

Chapter 8 CARNIVALS AND CIRCUSES

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Article 8.04 In General

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Section 8.04.00E Editor's note to Article 8.04

For state law as to authority of city to regulate and license amusements, see NDCC, § 40-05-01 (26). As to carnivals generally, see NDCC, § 53-03-01 et seq.

Section 8.04.010 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Carnival. An aggregation of attractions, whether shows, acts, animals, vending devices, riding devices or amusement devices, whether conducted under one or more managements or individually, which are temporarily set up or conducted in a public place or upon any private premises and accessible to the public with or without admission fee and which from the nature of the aggregation attracts attendance and causes promiscuous commingling of persons in the spirit of merrymaking and revelry.

Circus. Any show under a tent where there are exhibited feats of horsemanship, animals and animal shows, acrobatic feats or trained animals and having a ring or rings. (Code 1958, § 8-1.)

Section 8.04.020 Enforcement of chapter generally; policeman's right of entry

The police department of the city shall aid and assist in the enforcement of the provisions of this chapter, and it is hereby made the duty of each and every police officer of the city to see that no person granted a permit or license under the provisions of sections 8.08.04.010 to 8.08.06.030 of this Code shall violate any of the provisions of this chapter.

Any police officer or policeman of the city shall have the right to enter upon the premises upon which any circus or carnival is showing for the purpose of inspecting its tent or tents as to exits and the number and kind thereof. (Code 1958, § 8-2.)

Section 8.04.030 Exits in tents

No person shall set up, run, operate or exhibit any show, carnival or circus in a tent or tents within the city, unless such circus, show or carnival shall provide and have three well defined and unobstructed exits from such tent or tents. (Code 1958, § 8-12.)

Section 8.04.040 Fire resistance of tents

No person shall show or exhibit any circus or carnival within the city in a tent, unless such tent shall be made or treated with fire-resistant material. (Code 1958, § 8-13.)

Section 8.04.050 Fire-fighting equipment

No person shall set up, run, operate or exhibit any show, carnival or circus within the city, unless such circus, show or carnival shall provide and have adequate fire-fighting equipment, either for the use of water or for the use of chemicals, for the purpose of extinguishing any fire that might endanger the lives or property of patrons in or about such tent, containing such circus, show or carnival. (Code 1958, § 8-14.)

Article 8.08 Permits, Contracts and Licenses

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Section 8.08.02000 Division 8.08.02 Generally

Section 8.08.02010 Payment of fees; issuance of licenses generally; disposition of fees collected

The license fees provided for in this article shall be paid to the city auditor, who, upon the payment of the fees provided for herein, shall issue a license to such applicant; provided, that the same has been approved by the board of city commissioners, where such approval is required, and the city auditor shall deliver such fees to the treasurer of the city, and the same shall be credited to the general fund of the city. (Code 1958, § 8-4.)

Section 8.08.04000 Division 8.08.04 Carnivals

Section 8.08.04000E Editor's note to Division 8.08.04

For state law requiring contract and permit from city prior to operation of a carnival, see NDCC, § 53-03-02.

Section 8.08.04010 Issuance generally

It shall be unlawful for the city to enter into any contract or grant a permit to any group or organization acting for or on behalf of any carnival or carnival company. The permit or contract mentioned in this article shall be issued only to such persons as are bona fide engaged in the carnival business. (Code 1958, § 8-3; Ord. No. 1083, § 18.)

Section 8.08.04020 Written contract and permit required

No person shall, within the city limits, set up, run, operate or conduct any itinerant carnival, unless and until such person shall have procured and has in his possession a written

contract and permit from the city auditor, setting forth the conditions under which such carnival shall be operated. (Code 1958, § 8-5; Ord. No. 1083, § 19.)

For similar state law, see NDCC, § 53-03-02.

Section 8.08.04030 Conditions precedent to issuance

(a) Consent of Surrounding Property Owners. The board of city commissioners shall not issue a permit for the renting, setting up, operating or conducting of any itinerant carnival to be conducted outdoors and not within a permanent building, unless the applicant for such permit shall file with his application the consent of the owners of seventy-five percent of the property by area within a distance of three hundred feet from the outer boundary lines upon which the applicant proposes to exhibit or conduct the performances for which application is made.

