

**ORDINANCE NO. 145**

**AN ORDINANCE TO REGULATE THE SALE OF BEER & WINE/ALCOHOLIC  
BEVERAGES WITHIN THE CITY OF POWERS LAKE**

**BE IT ORDAINED BY THE CITY COUNCIL AND MAYOR OF THE CITY OF POWERS  
LAKE, NORTH DAKOTA:**

The Ordinances of the City of Powers Lake shall be amended to reads as follows:

**ALCOHOLIC  
BEVERAGES**

**Section**

- 145.0601 Definitions.
- 145.0602 License required.
- 145.0603 License--Qualifications.
- 145.0604 License--Application.
- 145.0605 License--Fees.
- 145.0606 Application--Investigation of.
- 145.0607 License renewal.
- 145.0608 Restrictions on sale, service or dispensing of alcoholic beverages.
- 145.0609 Restrictions on sale or consumption in a public place.
- 145.0610 Restrictions on sale to obviously intoxicated person.
- 145.0611 Licenses--Termination, suspension, revocation.
- 145.0612 Special Permits: Fees
- 145.0613 Unlawful practices.
- 145.0614 Inspection of licensed premises.
- 145.0615 Penalty.

145.0601 Definitions.

In this article, unless the context or subject matter otherwise requires:

- A. "Alcohol" shall mean neutral spirits distilled at or above 190 proof, whether or not such product is subsequently reduced, for nonindustrial use.
- B. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume. All alcoholic beverages shall be deemed intoxicating.
- C. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
- D. "Council" shall mean the governing body of the City of Powers Lake.
- E. "Dispense" shall mean to prepare and distribute.
- F. "Entertainment" shall mean all forms and types of entertaining patrons of licensed premises, whether such entertainment is provided by means of live performances or audio and/or video presentations, whether remote or prerecorded; provided, however, that

- “entertainment” shall not be deemed to include the use of any regularly broadcast television or radio programs, or coin-operated music machine.
- G. “Licensee” shall mean any person to whom a license has been issued under the provisions of this article.
- H. “Licensed premises” shall mean the bar area, dining rooms, meeting rooms, outdoor dining areas and all other areas or spaces where alcoholic beverages are regularly or occasionally sold, served or dispensed. In the alternative, any person applying for a license under the provisions of this article may describe, depict or otherwise identify in his application for a license various areas or spaces which shall constitute the licensed premises. The council, in its discretion, may require any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this article.
- I. “Off-sale” shall mean sale of alcoholic beverages in original packages solely for consumption off or away from the premises where sold. An off-sale license shall authorize the licensee to conduct such off-sale at the place designated in the license.
- J. “On-sale” shall mean sale of alcoholic beverages for consumption only on the licensed premises. An on-sale license shall authorize the licensee to conduct such on-sales at the place designated in such license.
- K. “Package” and “original package” shall mean any container or receptacle holding alcoholic beverages when such container or receptacle is corked or sealed by the manufacturer thereof and when the cork or seal has not been removed or broken prior to the sale of such package to the purchaser thereof.
- L. “Person” shall include any natural person, association, partnership, corporation and any clerk, agent and abettor thereof.
- M. “Public place” shall mean any building, property or other place that the general public can occupy as a matter of right or any building, property or place that is open to the general public by implied or express invitation, either for business purposes or otherwise.
- N. “Sale” shall mean all methods or modes of furnishing alcoholic beverages, with or without consideration, whether by selling, dispensing, exchanging, bartering or other similar means of transfer. Such term shall include all transactions, whether for cash, credit or other considerations and shall include, but not be limited to, transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a “donation”, or used to purchase any ticket, token or other object redeemable for alcoholic beverages.
- O. “Serve” shall mean to give someone their food or drink.
- P. “Transfer” shall mean a change in location of the licensed premises; or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article. A transfer shall be deemed to have occurred upon the assignment, sale, exchange or other conveyance of 50% or more of the interest in a licensee partnership or stock in a licensee corporation, whether such assignment, sale, exchange or other conveyance occurred in one single transaction or multiple transactions.

