

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSING

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CHAPTER 110: LICENSING

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GENERAL PROVISIONS**' 110.001 LICENSE REQUIRED.**

It shall be unlawful for any person, persons, firm, or corporation to engage in any trade, business, or occupation within the corporate limits of the city for which a license is provided for in this subchapter without first having obtained such license as hereinafter provided; provided, that the provisions of this subchapter shall not apply to any public officer, who may, in pursuance of legal process, sell at public auction any property of any kind whatsoever, nor shall the provisions of this subchapter include or apply to persons engaged in the sale of farm products grown or produced in the state by the vendor.

(1985 Code, ' 6.0101) Penalty, see ' 110.999

' 110.002 LICENSE, HOW OBTAINED.

(A) Any person, persons, firm, or corporation wishing to obtain a license to engage in any trade, business, or occupation, as herein provided, shall pay to the City Finance Officer the amount provided by this chapter for the license applied for, who shall issue a receipt therefor, and shall make written application to the City Mayor, stating the names of the person, post office address, business, calling, or vocation in which such person desires to engage, the length of time for which said license is wanted, and the particular place at which said license is to be used.

(B) Upon presentation of said application to the City Mayor, said City Mayor shall act upon said application, and if he or she deems the applicant a suitable and proper person to have such license, shall cause the City Finance Officer to issue same, which license shall be countersigned by the City Finance Officer and attested by the corporation seal and shall authorize said person to carry on the business, calling, or vocation named in said application; but if said application be refused, the same shall be endorsed upon the receipt by the City Finance Officer, he or she shall refund said money so paid by said applicant and take up said receipt which receipt when taken up shall be the City Finance Officer's voucher for the money so refunded.

(1985 Code, ' 6.0102)

' 110.003 LICENSE, EXPIRATION.

All annual licenses granted under the provisions of this subchapter shall expire December 31 next following the granting thereof, except as in this subchapter otherwise provided, and shall not be granted for any sum less than the annual rate. There shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
(1985 Code, ' 6.0103)

' 110.004 WHEN LICENSE MAY BE REVOKED.

The City Council shall have power at any time to suspend or revoke any license granted under the provisions of this chapter whenever said board shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license has been issued has been made or conducted in an indecent, indecorous, improper, or illegal manner, and in case of such revocation, the City Council may refund to the holder of such license such proportionate amount of money paid.
(1985 Code, ' 6.0104)

' 110.005 AUDITOR TO KEEP RECORD.

The City Finance Officer shall keep a record of all licenses issued by said City Mayor stating when and to whom issued, for what purpose and for what length of time issued, the amount of money paid for said license, and the place where said business is to be carried on.
(1985 Code, ' 6.0105)

' 110.006 ISSUANCE OF LICENSE.

Except as otherwise provided, all licenses shall be issued by the City Finance Officer if the issuance of the license is approved by the licensing authority and the applicant shall have complied with all requirements for issuance of the license. Unless otherwise provided, all the licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the city.
(1985 Code, ' 6.0106)

' 110.007 REVOCATION.

(A) The Council shall have power to cancel any license issued by the City Mayor for failure of the licensee to comply with any ordinance or regulation of the city or state law respecting such license or the manner of exercise thereof or for any other good cause after hearing upon notice to the licensee.

(B) Notice of hearing before the Council for the revocation of any license shall be given by mailing to said licensee by registered mail a notice of said hearing at least one week prior to the time set for said hearing.

(1985 Code, ' 6.0108)

DANCE HALLS

' 110.020 LICENSE.

It shall be unlawful for any person or persons to operate a public dance hall or conduct a public dance as provided herein without first having procured for the City Mayor a license so to do and the fee for such shall be established by resolution of the City Council and may be amended by the Council from time to time for each dance.

(1985 Code, ' 6.0201) Penalty, see ' 110.999

' 110.021 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC DANCE HALL. Any building, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on, and to which admission may be had by the public by payment either directly or indirectly, or admission fee or price for dancing for the personal gain or profit of the person, persons, firm, or corporation conducting, maintaining, or operating such public dance hall. Dances shall not apply to businesses which operate facilities and as part of its regular and ordinary business operation organizes, operates, conducts, maintains, and supervises dances and dance facilities within the city.

(1985 Code, ' 6.0202) (Ord. 240, passed 10-9-2001)

' 110.022 BUILDING.

