

ORDINANCE NO. _____

AN ORDINANCE MODIFYING THE CITY OF MINOT CODE OF ORDINANCES AS FOLLOWS: REPEALING CHAPTER 6; REPEALING SECTION 8-3 OF CHAPTER 8; REPEALING ARTICLE II OF CHAPTER 8; REPEALING AND REENACTING SECTION 9-46 AND 9-47 OF CHAPTER 9; REPEALING AND REENACTING SECTION 12-86 OF CHAPTER 12; REPEALING AND REENACTING SECTION 15-181 OF CHAPTER 15; REPEALING AND REENACTING SECTION 17-45 OF CHAPTER 17; REPEALING AND REENACTING SECTIONS 18-67 AND 18-186 OF CHAPTER 18; REPEALING AND REENACTING SECTION 26-100 OF CHAPTER 26; REPEALING AND REENACTING SECTIONS 30-58 AND 30-90 OF CHAPTER 30

WHEREAS, the City of Minot has the authority to enact ordinances requiring permits and regulate various activities which occur in the City of Minot;

WHEREAS, the City of Minot has previously enacted ordinances relating to various permits and licenses issued by the City of Minot;

WHEREAS, the City of Minot now intends to modify sections relating to permits and licenses issued by the City of Minot.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

§1. Chapter 6 (Amusements) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and the Chapter shall be reserved for future use.

§2. Section 8-3 of Chapter 8 (Bicycles), Article I of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and the Section shall be reserved for future use.

§3. Article II (Licenses) of Chapter 8 (Bicycles) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and the Article shall be reserved for future use.

§4. Section 9-46 of Chapter 9 (Buildings and Housing), Article III (Moving Buildings), Division 1 (Generally) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 9-46. - Moving permit required; payment of taxes, special assessments required.

- (a) No person shall move any building into, from or within the city and its extraterritorial zoning area without first obtaining a moving permit from the city council or the city community and economic development director pursuant to section 9-47 of this article. The provisions of the article shall supersede any conflicting provisions in the Uniform Building Code, which is adopted by reference in section 9-1 and amended in section 9-2.
- (b) No person shall remove any building within the city until after the taxes and special assessments then due against the building and the land upon which it sits have been paid, nor until the owner shall have paid into the appropriate sinking funds of the city

for the retirement of any bonded indebtedness of the city an amount equal to the just share of the taxes which would then be required against the building and the underlying property to pay its share of the unfunded indebtedness of the funds, calculated on the basis of its taxable value compared to the taxable value of all taxable properties within the city. This section shall not apply where a building is removed to permit the erection or installation of improvements equal or greater in value than the building removed. No moving permit shall be issued until provision for the payments called for by this subsection shall first have been made.

§5. Section 9-47 of Chapter 9 (Buildings and Housing), Article III (Moving Buildings), Division 1 (Generally) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 9-47. - Application for moving permit.

- (a) An application for a moving permit shall be made to the city building official. The official shall inspect the building proposed to be moved and shall certify either that it meets current code requirements (meaning thereby, the building code and other applicable codes, such as the fire code, electrical code, the plumbing code, etc.), or if he or she can not so certify, he or she shall itemize the work required to bring the building up to code. However, if the building to which the application pertains is a manufactured home, then the building official need not certify such code compliance (or lack of code compliance) with respect to those matters concerning which local regulation is superseded by federal law.
- (b) The city assessor shall inspect and establish a valuation on the building and if, in his or her opinion, the building's market value is at least sixty (60) per cent of its replacement cost, he shall so certify.
- (c) If the building is to be moved to a district within the zoning jurisdiction of the city which has been zoned as a residential district, the assessor shall certify that the building is compatible with the buildings in the vicinity of the location to which it is proposed to be moved, and if he cannot so certify, he shall require the applicant to submit a plan for the remodeling of the exterior of the building (once it has been moved) to make it compatible. The adequacy and suitability of such plan will be considered by the city council at the public hearing on the application provided for hereafter.
- (d) If a manufactured home is to be moved to a district within the zoning jurisdiction of the city, which has been zoned as a residential district (and if such move is not exempted from this article under section 9-45), then the building official must certify that the manufactured home is not an "'R' District Excluded Manufactured Home" under any of the objective criteria stated in item 75.1 of section 2-1 of the zoning ordinance in order for the application to be considered further. If such certification is in fact made, then the city council will determine as part of the public hearing process provided for hereafter whether the manufactured home which is the subject of the hearing is an excluded manufactured home under the subjective "appearance" criterion stated therein.
- (e) If the application is for a permit to move—
 - 1) A building to a site within the zoning jurisdiction of the city which is zoned as a residential district or