145.0602 License required.

No person shall engage in the business of the sale at retail of alcoholic beverages without first obtaining a license pursuant to the provisions of this article and posting the same in a conspicuous place on the licensed premises.

145.060 Types of Licenses

A license under this ordinance shall be available only in the following categories:

- A. Combined on sale and off sale liquor/beer license
- B. Off sale liquor/beer license
- C. On sale beer/wine license

145.0603 License--Qualifications.

No license shall be issued to any applicant except as follows:

- A. If the applicant is an individual or partnership, such individual or partners must be a legal and bona fide resident of the state of North Dakota and be at least 21 years of age.
- B. If the applicant is a corporation, the manager of the licensed premises or another full-time employee of the licensee who is at least 21 years of age must be designated in the license application as an agent of the corporation.
- C. No license shall be issued to any person, partnership or corporation as the representative or agent of another, and the license may be issued only to the owner or owners of the business being conducted at the location sought to be licensed.
- D. The applicant or manager must not have been convicted of a felony or of any violation of any state or federal law pertaining to the sale of alcoholic beverages for five years preceding the date of application.
- E. The applicant or manager must not have had a license for the sale of alcoholic beverages issued and revoked to him or her within the five years preceding of the application.
- F. The building in which the business is to be conducted must meet local and state requirements regarding sanitation and safety.
- G. Taxes on property for which application for license is made must not be delinquent.
- H. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

145.0604 License; Application.

Any person desiring to obtain the issuance or transfer of a license authorizing the sale at retail of alcoholic beverages shall make and file an application for such license with the council. Said application shall be made on a form approved by the council and made available through the office of the city auditor. The application shall contain the following information:

- 1. The type of license being applied for.
- 2. The street address and legal description of the premise is sought to be licensed, accompanied by a reasonably accurate sketch map of the location and extent of the licensed premises if they form part of a building containing premises which are not licensed for the sale of alcoholic beverages.

3. The name(s), date of birth(s) and current address of the applicant and/or manager.
4. All addresses and legal residence that the applicant and/or manager have resided at during the prior five years.
5. If the applicant is the natural person, a statement to the effect that the applicant is a lawful residents of the United States of America.
6. If the applicant is a Corporation, a statement to the effect that the applicant is incorporated in North Dakota or that is the foreign corporation registered as such in North Dakota and in either event, in good standing with the North Dakota Secretary of State.
7. The names and addresses of all partners or shareholders with a stake of 5% or more. A list of the name and addresses of the governing body of the applicant.
8. A statement to the effect that with regard to the five years preceding the date of application neither the applicant nor the manager has been convicted of a felony or of any violation of any state or federal law pertaining to the sale of alcoholic beverages.
9. A statement to the effect that neither the applicant nor the manager has had a license for the sale of alcoholic beverages issued and revoked to him within the preceding five years of the application.
10. A release of information and consent to background check as required by the City to investigate the facts set out in the application.

In addition to the information supplied on the application form, the council, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

145.0605 License--Fees.

- A. Initial issuance fee--For a license granted which is not a renewal of an existing license, the fees shall be as follows:
  - a. Combined on sale and off sale liquor/beer license is \$1,000 per year.
  - b. Off sale liquor/beer license is \$1,000 per year.
  - c. On sale beer/wine license is \$500 per year.
  - d. Sunday Alcohol Permit is \$5.00 per Sunday requested
- B. The Initial Issuance Fee is payable upon application approval and must be paid prior to engaging in the business of the sale at retail of alcoholic beverages and prior to issuance of the license.

145.0606 Application--Investigation of.

The chief of police or other employee or agent of the city as appointed by the city council, shall investigate the facts stated in the application filed with the council pursuant to the provisions of section 145.0603 of this article, and shall report the results of his investigation to the council prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the council may request and consider such other recommendations and reports of other city officials. Unless specifically requested by the city auditor's office or police department at the time of the filing of the application, an investigation and report is not required for a transfer involving only a change in location of the licensed premises or a transfer wherein the existing license is to be exchanged for a license of lower category.