No license for a public dance hall or dance shall be issued until the City Council shall be satisfied that the room, place, or hall to be used for such public dance hall complies with and conforms to all ordinances and health and fire regulations of the city and all laws of the state, and that it is properly ventilated and is a safe and proper place for such purpose.

(1985 Code, ' 6.0203)

' 110.023 AGE LIMITS; FALSELY STATING AGE.

(A) *Age limits.* It shall be unlawful for any person, firm, or corporation engaged in conducting or operating a public dance hall in the city to suffer, permit, or allow any person under the age of 16 years unaccompanied by his or her father, mother, or legally-appointed guardian to enter or remain in any public dance hall; provided, that this section shall not apply to social centers operated under the control of the Department of Education.

(1985 Code, ' 6.0204)

(B) *Falsely stating age.* It shall be unlawful for any person under the age of 16 years to gain admission to any public dance licensed hereunder while a public dance is being conducted by means of fraud or falsehood respecting his or her age.

(1985 Code, ' 6.0205) Penalty, see ' 110.999

' 110.024 HOURS.

It shall be unlawful to continue, after the hour of 1:00 a.m., any dance.

(1985 Code, ' 6.0206) Penalty, see ' 110.999

' 110.025 TURN OUT LIGHTS.

It shall be unlawful to turn out the lights entirely or partially during any part of a public dance in any public dance hall licensed hereunder, or during any intermission between dances therein, and all halls, stairways, passage ways, and rooms connected with the dance hall room, including such dancing room, must be kept open and well lit.

(1985 Code, ' 6.0207) Penalty, see ' 110.999

' 110.026 INTOXICATING LIQUORS.

In any public dance hall licensed hereunder, it shall be unlawful to sell, give away, or otherwise dispose of intoxicating liquors, and it shall be unlawful for any person to have intoxicating liquor in his or her possession therein while a public dance is in progress or during any intermission between dance. No intoxicated person shall be permitted to enter such a place while a public dance is in progress or to take part in any public dance therein.

(1985 Code, ' 6.0208) Penalty, see ' 110.999

' 110.027 POLICE SUPERVISION.

Public dances conducted in any public hall licensed hereunder shall at all times be subject to the police supervision of the city and by one police officer who shall be furnished by said licensee who is authorized to remove from such public dance hall any person who is intoxicated or who has intoxicating liquors in his or her possession or who is conducting himself or herself in an improper or disorderly manner, or who is under the age of 16 years. Any police officer may require any person attending such public dance whom he or she suspects to be under the age of 16 years to state his or her age and remove such person from such public dance hall for a refusal to state his or her age when so required.
(1985 Code, ' 6.0209)

HOUSE MOVERS

' 110.040 LICENSE.

It shall be unlawful for anyone to pursue the business of a house mover unless he or she shall have previously obtained a license so to do as hereinafter provided.
(1985 Code, ' 6.0601) Penalty, see ' 110.999

' 110.041 APPLICATION.

(A) Any person desiring a license as a house mover shall make application to the City Council, said application to be accompanied by an annual license fee, established by resolution of the City Council and may be amended by the Council from time to time, and a bond running to the city in the sum of \$1,000 with sureties to be approved by the City Council, conditioned that the applicant will, in pursuing the business of house mover, conform to all the regulations relating thereto, which are or may be established by the City Council;

(B) He or she will promptly repair and make good any and all damage or injury to any pavement, sidewalks, crosswalks, hydrants, street, or any public building or part thereof; and

(C) He or she will indemnify and keep harmless said city against all liability or damages which may arise in favor of any person by reason of any negligence or misconduct on his or her part or on the part of his or her agents or employees in connection with the moving of any building on any public street.
(1985 Code, ' 6.0602)

' 110.042 PERMITS.

Any such licensed house mover intending to move any building shall make application for permit so to do as provided by ' ' 91.060 through 91.065, provided, however, that a licensed house mover shall not be required to make the deposit provided for in ' ' 91.060 through 91.065.

(1985 Code, ' 6.0603)

GARBAGE, REFUSE, AND SOLID WASTE HAULERS

' 110.055 LICENSE REQUIRED.

It shall be unlawful for any person, company, corporation, or other legally-constituted entity to engage in the business of the collection and hauling of garbage, refuse, or solid waste within the city limits without first having obtained a license as to do so hereinafter set forth.

(1985 Code, ' 6.0701) (Ord. 149, passed 12-10-1991; Ord. 150, passed 12-10-1991) Penalty, see ' 110.999

' 110.056 APPLICATION REQUIRED.

