in the possession of the licensee and must be at all times open to inspection by any police officer or peace officer in the State of North Dakota.

10.0427 Sanitary Requirements

All licensees must maintain the licensed premises in a clean and sanitary condition. All premises licensed for on-sale distribution of alcoholic beverages 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 regulations, are not, at all times, strictly observed.

10.0428 Bottle Clubs

No person may 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 the beverages on the premises.

10.0429 Deliveries -- Off Licensed Premises

It is unlawful for any person, limited liability company, limited partnership, general partnership, limited liability partnership, 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, provided however, that this section does not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

10.0430 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article are deemed canceled 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 board by personal representative of the decedent, the governing board consents 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. Licenses issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for a 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 is 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, limited liability partnership, or limited partnership, or one of the officers or the manager if the licensee be a corporation or limited liability company, be convicted in the municipal court of the city of drunkenness or disorderly conduct or, if any appeal be taken from a conviction, then when the conviction is sustained by the higher court or courts.
3. The causes as are hereinbefore detailed are not to be deemed to be exclusive and the license may also be canceled and revoked or suspended at any time by the governing board for any cause

deemed by the governing board to be sufficient cause and justified by reason of public health or public morals. Termination is 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 business, no portion of the license fee previously paid will be returned to the licensee or to anyone claiming under or through him.

10.0431 Cabaret License

1. Definitions.

- a. Entertainment is 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 the entertainment is provided by means of live performances or manually operated, electronic systems designed for stereophonic playback of prerecorded signals: provided, however, that entertainment may not be deemed to include the use of any television, radio or coin operated music machine.
- b. Live performance is defined for the purposes of this Ordinance to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, model, or any other type of entertainer.

2. No licensee under this Chapter may permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.
3. The license fee for a cabaret license will be set by resolution of the governing board.
4. The license fee set forth in subsection 3 of this Section is for a period of one year from July 1 to June 30 and is 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 the license.

5. The application for cabaret license must be made by the licensee on forms provided by the City Auditor's office of the City of Hazen. The granting of a cabaret license is subject to the approval of the governing board and it may be suspended or revoked in conformance with procedures established under Section 10.0431.
6. No live performances containing any form of dancing are permitted on a licensed premise. This prohibition on dancing does not include the incidental movement or choreography of singers or musicians which is 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.
7. No live performances involving the removal of clothing, garments or any other costume are permitted on a licensed premise. This prohibition does not include the removal of headgear or footwear; or the incidental removal of a tie, suitcoat, sport coat, jacket, sweater or similar outer garments. Incidental removal for purpose of this section means 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.
8. No entertainment on a licensed premise may 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.

9. A licensee has the duty and responsibility to make available for inspection by a member of the Hazen 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 premise. The licensee may not permit a person to make a live performance on the licensed premise if the licensee is not able to obtain the required identification from the performer.

10. If any section, subsection, sentence or clause of this ordinance is for any reason held to be unconstitutional, such decision does not affect the validity of the remaining portions of the ordinance.

ARTICLE 5

GAMES OF CHANCE

10.0501 Definitions

As used in this ordinance, unless otherwise specifically defined herein, meanings and definitions are as provided in Section 53-06.1-01 of the North Dakota Century Code.

10.0502 Organizations Eligible to Conduct Games of Chance

1. Organizations eligible to conduct games of chance within the City of Hazen are those as defined in Section 53-06.1-02 of the North Dakota Century Code.
2. Public spirited organizations are those as provided in Section 53-06.1-01, and further identified by Resolution of the governing body of Hazen as "public spirited" and eligible to conduct games of chance under this article.
 - a. Such Resolution may be promulgated by the governing body of Hazen at any special or regular meeting thereof upon application by such proposed organization for license to conduct games of chance.
 - b. Only a non-profit organization may be recognized by the governing body of Hazen as a "public spirited" organization.
 - c. Recognition of an organization as "public spirited" may be withdrawn or dissolved by like resolution of the governing body of Hazen.
3. Priority will be given to those eligible organizations, including public spirited organizations, that are situated or conduct their activities in Mercer County. The governing body of Hazen may request sufficient information from any organization requesting a license or site permit, as it deems necessary, in order to determine to what use the net proceeds of the games of chance are to be devoted. The use of gaming proceeds for the benefit of local persons, organizations, or other appropriate beneficiaries must be

an important consideration as to the approval of any license or site permit.