145.00607 License renewal.

The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to make and file a new application under the provisions of this section; provided, however, that said licensee shall be required to make annual payment as provided and to submit a written request for renewal and an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, that no information has changed from the initial application other than that indicated in this renew application and such other information as the city may require. The affidavit shall be on a form to be prescribed by the city auditor's office. The written request, affidavit and payment shall be due by December 31 of each year.

Renewal Fee- The annual fee to renew an existing licenses is as follows:

1. Combined on sale and off sale liquor/beer license is \$1,000 per year.
2. Off sale liquor/beer license is \$1,000 per year.
3. On sale beer/wine license is \$500 per year.
4. Sunday Alcohol Permit is \$5.00 per Sunday requested

145.0608 Restrictions on sale, service or dispensing of alcoholic beverages.

- A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person less than 21 years of age; and no licensee, his agent or employee, shall permit any person less than 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
- B. No person less than 21 years of age shall be permitted to enter any portion of licensed premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone less than the age of 21 years be employed in any portion of licensed premises in which alcoholic beverages are sold, served or dispensed, except as follows:
  - a. Any person less than 21 years of age may enter and 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 and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.
  - b. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 19 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages if the person is under the direct supervision of a person 21 or more years of age.
  - c. A law enforcement officer or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty.
  - d. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age.
  - e. Any person under 21 years of age may enter and remain on the license premises if the person is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering or consuming alcoholic beverages.
  - f. Any person under 21 years of age may remain in the area of an event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1 of the North Dakota Century Code and the city comparable ordinance.
  - g. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food

are equal to gross sales of alcoholic beverages. For purposes of this subsection, a restaurant shall be any establishment which serves prepared food and holds a restaurant license or permit.

- h. Any person under 21 years of age may enter and remain in a licensed premises for a designated alcohol-free public event in any licensed premises or in a separate room within the licensed premises where the licensee has determined not to sell or permit consumption or possession of alcoholic beverages on that licensed premises or within the designated separate room within the licensed premises during a specified time period provided the licensee complies with the requirements of this subsection. For purposes of this subsection a public event is any event to which admission is open to the general public and may be gained with or without payment of a fee or an event which is advertised to the general public.

For purposes of this section, a person is not 21 years of age until 8 a.m. on the person's twenty-first birthday.

- C. No licensee, his agent or employee shall sell, serve, consume or permit to be sold, served or consumed on the licensed premises 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; nor shall any licensee, his agent or employees sell, serve or permit to be sold, served or consumed on the licensed premises any alcoholic beverage on Good Friday, Easter, Christmas Day or after 6:00 p.m. on Christmas Eve. Additionally, there shall be no off-sale sales allowed after 1:00 a.m. on Thanksgiving Day. For purposes of this provision, any person having a glass or other opened container containing an alcoholic beverage in close proximity or otherwise available for consumption shall be deemed to be consuming an alcoholic beverage.
- D. All licensed premises shall be closed and locked not more than one-half hour after the termination of business hours as specified in subsection (C) of this section and no persons shall be permitted to remain on said premises thereafter except for the owner and his employees for normal cleaning and maintenance activities; provided, that a licensee may remain open for the purpose of providing food service and operate its entertainment business, provided, however, that the licensee must comply with all other terms of Article 8 and those of its State of North Dakota liquor license.
- E. No license to sell alcoholic beverages under the provisions of this article shall entitle the holder thereof to carry on such business at more than one location under any one license and each license shall contain a legal description of the place where the holder thereof operates such business; provided, however, the foregoing provision shall not apply in the case where a licensee, in addition to his regular license, is granted a license to engage in the sale of alcoholic beverages at the place designated in the license.