Initial annual application for license shall be filed at the office of the Finance Officer by January 2, 1992. All subsequent annual applications shall be filed at the office of the Finance Officer by October 1 of each year for the ensuing year for which the license is desired. The license fee shall be established by resolution of the City Council and may be amended by the Council from time to time, or part of a year, for each licensee so engaged and is not transferable. All licenses expire December 31 in the year they are issued. Before any license shall be issued under the provisions of this subchapter, the same shall first be approved by the City Council, who shall have the discretionary power to either approve or reject said license.

(1985 Code, ' 6.0702) (Ord. 149, passed 12-10-1991; Ord. 150, passed 12-10-1991)

' 110.057 REQUIREMENTS FOR LICENSE.

No license shall be issued to any person, company, corporation, or other legally-constituted entity to collect or haul in any vehicle any garbage, refuse, rubbish, or solid waste in the city, unless the following provisions are met.

(A) (1) Vehicle(s) is completely enclosed, water-tight, has a mechanical compactor, and has provisions for mechanical unloading. Such vehicles shall be thoroughly washed as necessary to keep vehicle(s) in proper sanitary condition. Such vehicle(s) when conveying garbage shall be so loaded that the contents shall not fall or spill upon the ground.

(2) No article or item shall be earned on such vehicle(s) so as to drag upon the street.

(B) (1) No license shall be issued to any garbage collector until proof of vehicle liability insurance for bodily injury and property damage coverage is furnished with limits of liability of \$250,000 for

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bodily injury for any one person, \$500,000 for any one accident, and \$250,000 property damage for each occurrence.

(2) Proof of comprehensive general liability in the amount of \$500,000 general aggregate limit shall also be furnished.

(C) (1) All applications must state with certainty the location of the landfill site to be utilized by the applicant for the purpose of this section. Such landfill site must be fully licensed and approved by the appropriate state and federal authorities.

(2) Applicants shall hold the city harmless for any and all acts of the applicant arising out of this section and shall indemnify the city for all damages incurred in that regards.

(D) All applicants shall file proposed rate schedule for residential and commercial pickups.
(1985 Code, ' 6.0703) (Ord. 149, passed 12-10-1991; Ord. 150, passed 12-10-1991)

' 110.058 REVOCATION.

Any license issued under the provisions of this subchapter may be revoked by the City Council for the violation by the licensee of any applicable provision of federal or state law, city ordinance, rule, or regulation.

(1985 Code, ' 6.0704) (Ord. 150, passed 12-10-1991)

AERIAL SPRAY APPLICATORS**' 110.070 LICENSE.**

It shall be unlawful for any person, firm, or corporation to engage in the business of an aerial spray applicator, operating upon or from the Parkston Municipal Airport without first having obtained a license as to do so hereinafter set forth.

(1985 Code, ' 6.0801) (Ord. 164, passed 4-13-1993) Penalty, see ' 110.999

' 110.071 APPLICATION.

Applicants for a license under this subchapter, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation, with the City Finance Officer showing:

(A) The name or names of the applicant for license;

- (B) Name of partnership or organization;
- (C) Permanent address;
- (D) Telephone number;
- (E) Proof of a state pilot=s license;
- (F) Proof of state aircraft registration for each aircraft to be used;
- (G) Proof of pesticide applicator certification;
- (H) Proof of a commercial pesticide applicator license;
- (I) Proof of reasonable liability insurance coverage; and/or

(J) Proof of escrowed indemnity account or pollution liability insurance per ' 110.073. (1985 Code, ' 6.0802) (Ord. 164, passed 4-13-1993; Ord. 332, passed 8-13-2013)

' 110.072 INVESTIGATION AND ISSUANCE.

Upon receipt of such application, the City Finance Officer shall refer such application to the City Council Airport Committee. Upon approval of such application by the City Council Airport Committee, the Finance Officer shall issue a license to said applicant upon payment, established by resolution of the City Council and may be amended by the Council from time to time, by the applicant to the city. (1985 Code, ' 6.0803) (Ord. 164, passed 4-13-1993)

' 110.073 BOND.