- 2) A manufactured home to a site within the zoning jurisdiction of the city which is zoned as a commercial district where it is to be used as a residence, then the application will be acted upon by the city council, but otherwise by the city community and economic development director.
- (f) Once such information, plans, and certifications as may be required by subsections (a) through (d) have been assembled, the city shall cause a notice of public hearing on the application to be published, if the application is to be acted upon by the city council. The notice shall indicate the date, time and place of the hearing, give the legal description (and when convenient, the street address) of the sites to which and from which it is proposed to move the building, describe the building, identify the parties making the application, and provide the title and telephone number of the city official from whom further information concerning the application is available. The notice shall be published on three (3) separate days in the official newspaper, with the first publication not more than fifteen (15) days before the date of the public hearing, and with the third publication not less than two (2) days before the public hearing, in each instance the time being computed exclusive of the day of publication and day of the public hearing. Also, not later than the date of the first publication, the same notice shall be sent by certified mail, return receipt requested, to the owners of all property located within one hundred fifty (150) feet (exclusive of streets, alleys, and city-owned property) of the property to which it is proposed that the building be moved. The applicant must pay the cost of postage of such mailing prior to the third publication of the notice or else the application shall not be considered further.
- (g) If the application is to be acted upon by the community and economic development director, and the building is to be moved to a site within the zoning jurisdiction of the city, he or she shall grant it if the city assessor has certified that the building's market value equals at least sixty (60) per cent of its replacement cost, and if the city building official has certified that the building meets the requirements of the current codes. Otherwise, in the absence of the required certification by the city building official, the city community and economic development director shall issue the moving permit only on the condition (which shall be implied if the permit fails to so state explicitly), that the necessary work (as itemized by the building official pursuant to subsection (a)), will be undertaken and completed by the applicant in a timely fashion.
- (h) If the application is acted upon by the city council, it can deny the permit, grant it unconditionally, or grant it subject to such conditions as it deems appropriate (such as, for example, a condition that the applicant agree to specified modifications in the plan of exterior remodeling provided for in subsection (c)).
- (i) Even if a moving permit issued by the city council is silent on the subject, and thus appears facially to be granted unconditionally, nevertheless, if the city building official, pursuant to subsection (a), has itemized work required to bring the building into code compliance, then the grant of the moving permit by the city council shall be deemed to include the implied condition that the applicant will undertake and complete such work in a timely fashion. Moreover, if at the public hearing the city council has approved a plan of exterior remodeling (which plan was submitted to the council pursuant to subsection (c)), the grant of the permit shall be subject to the condition (which shall be implied if permit fails to so state expressly), that the remodeling indicated in the plan will be undertaken and completed by the applicant in a timely fashion.

- (j) In addition to the foregoing provisions for both implied and express conditions to attach to the issuance of a moving permit, if the permit relates to a manufactured home, then the permit shall be deemed conditioned upon the following conditions (which shall be implied if the permit fails expressly to so state):
- 1) Upon completion of the move the manufactured home shall have promptly removed therefrom any wheels, hitch, steel framing, transporting lights, or feature or elements required for transport.
 - 2) Promptly thereafter, the manufactured home will be placed on a foundation or equivalent support which meets at least the minimum structural integrity and stability requirements called for in the HUD publication, "Guide to Foundation and Support Systems for Manufactured Homes," or the city's building code (whichever is more restrictive).
 - 3) Promptly thereafter, the siding of the manufactured home will be extended downwards to within no less than eight (8) inches of the grade, or, alternatively, the space between the lower horizontal perimeter of the manufactured home and the grade will be filled in with panels designed to simulate the appearance of a basement foundation ordinarily associated with a site-built house, which panels may not be constructed of exposed plywood or particle board, and which may not be of a lattice design.

§6. Section 12-86 of Chapter 12 (Electrical Code), Article III (Electricians), Division 2 (Licenses) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 12-86. - License required; fees; issuance; renewal.