- F. No licensee, his agent or employee shall sell or serve, or permit to be sold or served on the licensed premises any food other than prepackaged, confectionery items such as peanuts, potato chips and similar items, and prepackaged sandwiches, pizza and similar food products which are prepared and packaged off the licensed premises; provided, that this prohibition shall not apply to licensed establishments which hold a restaurant license or permit.
- G. If the licensee wishes to operate the premises or separate room as an alcohol-free area, the licensee shall give written notice of its intent at least 72 hours in advance to the council or its designee. The notice shall specify which portion of the licensed premises will be used for the alcohol free event or if a separate room within the premises will be used for the alcohol free event. If only a separate room within the licensed premise will be used for the event, the room must have a point of entry and exit which does not permit those under the age of 21 to enter any portion of the licensed premises where alcoholic beverages are being sold, mixed or consumed. The notice shall define what security measures within the licensed premises or the separate room thereof will be taken to prevent the consumption of alcoholic beverages by persons during the alcohol-free event. The council or its designee may, in his discretion, require such additional information from the licensee as is necessary to ensure compliance with this section.
  - a. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order on the premises. The Chief of Police or other employee or designee of the city council may determine the amount of security needed.
  - b. The licensee shall post conspicuously at all entrances to the alcohol-free event a notice stating the sale, possession or consumption of alcoholic beverages will not be permitted during the duration of the alcohol-free event and that no participant under the age of 21 is permitted into any area within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include common areas such as hallways or restrooms.
- H. Any person under 21 years of age may enter and remain in licensed premises or in a separate room within the licensed premises for a private event where the licensee has restricted access to invited guests provided that the licensee complies with the requirements of this subsection. For purposes of this subsection a private event is an event which is not open to the general public to which access is granted to invited guests only, for which no admission fee is paid, and for which no advertising was conducted to the general public.
  - a. The licensee maintains the responsibility to comply with city ordinance prohibiting selling, serving or dispensing any alcoholic beverage to a person less than 21 years of age; or permitting any person less than 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
  - b. The room must have a point of entry and exit which does not permit those less than the age of 21 to enter any portion of the licensed premises, not designated as the private event, where alcoholic beverages are being sold, mixed or consumed.
  - c. The licensee shall post conspicuously at all entrances to the private event a notice stating the sale, possession or consumption of alcoholic beverages by those

less than the age of 21 will not be permitted and that no participant less than the age of 21 is permitted into any area outside of the designated separate room within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include common areas such as hallways or restrooms.

- d. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order as determined by the Chief of Police.
  - e. The licensee shall have all patrons regardless of age removed from the private event following the completion of the private event and not reopen the separate room to the general public for the purpose of the sale, possession or consumption alcohol until one hour after the completion of the private event.
- I. Removal of wine from restaurant. If a full bottle of wine has been opened and the contents partially consumed, in conjunction with the purchase of a meal the premises may permit an individual purchasing the bottle in conjunction to remove the bottle on leaving the licensed premises if the licensee re-corks the bottle, seals the bottle with a seal that must be made conspicuously inoperative to reopen the bottle, and places a receipt of sale with the bottle. The removal of the bottle under these conditions is not an off sale of wine and is permitted without an additional license.

#### 145.0609 Restrictions on sale or consumption in a public place.

- A. No owner, manager or person having control of any public place shall serve, permit to be served, or permit any person to drink alcoholic beverages in such place, unless such place has been duly issued an on-sale or other appropriate license under this chapter.
- B. No person shall mix, prepare, serve or consume alcoholic beverages in any public place unless such place has been duly issued an on-sale or other appropriate license under this chapter.

#### 145.0610 Restrictions on sale to obviously intoxicated person.

No licensee or partner, principal, agent or employee of any licensee shall sell, serve, or furnish alcoholic beverages to or allow possession and consumption of alcoholic beverages on the licensed premises by any person who is or has become intoxicated and/or incapacitated by the consumption of alcoholic beverages. A person may be considered to be obviously intoxicated when it can be plainly determined by appearance, conduct, and/or demeanor. The term "obviously intoxicated" shall mean that the person's obvious intoxication be reasonably discernible or evident to a person of ordinary experience." Such indicators of intoxication may include, but are not limited to a combination of any of the following types of conditions:

- A. Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, resting head on bar;
- B. Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change and the like;
- C. Disorientation and mental confusion as to locations, date, names and the like;

- D. Strong smell of alcohol;
- E. Unusual or distorted speech, i.e., slurred, thick tongue, uncontrollable voice pitch, muttering, and the like;
- F. Bloodshot and/or glassy eyes, flushed face, and the like;
- G. Condition of clothes and hair, i.e., soiled clothing, urinated upon clothing and the like;
- H. Unusual behavior, i.e., vomiting, profanity, hiccups, fighting, loud, boisterous, obnoxious behavior, sleeping or unconscious.