Before any license as provided in this subchapter shall be issued to an aerial spray applicator, such applicant shall deposit the sum of \$10,000 into an escrowed indemnity account with a bank approved by the city. The indemnity account shall be maintained to guarantee the faithful performance of applicant=s duties and obligations. All accrued interest on such account shall inure to applicant=s benefit and the principal of such account returned to applicant upon expiration or surrender of license and approval by airport committee. In lieu of a monetary bond, the applicant may provide proof of Apollution@ liability insurance for any auto, motor carrier, or trucks used by the applicant on airport property. The Apollution@ liability insurance shall be a minimum of \$10,000. (1985 Code, ' 6.0804) (Ord. 164, passed 4-13-1993; Ord. 332, passed 8-13-2013)

' 110.074 EXPIRATION OF LICENSE.

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All licenses issued under the provisions of this subchapter shall expire on December 31 in the year when issued or upon surrender of the license to the City Finance Officer. No license shall be transferable in any case.

(1985 Code, ' 6.0805) (Ord. 164, passed 4-13-1993)

' 110.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of ' 10.99.

(B) Any person, persons, firm, or corporation who shall engage in any of the callings, vocations, or kinds of business mentioned in ' ' 110.001 through 110.007, without first having received a license therefor, as specified in ' ' 110.001 through 110.007, shall, upon conviction thereof, be fined as set by resolution of the City Council and may be amended by the Council from time to time.

(1985 Code, ' 6.0107)

(C) (1) Any person or persons violating any of the provisions of ' ' 110.020 through 110.027 or any owner, proprietor manager, or other person in control of or conducting any public dance who refuses, fails, or neglects to prevent vulgar or indecent dancing as herein prescribed or in any manner violates any of the provisions of ' ' 110.020 through 110.027, or interferes with an officer of the Police Department in carrying out the provisions of ' ' 110.020 through 110.027, shall, upon conviction thereof, be punished by a fine set by resolution of the City Council and may be amended by the Council from time to time.

(2) Upon conviction of the owner, proprietor, manager, or other person in control of or conducting any public dance hall under ' ' 110.020 through 110.027 for the violation thereof, the license issued for the offending dance hall shall be forthwith revoked.

(1985 Code, ' 6.0210)

**CHAPTER 111: PEDDLERS, SOLICITORS, CANVASSERS, AND TRANSIENT
MERCHANTS**

Section

Peddlers, Solicitors, Canvassers

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PEDDLERS, SOLICITORS, CANVASSERS

' 111.01 LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of peddler, solicitor, or canvasser as defined in ' 111.02 within the corporate limits of the city without first obtaining a license therefor as provided herein.

(1985 Code, ' 6.0401) Penalty, see ' 111.99

' 111.02 DEFINITIONS; EXCEPTIONS AND EXCLUSIONS.

(A) *Generally.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. Any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions offering and exposing the same for sale, or making sales and delivering articles to purchasers or who without traveling from place to place, shall sell, or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this subchapter. The word ***PEDDLERS*** shall include the words ***HAWKER*** and ***HUCKSTER***.

PERSON. Includes the singular and the plural and shall also mean and include any person, firm, or corporation, association, club, copartnership, society, or any other organization.

SOLICITOR, CANVASSER. Any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, truck, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for sale or goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, taking subscriptions to periodicals, or for services to be furnished or performed in the future, whether or not such individuals have, carries, or exposes for sale a sample of the subject of such sale and who collects any advance payment on such sale; provided, that such definition shall include any person who, for himself or herself, or for another person, firm, or corporation hires, leases, uses, or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop trailer, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(B) *Exceptions.* This subchapter shall not include any person retailing goods, wares, or merchandise which can be shown to be his or her manufacture or production, or farm produce raised within the state by such person and shall not include anyone under contract with the city or the Parkston Commercial Club to put on an exhibition.

(C) *Exclusions.* This subchapter shall not include any local person retailing goods, wares, or merchandise for which the proceeds or income shall be used for the benefit of a charitable, religious, civic, or school organization.

(1985 Code, ' 6.0402)

' 111.03 ISSUANCE OF LICENSE.

(A) After payment of the requisite license fee to the City Finance Officer, any person desiring to obtain a license under the provisions of this subchapter shall make and file with the Finance Officer a sworn application in writing on a form furnished by the City Finance Officer, which shall give the following information:

(1) Name and description of applicant;

(2) Address (legal and local);

(3) A brief description of the nature of the business and the goods to be sold and services to be rendered; if goods, wares, and merchandise are to be sold, whether of the seller=s own manufacture; and in the case of products of farm or orchard, whether grown or produced by the applicant;

(4) If employed, the name and address of the employer, together with the credentials establishing the exact relationship;

(5) The length of time for which the right to do business is desired;

(6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.