- (a) No person shall engage in activity for which a state master electrician license is required under NDCC 43-09-09, unless such person also obtains a city master electrician license.
- (b) An application for a license under this article shall be made to the building official and shall be accompanied by the payment of the appropriate fee provided for hereafter. If the building official determines that the applicant meets the section 12-87 qualification requirements for the license he seeks, the building official shall issue the applicant a license in the form of an identification card.
- (c) A license issued under this section shall last for the same term, shall carry the same privileges and rights, and shall be subject to the same conditions and limitations as the state license held by the licensee.
- (d) A license once issued may be renewed annually upon the timely payment of the appropriate renewal fee.

§7. Section 15-181 of Chapter 15 (Gas Code), Article IV (Licensing of Gas Fitters) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 15-181. - License required; application; fee; examination; re-examination; issuance; renewal; lapse; temporary work permit.

- (a) No person shall perform work for which a permit is required under article VI (except as provided in subsection (g)), unless he or she:
 - 1) holds a master gas fitter license;
 - 2) holds a journeyman gas fitter license and works under the direct supervision of a holder of a master gas fitter license;
 - 3) works as an apprentice under the direct supervision and control of the holder of a master gas fitter license or the holder of a journeyman gas fitter license; or
 - 4) holds a license under chapter 26 and his work (given the conditions under which it is performed as to supervision, etc.), would be permissible under such license if it were viewed as "plumbing."
- (b) An application for a license under this article shall be made to the building official and shall be accompanied by the payment of the appropriate fee provided for hereafter. If the building official determines that the applicant meets the section 15-182 qualification requirements for the license he or she seeks, he or she shall allow the applicant to take the license examination. The license examination shall be a test of theoretical and practical knowledge relating to gas fitting which has been approved as to form and content by the HVAC board. The examination shall be revised from time to time as the board deems necessary to preserve its fairness and utility. The board shall also generally supervise the administration and grading of the test and shall establish the score thereon which an applicant must meet or exceed in order, in the opinion of the board, to be qualified to hold a license.
- (c) If an applicant has previously applied for a license, but has not been issued one because of his failure to pass the licensing examination, the applicant may not be re-examined for a license until six (6) months have passed since the failed examination.
- (d) If the applicant passes the licensing examination and pays the appropriate fee required under this article, the building official shall issue him a license in the form of an identification card.
- (e) A license, once issued, may be renewed annually without further application and without further examination upon the timely payment of the appropriate renewal fee.
- (f) If a person holding a license under this article allows it to lapse, or if it is revoked, such person must be re-examined for a license, and pay fees, as though he or she were a first-time applicant.
- (g) The building official at his discretion, may issue a temporary work permit to an individual who has applied for a license, and paid the appropriate application fee, which permit shall expire upon the date of the license examination.

§8. Section 17-45 of Chapter 17 (Heating, Ventilating and Air Conditioning), Article III (Installers) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 17-45. - License required; application; fee; examination; re-examination; issuance; renewal; lapse; temporary work permit.

- (a) No person shall engage in the HVAC trade (except as provided in subsections (g) and (h)), unless he or she:
 - 1) holds a master HVAC installer license;

- 2) holds a journeyman HVAC installer license and works under the direct supervision of a holder of a master HVAC installer license; or
 - 3) works as an apprentice under the direct supervision and control of the holder of a master HVAC installer license or the holder of a journeyman HVAC installer license.
- (b) An application for a license under this article shall be made to the building official and shall be accompanied by the payment of the appropriate fee provided for hereafter. If the building official determines that the applicant meets the section 17-46 qualification requirements for the license he or she seeks, he or she shall allow the applicant to take the license examination. The license examination shall be a test of theoretical and practical knowledge relating to the HVAC trade which has been approved as to form and content by the HVAC board. The examination shall be revised from time to time as the board deems necessary to preserve its fairness and utility. The board shall also generally supervise the administration and grading of the test and shall establish the score thereon which an applicant must meet or exceed in order, in the opinion of the board, to be qualified to hold a license.
- (c) If an applicant has previously applied for a license, but not been issued one because of his failure to pass the licensing examination, the applicant may not be re-examined for a license until six (6) months have passed since the failed examination.
- (d) If the applicant passes the licensing examination and pays the appropriate fee required under this article, the building official shall issue him a license in the form of an identification card.
- (e) A license, once issued, may be renewed annually without further application and without further examination upon the timely payment of the appropriate renewal fee.
- (f) If a person holding a license under this article allows it to lapse, or if it is revoked, such person must be re-examined for a license, and pay fees, as though he or she were a first-time applicant.
- (g) The building official, at his discretion, may issue a temporary work permit to an individual who has applied for a license, and paid the appropriate application fee, which permit shall expire upon the date of the license examination.
- (h) Certain forms of work within the HVAC trade may be performed under the following conditions:
- 1) The HVAC board has specified the type of work in question as being exempted from the general licensing requirement under this subsection;
 - 2) The work is performed by an employee or proprietor of an enterprise which sells or services HUD certified manufactured homes, or which both sells and services such homes;
 - 3) The person performing the work has passed an examination approved by the HVAC board; or such person has performed such type of work for at least three (3) years as of January 1, 1996, and has been approved by the mechanical inspector for the exception established by this subsection; and
 - 4) The person has paid an administrative fee of one hundred thirty dollars (\$130.00) for the initial one-year exemption, and has paid an additional fee of thirty-five dollars (\$35.00) for each year of exemption thereafter.

