

TITLE 4 – LICENSES

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CHAPTER 4.01 – GENERAL PROVISIONS

- 4.0101 Licenses Required. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained such license, as hereinafter provided. The City Council may at any time expand the general provisions of the Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City which is not specified by this ordinance to obtain a license, as deemed necessary.
- 4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the City Council stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, the particular place at which said license is to be used, and any other information as the Council may require.
- Fees for all licenses shall be fixed by the City Council where not specified in this Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.
- 4.0103 License Expiration. Any annual licenses granted under the provisions of this Chapter shall expire on the 31st day of December following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate; and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
- 4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever said Council shall be satisfied, upon written complain, after proper notice and hearing the such calling, vocation, or kind of business for which said license has been issued, had been made or conducted in an improper or illegal manner, or otherwise in violation of the license requirements, and in case of such revocation, there shall be no refund to the holder of such license or any part of the license fee.

- 4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after approval by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City. Licenses may be issued on such terms and conditions as the Council may determine.
- 4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said licenses, and the place where such activity is to be carried on. (SDCL 9-34-1)

CHAPTER 4.02 – TRANSIENT MERCHANTS, PEDDLERS

- 4.0201 Definitions. For the purpose of this Chapter, a transient merchant is any person, firm, corporation, partnership, association, or agent thereof transacting a temporary business where goods other than goods produced by him are exposed for wholesale or retail sale at any place in this state. A business operated more than six (6) months in one place by the same person shall be deemed a permanent business, but one commenced and discontinued within six (6) months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant.
- Also, peddling or soliciting is defined as a person engaged in the selling of property or services to include, but not limited to spraying, trimming or pruning of trees and shrubs of all species, painting or repairing buildings or structures, and pest or rodent control, by going about from place to place, highway or street parking, or house to house either in person or by telephone to sell the same and who carries with him such property for delivery at the time of sale or performs such service at the time of contract for such service or immediately thereafter is a peddler. A person engaged in going from place to place, highway or street parking, or house to house in person or by telephone to solicit orders for, or to offer to sell, property or services for future delivery is a solicitor.
- 4.0202 Transient Merchant License Required. Every transient merchant shall obtain a license and pay to the City a license fee of twenty-five dollars (\$25) for each six (6) months that said transient merchant shall conduct said business licensed under this Chapter. Said license fee shall be payable in advance, and the license issued under this Chapter shall be posted conspicuously in the place of business named therein.

4.0203 Peddlers/Solicitors License Required. It shall be unlawful for any person to be engaged in the business of peddler or solicitor as defined herein within the corporate limits of the City without first obtaining a permit and license therefore as provided herein. The fees required for said licenses shall be twenty-five dollars (\$25) for each six (6) months payable in advance, provided that no fees shall be required of one selling products actually produced by the seller. Peddlers are required to exhibit their licenses at the request of any citizen (SDCL 9-34-8)

4.0204 Application for License. Applicants for license under this Chapter, 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 Finance Officer showing:

- A. The name or names of the applicant for license.
- B. The name or names of the person or persons having management or supervision of applicant's business during the time 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 at; 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 statements of the service to be provided or of the 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.
- E. At least three references as to the integrity of the applicant, including names, addresses and telephone numbers.
- F. Last three locations of operation and dates thereof.
- G. Proof of sales tax license and license number.
- H. Any other information that the Council may require.

4.0205 Surety Bond. With an application pursuant to Section 4.0204, a transient merchant or peddler must also file with the Finance Officer a bond to the City to be approved by the City Council in the sum of up to One Thousand

Dollars (\$1,000) conditioned for the payment of any license fees to become due the City should the merchant or peddler continue operation beyond any time for which he/she paid. Also, said bond is conditioned that the transient merchant or peddler shall comply fully with all ordinances of the City and statutes of the State of South Dakota regulating and concerning the sale of good, wares and merchandise, or the providing of services.