(7) Names of other towns and cities in the state where applicant has had a similar license in the past year; and/or

(8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, the punishment or penalty assessed, the name of the court, and the town or city.

(B) Before issuing a license under this subchapter to any person applying therefor, the licensing authority shall refer the application to the Chief of Police, who shall cause to be made such investigation of the applicant=s moral character and business responsibility as he or she deems necessary for the protection of the public goods, including the inquiry of the Federal Bureau of Investigation and the Investigation Division of the Office of the State Attorney General, except that in the event the applicant has received a like license from the city within one year last past, the licensing authority may waive this requirement. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the licensing authority whether or not the moral character and business responsibility of the applicant is satisfactory.

(1985 Code, ' 6.0403)

' 111.04 LICENSING AUTHORITY.

The City Mayor shall issue any license issued under the provisions of this subchapter and shall have discretion whether or not to grant the license after considering the showing on applicant=s behalf, and after making the investigation he or she deems necessary.

(1985 Code, ' 6.0404)

' 111.05 LICENSE FEES.

The license fee shall consist of a basic fee which shall be established by resolution of the City Council and may be amended by the Council from time to time, to defray the cost to the city of processing the application and investigatory expense. In addition thereto, a license fee, established by resolution of the City Council and may be amended by the Council from time to time, shall be paid by the applicant for himself or herself and a like fee for each additional employee or assistant.

(1985 Code, ' 6.0405)

' 111.06 RENEWAL OR CONTINUATION.

In the event any licensee desires to continue the business authorized under the license after the expiration date of such license, a new application shall be filed and the same procedure followed as for the initial license.

(1985 Code, ' 6.0407)

' 111.07 LICENSEE CONSTITUTES CITY FINANCE OFFICER/AGENT FOR SERVICE OF PROCESS.

Before any license shall issue, there shall also be filed with the City Finance Officer an instrument in writing signed by the applicant under oath nominating and appointing the City Finance Officer his or her

true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant. Service of summons in any action brought upon said bond shall be deemed made when served upon said City Finance Officer.

(1985 Code, ' 6.0408)

' 111.08 USE OF STREET.

No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location upon the public streets, alleys, or public grounds of the city, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(1985 Code, ' 6.0409)

' 111.09 EXHIBITION OF LICENSES.

Any person licensed under this subchapter is required to exhibit his or her license at the request of any citizen.

(1985 Code, ' 6.0410)

' 111.10 DUTY OF POLICE TO ENFORCE.

It shall be the duty of any police officer of the city to require any person peddling, soliciting, or canvassing, and who is not known by such officer to be duly licensed, to produce his or her peddler=s license and to enforce the provisions of this subchapter against any person found to be violating same.

(1985 Code, ' 6.0411)

' 111.11 RECORDS.

The Chief of Police shall report to the City Finance Officer all convictions for violation of this subchapter and the City Finance Officer shall maintain a record for each license issued and record the reports of violation thereof.

(1985 Code, ' 6.0412)

' 111.12 REVOCATION OF LICENSE.

(A) Licenses issued under the provisions of this subchapter may be revoked by the Mayor of the city after notice and hearing for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for license;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on his or her business under the license;
- (3) Any violation of this subchapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or
- (5) Conducting the business of peddling, soliciting, or canvassing 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.

(B) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage pre-paid to the licensee at his or her last known address at least five days prior to the date set for hearing.

(1985 Code, ' 6.0413)

' 111.13 APPEAL OR REVIEW.

(A) Any person aggrieved by the action of the Mayor in the denial of an application for permit or license as provided in ' 111.03, or in the decision with reference to the revocation of a license as provided by ' 111.12, shall have the right of having the Council review said decision by filing with the City Finance Officer within 14 days after notice of the action complained of has been mailed to such person=s last known address a written statement setting forth fully the grounds for such review. Service of such notice shall be made on the City Finance Officer.

(B) The Council shall set a time and place for a full and complete hearing in the same manner as provided in ' 111.12 for notice of hearing on revocation, and the decision and order of the board on such matter shall be final and conclusive.

(1985 Code, ' 6.0414)

' 111.14 SUSPENSION OF LICENSE.

Upon complaint being made to the Council of any of the grounds for revocation set forth in ' 111.12, and upon its determination that the health, welfare, and safety of the citizens of the city requires it, it may order immediate suspension of the license, and the licensee shall not engage in the business authorized by said license, pending hearing and decision by the Council as provided in ' 111.12.