10.0503 License - Fee- Application

1. Pursuant to Section 53-06.1-03 of the North Dakota Century Code, a nonprofit organization shall obtain a local permit as follows:
 - a. A nonprofit organization recognized as a public-spirited organization by the governing body of Hazen may apply for a local permit to conduct only raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate prizes do not exceed six thousand dollars annually, and to conduct sports pools for professional sports only. The governing body of Hazen may issue a local permit for these games to be held at designated times and places.
 - b. An eligible organization intending to conduct only bingo, raffles, or sports pools at a site in Hazen shall apply to the governing body of Hazen for a local permit before commencing such activities. Application for a local permit must be made on a form prescribed by the North Dakota attorney General. Approval may be granted at the discretion of the governing body. A fee for a local permit not in excess of that permitted by state law may be set by the governing body from time to time. The local permit will be issued on an annual basis, beginning July 1 and ending the following June 30.
 - c. For purposes of issuing a local permit, the determination of what is a "public-spirited organization" is within the sole discretion of the governing body of Hazen.
2. An eligible organization intending to qualify as a licensed organization as set forth in Chapter 53-06.1 of the North Dakota Century Code must apply to the governing body of Hazen for site approval. The application form will be such form as the governing body adopts from time to time. Approval may be granted at the discretion of the governing body. The fee for each site authorization will be in an amount as is established from time to time by resolution of the governing body, but not to exceed the limits imposed by the laws of the State of North Dakota. Site approval must be applied for annually.

3. Rented premises are subject to rules as adopted by the Attorney General's office, and the provisions of Chapter 53-06.1 of the North Dakota Century Code.
4. Only one licensed organization or organization that has a local permit at a time may conduct games at an authorized site, except that a raffle may be conducted for a special occasion by a second organization that is a licensed organization that has a local permit when one of these conditions is met:
 - (1) When the area for the raffle is physically separated from the area where games are conducted by the regular licensee.
 - (2) Upon request of the regular licensee and with the approval of the alcohol beverage establishment, the licensee's license is suspended for that specific time of day by the Attorney General.
5. Except for the sale of a raffle ticket, a license and site authorization or local permit must be conspicuously displayed at the site when a game is conducted.

10.0504 Violation of Act

Any person who knowingly makes a false statement in any application for a local permit, license, or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate gross proceeds, prizes, expenses, or devotion of net proceeds, or who falsifies any books or records relating to any transaction connected with the holding, operating, and conducting of games, or who violates any of the provisions of this ordinance or resolution promulgated hereunder, or of any term of a local permit or license, is guilty of an offense. If convicted, the person forfeits any license or local permit issued to it pursuant to this chapter for a period of time equal to that determined by the North Dakota attorney general under section 53-06.1-16 of the North Dakota Century Code.

10.0505 Rules and Regulations

Any and all rules and regulations promulgated by the Attorney General of the State of North Dakota pursuant to Chapter 53-06.1, particularly Section 53-06.1-17, of the North Dakota Century Code are controlling in the enforcement and administrative procedures of this Ordinance.

10.0506 Examination of Books and Records

The governing body of the City of Hazen, or its authorized representative, has the power to examine or cause to be examined the books and records of any licensed organization or organization that has a local permit to the extent that the books and records may directly or indirectly relate to any transaction connected with holding, operating or conducting any game.

10.0507 Display of License and Local Permit

Except for the sale of a raffle ticket, a license and site authorization or local permit must be conspicuously displayed at the site when a game is conducted.

First Reading: July 28, 1997
Second Reading: September 9, 1997
Publication: September 18, 1997

ORDINANCE NO. 97-02

ORDINANCE AMENDING CHAPTER X

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Chapter X of the Hazen City Ordinances concerning Business Regulations and Licenses be amended and re-enacted in the form attached hereto.

First Reading: July 28, 1997

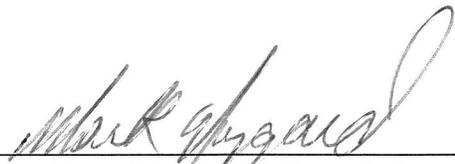
Roll Call: 4 aye
 nay
 1 absent

Second Reading: September 8, 1997

Roll Call: 5 aye
 nay
 0 absent

Final Passage: September 8, 1997

Published: September 18, 1997



President, Hazen City Commission

ATTEST:



Hazen City Auditor