§9. Subsections (c) and (d) of Section 18-2 of Chapter 18 (Licenses and Business Regulations), Article I of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

- (c) In order to effect suspension or revocation of a licensee, the building official shall:
 - 1) Notify the board of the claimed basis under subsection (a) and whether he or she is seeking suspension or revocation of the license; and
 - 2) Provide the same notice to the licensee.
- (d) If the notice provided for in subsection (c) indicates the building official is seeking revocation of the license to which it relates, such license shall be suspended from the date of receipt of the notice by the licensee until and unless the board orders otherwise. The board, upon receipt of the notice as provided for in subsection (c)(1), shall fix a hearing date. In the event the building official has requested revocation of the license, the hearing shall be no less than three (3) nor more than five (5) business days from the date of such notice. The board shall cause notice of the hearing to be served upon the licensee. The licensee may request a later hearing date than that scheduled by the board, but if the licensee's license is suspended by virtue of the fact that the building official is seeking revocation thereof, the suspension shall remain in effect until the hearing.

§10. Section 18-67 of Chapter 18 (Licenses and Business Regulations), Article III (Specific Businesses and Occupations), Division 3 (Tobacco Retailers) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 18-67. - Tobacco retail sale license required.

- (a) No person shall conduct business within the city in such a manner as to require such person to hold a state tobacco retailer dealer's license under Chapter 57-36 NDCC, unless such person also holds a valid and current city tobacco retailer's license.
- (b) A license under this section shall be issued by the city clerk upon application for such to the city clerk, approval by the chief of police or his or her delegate, and the payment of an annual license fee of two hundred dollars (\$200.00). However, if the license relates to premises which are licensed for the retail sale of alcoholic beverages, then there shall be no charge for the license issued in respect to the self-same premises under this division. Further, if at the time of re-licensing an applicant qualifies for reduced monitoring under section 18-71(b), the license fee shall be only one hundred dollars (\$100.00). No license shall be issued to a person whose license is under suspension. A license under this section is current and valid unless suspended pursuant to section 18-70.

§11. Section 18-186 of Chapter 18 (Licenses and Business Regulations), Article III (Specific Businesses and Occupations), Division 10 (Games of Chance) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 18-186. – Site approval.

- (a) As part of its application to the city council for site approval, which is required as a precondition to the grant of a state games of chance license, an applicant shall submit

copies of all documents filed or to be filed with the attorney general with respect to the state license to which the application for site approval relates.