(1985 Code, ' 6.0415)

' **111.15 TRANSFER.**

No license issued under the provisions of this subchapter shall be used at any time by any person other than the one to whom it was issued.
(1985 Code, ' 6.0416)

' **111.16 EXPIRATION OF LICENSE.**

All annual licenses issued under the provisions of this subchapter shall expire on December 31 in the year when issued. Licenses other than annual licenses shall expire on the date specified in such license.
(1985 Code, ' 6.0417)

TRANSIENT MERCHANTS

' **111.30 LICENSE.**

It shall be unlawful for any person, firm, or corporation to engage in business in the city as a transient retail merchant or an itinerant merchant as defined in ' 111.31 without first having obtained a license therefor in compliance with the provisions of this subchapter.
(1985 Code, ' 6.0501) Penalty, see ' 111.99

' **111.31 DEFINITION.**

For the purpose of this subchapter, a ***TRANSIENT MERCHANT*** or ***ITINERANT MERCHANT*** is defined as any person, firm, or corporation whether as owner, agent, or consignee or employee who engages in a temporary business of selling and delivering goods, wares, and merchandise within said city and who in furtherance of such purpose hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad boxcar, or any street, alley, lot, or other place within the city for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction; provided, that such definitions shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this subchapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer.
(1985 Code, ' 6.0502)

' **111.32 APPLICATION.**

Applicants for license under this subchapter, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation, with the City Finance Officer showing:

(A) The name or names of the applicant for license;

(B) The name or names of the person or persons having the management of supervision of applicant=s business during the time it is proposed that it will be carried on in the city and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent, or otherwise;

(C) The place or places in the city where it is proposed to carry on applicant=s business and the length of time it is proposed that said business shall be conducted;

(D) A statement of the nature and character and quality of the goods, wares, and merchandise to be sold or offered for sale by applicant, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale, or by taking orders for future delivery, where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed; and

(E) At least three references as to the integrity of the applicant.
(1985 Code, ' 6.0503)

' 111.33 INVESTIGATION AND ISSUANCE.

Upon receipt of such application, the City Finance Officer shall refer such application to the Chief of Police of the city who shall cause such investigation of such person or person=s business responsibility or moral character to be made as he or she deems necessary to the protection of the public good. The Chief of Police shall, as soon as such investigation can be made, return such application to the City Finance Officer with his or her recommendations as to whether or not such application should be granted and, in the event of his or her recommendation that such application be refused, his or her reasons therefor. Upon the receipt of such application with the endorsement of the Chief of Police as hereinbefore set forth, the Finance Officer shall present such application to the Mayor who shall act upon such application and, at his or her discretion, either approve or disapprove the same.
(1985 Code, ' 6.0504)

' 111.34 BOND.

Before any license as provided in this subchapter shall be issued for engaging in a transient or itinerant business, as defined by ' 111.31, in the city, such applicant shall file with the City Finance Officer a bond running to the city in the sum of \$1,000 executed by the applicant as principal and two

sureties upon which service of process will be made in the state. Said bond to be approved by the City Council and conditioned that the said applicant shall comply fully with all ordinances of the city and statutes of the state regulating and concerning the sale of goods, wares, and merchandise and will pay all judgments rendered against said applicant for violation of said ordinances or statutes or any of them, together with all judgments and costs that may be recovered against him or her by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, his or her agent, servants, or employees.

(1985 Code, ' 6.0505)

' 111.35 SERVICE OF PROCESS.

Before any license as herein provided shall be issued for engaging in businesses as itinerant or transient merchant, such applicant shall also file with the City Finance Officer an instrument nominating and appointing the City Finance Officer as true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transaction under said license and the bond as heretofore required. Immediately upon service of process upon said City Finance Officer, the same shall send to the licensee at his or her last known address by registered mail a copy of said process. Said instrument shall also contain recitals to the effect of any notice or process may be made upon said agent, and when so made, shall be taken and held to be as valid as if personally served upon the person or persons applying for said license under this subchapter according to the law of this or any other state and waiving all claim or right of error by reason of such acknowledgment of service or manner of service.

(1985 Code, ' 6.0506)

' 111.36 FEES.