Violation of this ordinance may result in sanctions as prescribed in section 145.0611. Sanctions for a licensee selling, serving, or furnishing alcoholic beverages shall require a sale and a showing that a police officer observed and determined the person to be intoxicated. In addition, a corroborating witness or witnesses who can opine that the person was obviously intoxicated shall be required. Sanctions for a licensee allowing the consumption of alcoholic beverages on the licensed premises shall require a showing that a police officer observed and determined the intoxicated person to be intoxicated on the licensed premises, as well as a showing that the intoxicated person was allowed to consume alcoholic beverages on the licensee's premises. The police officer's observation and determination must be accompanied by information from a corroborating witness or witnesses who can opine that the person was obviously intoxicated when allowed to consume alcoholic beverages on the licensed premises.

If a licensee, partner, principal, agent or employee of any licensee shall contact law enforcement to report the presence of an obviously intoxicated patron or to obtain law enforcement assistance in removing an obviously intoxicated patron, a rebuttable presumption is created and sanctions shall not be imposed. This presumption may be overcome, however, by evidence that the licensee, partner, principal, agent or employee of any licensee did not contact law enforcement in good faith.

145.0611 Licenses--Termination, suspension, revocation, and sanctions.

All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on Dec 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, terminate automatically or may be terminated, suspended or revoked by the council.

- A. Any license issued under the provisions of this article shall automatically terminate:
  - a. Upon the death of the licensee unless, upon application to the council by the personal representative of the decedent, the council shall consent to the carrying on of such business by the personal representative. Said application must be submitted to the council within 30 days of the licensee's death.
  - b. When the licensee, for any reason, ceases business at the licensed premises, except as permitted in accordance with this article. Business shall be deemed to have ceased upon occurrence of any of the following:
    - i. When no sale of alcoholic beverages occurs on the licensed premises for a period of at least 30 consecutive business days; or
    - ii. When alcoholic beverages are not sold on the licensed premises on at least 15 of any 60 consecutive business days; or
    - iii. When the licensed premises are not open for normal business for at least 180 hours in any 60 consecutive business days; provided, however, upon

written request of the licensee, the council, in its discretion and for good cause shown, may extend the date upon which business shall be deemed to have ceased.

- iv. When any license or permit of the licensee from the United States government or state of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been revoked.
- B. The council may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
- a. The licensee has filed a petition in bankruptcy.
  - b. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
  - c. The licensee has been convicted of a felony or of any violation of any state or federal law pertaining to the sale of alcoholic beverages within five years.
  - d. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Powers Lake.
  - e. The licensee has made any false statement in his application for a license.
  - f. The licensee conducts his business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws.
  - g. Violation of section 145.0610 – Restrictions on sale to obviously intoxicated person as described in section 145.0611(F)
  - h. Violation of Compliance Checks in section 145.0611(E)
- C. The grounds enumerated in subsection (B above) of this section shall not be deemed to be exclusive and any license issued under the provisions of this article may be suspended or revoked by the council for any other reason deemed by the council to be sufficient in order to promote and protect the public health, safety, morals and general welfare of the people of the city of Powers Lake. When any license is suspended or revoked by the council pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him/her.
- D. No license issued under the provisions of this article shall be suspended or revoked for cause by the council without a public hearing. In the event that the council intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee. If, upon such hearing, it appears to the council that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the council shall make its order suspending or revoking the said license.
- E. Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