- (b) No organization shall be allowed authorization for more than ~~five (5)~~six (6) sites at the same time within the city during one (1) license period, except special authorization may be granted by the city council for a one-day gaming operation that is a special event.
- (c) No organization may conduct more than six (6) blackjack or twenty-one (21) games simultaneously at the same site within the city.
- (d) An applicant for site approval by making such application engages and agrees to comply with all rules, regulations and other restrictions imposed by this division or by separate regulations enacted by the city council, chapter 53-06.1, N.D.C.C., and any implementing rules and regulations of the Attorney General, all of which may be amended from time to time. The city council hereby reserves the power to issue additional rules and regulations by way of resolution, which shall be retroactively binding on the applicant.
- (e) The application fee for site approval shall be one hundred dollars (\$100.00). The city council by resolution may permit the payment of the fee imposed herein by installments upon such terms and conditions as it sees fit, or waive the fee, or refund any fee when in its judgment equitable considerations so require.
- (f) No grant of site approval to an organization with respect to all or a portion of a license period shall be construed as a commitment or representation that the organization will receive approval to use the same site or sites or any other site during the next or any subsequent license period. The city council reserves the right, with respect to a request for renewal of a site approval by an organization holding a current site approval, to refuse to renew approval for any one (1) or more of the currently approved sites and furthermore, to refuse to grant any new site approval in lieu of those for which a renewal is denied.
- (g) Ordinarily, the city council shall hear and determine applications for site approval in the ordinary course of its business. However, the chief of police may exercise the authority of the city council as its delegate if:
 - (1) He issues a site approval no less than five (5) business days before it is to be used;
 - (2) There is no regular or special city council meeting scheduled to be held before the date or dates requested in the application for the site approval.An approval issued under this subsection by the chief of police shall be valid only until the next regular or special city council meeting. In the interim, the site approval may be revoked by the chief of police if he in good faith determines that the application contains materially false and misleading statements or that the applicant willfully failed to disclose material information on the application which, if disclosed, would have affected adversely the decision whether to issue a site approval.
- (h) The authority delegated to the chief of police in subsection (g) may also be exercised to amend a local site approval, subject to the same terms and conditions.

§12. Section 26-100 of Chapter 26 (Plumbing), Article III (Licensing of Plumbers) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 26-100. - License required; fees; issuance; renewal.

- (a) No person shall engage in activity for which a state master plumber license is required under 43-18-11 NDCC, unless such person also obtains a city master plumber license.
- (b) An application for a license under this article shall be made to the building official and shall be accompanied by the payment of the appropriate fee provided for hereafter. If the building official determines that the applicant meets the section 26-101 qualification requirements for the license he seeks, the building official shall issue the applicant a license in the form of an identification card.
- (c) A license issued under this section shall last for the same term, shall carry the same privileges and rights, and shall be subject to the same conditions and limitations as the state license held by the licensee.
- (d) A license, once issued, may be renewed annually upon the timely payment of the appropriate renewal fee.

§13. Section 30-58 of Chapter 30 (Vehicles for Hire), Article II (Taxicabs), Division 3 (Drivers) of the Code of Ordinances, City of Minot, North Dakota, is hereby repealed and reenacted to read as follows:

Sec. 30-58. - Revocation or denial of license; notice; hearing.

- (a) Licenses issued pursuant to this division may be suspended at any time by the city manager and may be revoked by the city council if the holder thereof, in the judgment of the city council, operates any vehicle which is not of good appearance, clean and safe, or shall charge or collect any rate of fare other than that required or permitted under this article, or shall make any false or misleading and deceptive statement or representation in the solicitation of patronage for any vehicle, or shall violate any other provision of this article, or for any other cause deemed sufficient by the city council.
- (b) If the issuance of any license is not allowed, if a license is suspended, or if a license is revoked under the provisions of subsection (a), the chief of police shall forthwith give the applicant or licensee, as the case may be, reasonable written notice of such action. The applicant or licensee may appeal the non-issuance of a license, the suspension of a license, or the revocation of a license, if the applicant files a written notice of appeal with the city clerk within five (5) business days of the written notice of such action. If a timely written notice of appeal is submitted to the city clerk, the city clerk shall set a hearing for the next regularly scheduled city council meeting and shall provide the applicant with a written notice of the hearing date, time, and place. The applicant or licensee may show cause and be heard in behalf of the granting or restoring of the license, whereupon, if proper showing is made, the city council, or its delegate, shall order the license issued or restored, as the case may be.

§14. Section 30-90 of Chapter 30 (Vehicles for Hire), Article IV (Buses) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

Sec. 30-90. - License required.

It shall be unlawful for the holder of any franchise from the city for the use of streets within the city for the transportation of passengers for hire in vehicles commonly known as

buses, or street car buses, to operate the bus until the owner of the bus has first secured from the city a license for the bus.

§15. This Ordinance shall become effective on.

PASSED FIRST READING: _____

PASSED SECOND READING: _____

ATTEST:

APPROVED:

Kelly Matalka, City Clerk

Shaun Sipma, Mayor