The fee required to be paid by such transient merchant or itinerant merchant as herein defined for the procuring of such license shall be established by resolution of the City Council and may be amended by the Council from time to time. Such license fee shall be paid to the City Finance Officer at the time of making the application and the license issued shall state the time for which said license is granted and the expiration date.

(1985 Code, ' 6.0507)

' 111.37 REVOCATION.

(A) The permits and licenses issued pursuant to this subchapter may be revoked by the Mayor after the notice of hearing for any of the following causes:

(1) Any fraud, misrepresentation, or false statement contained in the application for license;

(2) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise;

(3) Any violation of this subchapter;

(4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or

(5) Conducting the business licensed under this subchapter 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.

(B) Notice of hearing for revocation of a license shall be given in writing setting forth specifically the ground of the complaint and the time and place of the hearing. Such notice shall be mailed, postage pre-paid, to the licensee, at his or her last known address, at least five days prior to the date set for the hearing.

(1985 Code, ' 6.0508)

' 111.38 APPEAL.

(A) Any person aggrieved by the decision of the Mayor in regard to the denial of application for license as provided in ' 111.32 shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the Council within ten days after notice of the decision of the Council, a written statement showing the grounds for the appeal.

(B) The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in ' 111.37 for notice of hearing on revocation. The order of the Council on such appeal shall be final.

(1985 Code, ' 6.0509)

' 111.39 HOUSE TO HOUSE SOLICITING PROHIBITED.

(A) The practice of going in and upon private premises in the city by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant, or occupants of such private residence for the purpose of soliciting orders for the sale of goods, wares, and merchandise and or for the purpose of disposing of any or peddling or hawking the same, is hereby declared a nuisance and punishable as such nuisance as a misdemeanor.

(B) The Chief of Police and police force of city are hereby required and directed to suppress the same, and to abate any such nuisance.

(1985 Code, ' 6.0510) Penalty, see ' 111.99

' 111.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of ' 10.99.

(B) Any person found guilty of violating any of the provisions contained in ' ' 111.30 through 111.39 shall, upon conviction thereof, pay a fine, set by resolution of the City Council and may be amended by the Council from time to time, and the costs of prosecution and shall stand committed until such fine has been paid.

(1985 Code, ' 6.0510)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

- 112.01 License required
- 112.02 Time of closing
- 112.03 Classification
- 112.04 Limit of licenses
- 112.05 Sidewalk sales of alcohol allowed under certain conditions
- 112.06 Special event alcoholic beverage licenses

' 112.01 LICENSE REQUIRED.

No person shall sell, offer for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct within the city any alcoholic beverage as defined by statute without having a license therefor as required by the statutes of the state as amended or as authorized by such title as amended. (1985 Code, ' 7.0801) Penalty, see ' 10.99

' 112.02 TIME OF CLOSING.

(A) No on-sale or off-sale licensee, licensed under SDCL ' 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day. Such licensees are permitted to sell, serve, or allow to be consumed alcoholic beverages on Sunday and on Memorial Day, except between the hours of 2:00 a.m. and 7:00 a.m.

(B) No licensee licensed under SDCL ' 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m.

' 112.03 CLASSIFICATION.

(A) *Purpose.* The purpose of this section is to implement the provisions of SDCL Title 35, as amended by Ch. 211, Laws of 1971, and to provide for the classification of alcoholic beverage establishments and the fees to be charged for each such license.

(B) *Classification and fees.* The following classifications and fees are established for retail dealers in alcoholic beverages.

(1) *On-sale dealer.* Any person who sells or keeps for sale any alcoholic beverages other than low-point beer for consumption on the premises where sold: fees established by resolution of the City Council and may be amended by the Council from time to time.

(2) *Off-sale dealer.* Any person who sells or keeps for sale any alcoholic beverage other than low-point beer for consumption on the premises where sold: fees established by resolution of the City Council and may be amended by the Council from time to time.

(3) *Off-sale/on-sale retail dealer:* fees established by resolution of the City Council and may be amended by the Council from time to time.

(4) *Sunday retail dealer.* A public facility or club on-sale dealer, which the licensee has facilities for the serving of prepared meals from a fixed restaurant with the simultaneous seating capacity of at least 35 persons.

(C) *Annual fee.* Annual fees in addition to all other fees hereinbefore listed shall be established by resolution of the City Council and may be amended by the Council from time to time.