4.0206 Approval of License. Any person seeking to obtain a license under the provisions of this Chapter shall have obtained all required county and/or state permits, shall have completed an application for license, filed a bond, and shall have paid to the Finance Officer the amount provided for by this Chapter for such a license. The Finance Officer shall then furnish the applicant a receipt designating the location of business and kind of activity applied for. Upon presentation of said receipt to the City, the City Council at its discretion if it deems the applicant a suitable and proper person to have such license, shall approve such license and direct the Mayor to sign the receipt. Said receipt when signed shall be deemed a good and sufficient license. If the City Council does not grant said license, the applicant shall be informed of the same and Finance Officer shall thereupon refund the amount of the license fee paid and the applicant's receipt shall be the Finance Officers' voucher for the money refunded.

4.0207 Revocation of License. Any license issued hereunder may be revoked, after notice and hearing, by the City Council for any of the following causes:

- A. Fraud, misrepresentation or false statements contained in the application for license.
- B. Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler, solicitor or transient merchant hereunder.
- C. Any violation of this Chapter, or other law or regulation.
- D. Conviction of any crime or misdemeanor involving moral turpitude.
- E. Conducting the business licensed hereunder 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.

4.0208 Appeal. Any person feeling aggrieved by the decision of the City Council in regard to the revocation of license or denial of application for license as provided in section 4.0206 and 4.0207 of this Chapter shall have the right

to appeal to the City Council. Such appeal shall be taken by filing with the Finance Officer within ten (10) days after notice of the decision of the Council, a written statement showing the grounds for the appeal. The Finance Officer shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in writing setting forth the time and place of the hearing. This notice shall be mailed or delivered personally to the licensee/applicant at least five (5) days prior to the hearing date.

- 4.0209 Penalties. Any person violating any of the provisions of this Chapter, or of this Title shall, upon conviction thereof be punished by fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment. Each day in violation of this Title shall be deemed a separate offense.
- 4.0210 Exceptions. Nothing in this Chapter shall prohibit the distribution of any commodity from a railroad car by a cooperative association purchased in car lot for the personal use of its premises, nor the sale of services or goods by nonprofit groups located within the City limits of Baltic.

CHAPTER 4.03 – ALCOHOLIC BEVERAGES

- 4.0301 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverages as defined by statute, without having a license therefore as required by South Dakota Codified Laws. (SDCL 9-29-7)
- 4.0302 Application Required. In any instances in which applicants may qualify, applications for licenses for the sale of alcoholic beverages in the City shall be submitted as prescribed by South Dakota Codified Laws. (SDCL 35-4-2)
- 4.0303 License Fees and Approval. Applications for any alcoholic beverage license shall have the necessary fees attached upon being submitted to the City as required by the South Dakota Codified Laws; and the granting and retention of licenses will be as provided by the South Dakota Codified Laws, and local regulations. (SDCL 32-30-3, SDCL 35-2-10)
- 4.0304 Location of Business. The City Council shall not approve the issue of any license to any person(S), business or group where the location of such a business would not be considered desirable in accordance with South Dakota Codified Laws, and local regulations. (SDCL 35-2-6.1, SDCL 35-2-6.2)

4.0305 Special Events License. The City Council may issue a special malt beverage retailers license to any civic, charitable, educational or fraternal organization in conjunction with a special event within the City for a fee of five (\$5) dollars per day. Educational does not include the public school system. The time period for such license shall be established by the City Council with the time period not to exceed fifteen consecutive days. (SDCL 35-4-11.4)

4.0306 Violations. Any person, firm or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any offense when applicable, after conviction, each day of failure to do so shall constitute a separate offense. Whenever any person shall as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Chapter he shall also be deemed as guilty as a principal. Failure to comply with all existing requirements including the provisions in this Chapter, shall be cause for revocation of any license granted under the provisions of South Dakota Codified Laws. (SDCL 35-2-10)

CHAPTER 4.04 – FIREWORKS

4.0401 License Required. No person shall engage in the sale of fireworks within the City of Baltic nor within one (1) mile of the City Limits without first obtaining a license from the City Council. (SDCL 9-33-1)

4.0402 Applications, fee, procedure. Any person desiring a license shall submit an application for the same stating the information required by Chapter 4.01 hereof and any other information required by the City the fee for such license shall be twenty-five (\$25.00) dollars. All other provisions of Chapter 4.01 hereof shall apply to such license.