(b) Prohibited Activities. The permit required by section 8.08.04.020 of this Code shall be granted upon the condition, and the contract shall state that there shall not be set up or operated any gambling device, lottery, number or paddle wheel, number board, punchboard or other game of chance or skin game of any kind whatsoever, lewd, lascivious or indecent show, indecent exposure of the person, suggested lewdness or immorality, hoochie-coochie or other indecent dance, men only shows where women or girls perform or any other lewd, immoral or indecent show or attraction, and that such shows, etc., will not be allowed or permitted, and that such person will not knowingly allow or permit to follow or be connected with such carnival any man or woman affected with venereal disease and will cooperate with the board of city commissioners in discovering and apprehending any such man or woman.

For similar state law, see NDCC, § 53-03-04.

(c) Inspections and Bond. No permit shall be granted by the board of city commissioners until they have caused to be investigated such carnival and are satisfied that, if permitted, such carnival will be operated in accordance with the laws of the state, the provisions of this Code and other ordinances of the city and that none of the illegal or unlawful acts mentioned in the contract and set forth in this section shall be permitted.

The board of city commissioners is hereby authorized to enter into such contract, issue such permits, collect such permit fees as are necessary to pay the expense of the investigation, aid in policing such grounds, and otherwise compensate the municipality in such amount as they determine, and shall require such person to execute and deliver to the city a bond in the penal sum of five hundred dollars to be approved by the board of city commissioners, conditioned for the faithful conduct of such carnival, in accordance with the laws and ordinances of the city, and that the same shall be forfeited upon the violation of the laws or acts prohibited by such contract.

The board of city commissioners is hereby required to enforce the provisions of this article, the contract made and entered into, and the laws of the state, the provisions of this Code and other ordinances of the city, in reference to such carnivals and shall not allow or permit the acts prohibited in this article by such person. (Code 1958, § 8-6.)

For state law as to bond and authority of city generally, see NDCC, § 53-03-05.

As to enforcement of contract by board of commissioners, see NDCC, § 53-03-06.

Section 8.08.04040 License fee

The license fee for a permit to operate a carnival shall be payable in advance for the number of days the permit is issued. The amount is to be determined from time to time by the board of city commissioners and shall be on file in the office of the city auditor in the city of fee schedule. (Code 1958, § 8-7; Ord. No. 1086, § 5.)

For state law as to authority of city to collect permit fees, see NDCC, § 53-03-05.

Section 8.08.04050 Possession and display

Contracts and permits as provided for in this article shall be made in duplicate, and one shall be in the possession of the city auditor and the other in the possession of the manager of such carnival.

In either case, the contracts and permits shall, upon request of an officer or citizen, be produced and shown. Refusal to show such contract, etc., to one asking to see it shall be presumptive evidence that such carnival is being operated without such contract or permit. (Code 1958, § 8-8.)

For similar state law, see NDCC, § 53-03-07.

Section 8.08.06000 Division 8.08.06 Circuses

Section 8.08.06000E Editor's note to Division 8.08.06

For state law defining carnival so as to include circus, see NDCC, § 53-03-01.

Section 8.08.06010 License--Required

No person shall set up, run, operate or exhibit any circus within the city, without having first procured or obtained a license therefor. (Code 1958, § 8-10.)

For similar state law, see NDCC, § 53-03-03.

Section 8.08.06020 Same--Consent of surrounding landowners

The board of city commissioners shall not issue a license for the renting, setting up, operating or conducting of any circus to be conducted outdoors and not within a permanent building, unless the applicant for such license shall file with his application the consent of the owners of seventy-five percent of the property by area within a distance of three hundred feet from the outer boundary lines upon which the applicant proposes to exhibit or conduct the performances for which application is made. (Code 1958, § 8-10.)

Section 8.08.06030 Same--Fee

For a license for the exhibition of any circus, there shall be taxed and collected a license fee in an amount that shall be determined by the board of city commissioners, and no person shall be permitted to exhibit a circus within the limits of the city without first having obtained a license as provided in this division. The license fee shall be in such amount as determined from time to time by the board of city commissioners and shall be on file in the office of the city auditor in the city fee schedule. (Code 1958, § 8-11; Ord. No. 1086, § 6.)

For state law as to authority of city to collect license fees, see NDCC, § 53-03-05.