(D) *Food service.* Notwithstanding the provisions of ' 112.07, any public facility or club on-sale dealer which has the facilities for serving prepared meals as defined by division (B)(4)(a) that applies, qualifies, and receives a Sunday retail dealer classification under division (B)(4)(a) has the right to sell, serve, and allow to be consumed on the premises covered by their license, alcoholic beverages on Sunday with the serving of food.
(1985 Code, ' 7.0808)

' 112.04 LIMIT OF LICENSES.

(A) *Purpose.* The purpose of this section is to implement the provisions of SDCL ' 35-4-11, as amended, to limit the number of off-sale and on-sale licenses to be issued in the city in any year.

(B) *On-sale liquor licenses.* No more on-sale liquor licenses shall be issued within the city in any year than are allowed by state statute.

(C) *Off-sale liquor licenses.* No more off-sale liquor licenses shall be issued within the city in any year than are allowed by state statutes.
(1985 Code, ' 7.0809) (Ord. 177, passed 12-13-1994; Ord. 204, passed 8-11-1998; Ord. 205, passed 8-11-1998)

' 112.05 SIDEWALKS SALES OF ALCOHOL ALLOWED UNDER CERTAIN CONDITIONS.

(A) On-sale licensees shall be allowed to serve, and allowed to be consumed, alcoholic beverages on the sidewalk subject to the public right-of-way abutting a licensed premises; provided, that the license holder derives more than 50% of its gross receipts from the sale of prepared food for consumption on the premises and subject to the following provisions.

(B) An on-sale licensee shall apply at the City Finance Office on the prescribed application for a permit to serve and allow consumption of alcoholic beverages on the sidewalk abutting the licensed premises. Each permit applied for under this chapter will be considered by the City Council and will be voted upon as to approval or denial.

(C) The service of alcohol by an on-sale licensee under this chapter and corresponding permit shall be allowed to serve alcohol until no later than 10:00 p.m. and such alcohol sales and service shall only be allowed to patrons seated at tables.

(D) The on-sale licensee serving alcohol under this chapter and corresponding permit must at all times leave at least one-half of open and unobstructed sidewalk for pedestrian traffic. The aforementioned unobstructed portion shall be that adjacent to the street.

(E) The city may, in its discretion, require an applicant for an on-sale license permit under this chapter to submit such documentation, plans, and drawings, among other such information, identifying a design and plan for the orderly sale and service of alcohol.

(F) The City Council may, at any time and for cause, if, upon investigation, it deems the same sufficient, revoke any permit granted under the provisions of this section after giving 30-day notice to the holder of such permit.

(1985 Code, ' 7.0810) (Ord. 302, passed 12-9-2008)

' 112.06 SPECIAL EVENT ALCOHOLIC BEVERAGES LICENSES.

(A) *Purpose.* The purpose of this section is to implement the provisions of SDCL ' ' 35-4-124 and 35-4-125 and to regulate and restrict permits for special alcoholic beverage licenses issued in conjunction with special events in the city.

(B) *Classifications for special event alcoholic event alcoholic beverage licenses.* The following are the classifications for special event alcoholic beverage licenses.

(1) Any license issued pursuant to SDCL ' 35-4-124 shall be issued for a period of time established within the sole discretion of the City Council not to exceed 15 consecutive days.

(2) No person or organization may be issued a permit pursuant to SDCL ' 35-4-124 more

than two times in any one calendar year.

(3) The licensee must comply with all applicable state laws concerning the consumption of alcoholic beverages as set forth in SDCL Ch. 35-4.

(4) Persons requesting a special event alcoholic beverage license shall make application on forms available from the Finance Office. A public hearing shall be required and a notice shall be published in the official newspaper 14 days prior to the public hearing.

(C) *Fees for special event alcoholic event alcoholic beverage licenses.* The following are the fees for special event alcoholic beverage licenses.

(1) Temporary malt beverage licenses for civic, charitable, educational, fraternal, or veterans organizations may be issued to said group at a cost which shall be established by resolution of the City Council and may be amended by the Council from time to time. Temporary liquor licenses are not to be issued to such groups.

(2) Temporary malt beverage license may be issued to any licensee holding a malt beverage or on-sale alcoholic beverage license in the city at a cost which shall be established by resolution of the City Council and may be amended by the Council from time to time.

(3) Temporary liquor licenses may be issued to any licensee holding an on-sale liquor license in the city at a cost which shall be established by resolution of the City Council and may be amended by the Council from time to time.

(1985 Code, ' 7.0811) (Ord. 323, passed 7-10-2012)