4.0403 Other requirements. Any applicant shall also have obtained a proper license from the State of South Dakota, and a sales tax license from the State of South Dakota. (SDCL 34-37-2)

4.0404 Sale Regulated. No person may sell fireworks within the City nor within one (1) mile from its city limits before June 27 nor after July 5 of any year. Hours of sale shall be restricted to the following hours: from 8:00 a.m. to 10:00 p.m. (SDCL 34-37-10)

4.0405 Sales Persons Restricted. No person under eighteen (18) years of age shall sell any fireworks. (SDCL 34-37-2.1)

4.0406 Premises. No license shall permit any smoking or open flame in or around the premises where fireworks are sold. Further no fireworks shall be

discharged within one hundred fifty (150) feet of any such premises. Signs conspicuously stating no fireworks shall be discharged within the prescribed area and “NO SMOKING WITHIN TWENTY-FIVE FEET” which smoking sign shall be in red letters at least three (3) inches in height. (SDCL 34-37-10.3, 10.4 and 10.5)

CHAPTER 4.05 – BURGLAR, FIRE ALARMS, SYSTEMS AND USERS

- 4.0501 Purpose of Chapter. The purpose of this chapter is to provide regulations applicable to private alarm systems and users. The public safety and good order require that emergency services be maintained with a proper balance between prompt response to alarms and a minimization of time spent on alarms which are false or otherwise not the intended function of private security systems.
- 4.0502 Definitions. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
- A. *Alarm user* means any person, property owner, firm, partnership, corporation or governmental entity whose premises has an alarm system.
 - B. *Alarm system* means a device or system that emits, transmits or relays a remote or local audible, visual or electronic signal indicating an alarm condition and intended to or reasonably expected to summon law enforcement officers of the Minnehaha County Sheriff’s Department (hereinafter “Sheriff”) or fire services. Alarm system does not include an alarm installed on a vehicle.
 - C. *False alarm* means any of the following:
 - 1. The negligent or unintentional activation of an alarm system by the owner or lessee of an alarm system or by an employee or agent of either.
 - 2. The activation of an alarm system by mechanical failure or malfunction because of improper maintenance of the alarm system.
 - 3. The activation of an alarm system because of improper installation and/or use of the equipment.
 - 4. The intentional activation of an alarm system where no unauthorized entry, commission of an unlawful act or fire exists.
 - 5. An alarm shall be presumed false if the law enforcement officers do not locate evidence of intrusion, commission of an unlawful act, or emergency on the premises that might have caused the alarm to sound. When responding law enforcement officers find unsecured doors or windows where there is no evidence of forced entry or other evidence of criminal intent, the alarm is presumed to be

false.

6. False alarm includes an alarm caused by power outage, but shall not include alarms activated by unusually severe weather conditions or other causes which are identified by the law enforcement officers or fire department to be beyond the control of the alarm user.

4.0503

Installation and Operation.

- A. Alarm system standards. All alarm systems installed within the City shall be installed and maintained in compliance with all applicable federal, state and local statutes, rules and regulations.
- B. Emergency information. The alarm user will provide the Sheriff and City with the names and telephone numbers of at least two persons in addition to the user who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by the automatic alarm device, and who can open the premises wherein the device is installed.

4.0504

Prohibitions.

- A. False alarm. No person owning, using or possessing an alarm system or transmitting information regarding an alarm system shall cause or permit the giving of a false alarm, whether intentional, accidental or otherwise.
- B. Prohibited devices. No person shall use or cause or permit to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the Sheriff or fire department and then reproduces any prerecorded message to report any unlawful act, fire or other emergency.

4.0505

False Alarm Fee.

- A. If the Sheriff or fire department responds to a false alarm, the alarm user shall pay the City a fee according to the schedule of fees for any false alarm occurring in a calendar year as determined by resolution of the City council.
- B. If the summons to the Sheriff or fire department is cancelled while the Sheriff or fire department is responding to an alarm, the alarm user shall still be assessed a fee for a false alarm.
- C. Any fees payable to the City which are delinquent shall be assessed against the property involved as a special charge for current services rendered, without notice, pursuant to [SDCL ___?].

4.0506

Penalties for Violation of Chapter. Any person, who violates any provision of this chapter, shall pay an amount as determined by resolution of the City Council.