- F. It is the intent of this ordinance that no multiple offenses shall be deemed to have occurred from a single incident. For example, on an officer contact with the licensed premises, if there should be two or more offenses involving intoxicated persons on the premises, the same will constitute one offense and not multiple offenses. Any subsequent officer contact with the establishment at a different time may constitute a separate offense.
- G. Sanctions or penalties under this subsection may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor's office that a penalty is being sought under this ordinance sent to the address listed on the License Application for the applicant and/or manager, the liquor licensee may notify the city auditor's office within ten (10) days and request a hearing on the proposed penalty. Failure to request such a hearing shall be deemed to be an acceptance of the penalty and no hearing shall be granted after that time period. A hearing shall be set by the board of city council specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The hearing on said suspension shall be heard by the city council. A record of the hearing shall be made by electronic recording device. If, upon such hearing, it appears to the majority of the board of city council that sufficient causes exists for the penalty sanctions, the board of city council shall make its order in accordance with the provisions of this article. The city council shall further issue its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.

#### 145.0612 Special Permits: Fees

A permit issued pursuant to NDCC 5-02-01.1, to allow a licensee to operate at premises other than the licensed premises to which the license relates, shall be issued by the city council at a regularly scheduled meeting upon the following terms and conditions:

- (1) The payment by the applicant of a nonrefundable fee as follows:
  - a. For licensee with a valid current license from the City of Powers Lake a fee of \$20.00.
  - b. For a licensee with a valid current license from another jurisdiction a fee of \$100.00.
- (2) The submission by the applicant, as part of the application required by the city clerk, of a brief narrative explaining:
  - a. The nature of the occasion for the permit (e.g., wedding dance, trade show or promotion, etc.); and
  - b. The steps which will be undertaken by the permittee to restrict the sale to, and consumption of, alcoholic beverages by minors at such occasion.
- (3) The written approval by the chief of police of the issuance of the permit.

- (4) If the licensee applying for the special permit is licensed through another jurisdiction, the following requirements apply:
  - a. The licensee must provide a copy of a valid license from another jurisdiction.
  - b. The licensee must provide a copy a transfer of license approval from the other jurisdiction.
- (5) A permit issued pursuant to this subsection may not be used for the off-sale of alcoholic beverages.
- (6) There shall be a limit of two (2) special permits issued for a single event.

#### 145.0613 Unlawful practices.

In addition to such other prohibitions as are contained in this Article:

- A. It shall be unlawful for any person to sell or consume any alcoholic beverage in any automobile, or upon any street, alley or public highway, including any public sidewalk or boulevard, or on any private property without consent of the owner or occupant within the city of Powers Lake.
- B. It shall further be unlawful for any person to possess any bottle or receptacle containing any alcoholic beverage which has been opened or the contents of which have been partially consumed while such person is upon any street, alley or public highway, including any public sidewalk or boulevard, or upon property owned, operated or leased by the city of Powers Lake or by the state of North Dakota or any political subdivision or agency thereof, within the city of Powers Lake
- C. The sale, possession, use or consumption of alcoholic beverages shall be unlawful and prohibited in and on the premises of any public building.
- D. It shall be unlawful for any person less than 21 years of age to misrepresent his or her age for the purpose of purchasing or drinking any alcoholic beverage or for the purpose of entering any premises licensed under the provisions of this article.
- E. It shall be unlawful for any person, either personally or through an agent or employee, to procure, furnish or deliver any alcoholic beverage for the use of any person less than 21 years of age.
- F. No licensee shall deliver or permit to be delivered to any customer outside the licensed premises any alcoholic beverages sold under the terms and provisions of this article.

#### 145.0614 Inspection of licensed premises.

The members of the city council of the city of Powers Lake, the chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of police inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city.

145.0615 Penalty.

A violation of §§ 145.0610 or 145.0614 by any person, firm or corporation shall be deemed a Class B Misdemeanor and, upon conviction thereof, be punished by a fine not to exceed \$1,500 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court, the court to have power to suspend said sentence and to revoke the suspension thereof.

A violation of any other sections of this article by any person, firm or corporation shall be deemed an Infraction and, upon conviction thereof, be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

---

MAYOR

ATTEST:

---

CITY AUDITOR

CITY SEAL

First Reading: September 5, 2018

Date of Publication:

Second Reading and Final Passage: October 1, 2018