

## CHAPTER 6-1 PEDDLERS, SOLICITORS & TRANSIENT MERCHANTS

### 6-1-1 LICENSE REQUIRED

It shall be unlawful for any person to engage in the business of peddler, solicitor, canvasser, or transient merchant, as defined in §6-1-2 of this ordinance, within the corporate limits of the City without first obtaining a license therefore as provided herein.

*Authority: SDCL 9-34-1, 9-34-8; See Also: SDCL 37-13*

### 6-1-2 DEFINITIONS

**Person:** The word “person” as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership, society, or any other organization

**Peddler:** The word “peddler” as used herein shall include 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 trucks, 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 chapter. The word “peddlers” shall include the words “hawker” and “Huckster.”

**Solicitor, Canvasser:** A canvasser or solicitor is defined as any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor 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 of 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 individual has, 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 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. This shall not include solicitors for charitable or religious purposes, nor to the sale of agricultural products.

**Transient Merchant:** A transient merchant is defined as any person, whether as owner agent, consignee, or employee, whether a resident of the city or not, who engages in the temporary business of selling and delivering goods, wares and merchandise within the city and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad car, or any other site within the city for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction. Such a definition shall not be construed to include any person 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 so engaged shall not be relieved from complying with this chapter merely by reason

of associating temporarily within any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as part of, or in the name of any local dealer, trader, merchant, or auctioneer.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-3 ISSUANCE OF LICENSE**

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

- (a) Name and description of applicant;
- (b) Address (legal and local);
- (c) A brief description of the nature of the business and the goods to be sold, 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.;
- (d) If employed, the name and address of the employer, together with the credentials establishing the exact relationship;
- (e) The length of time for which the right to do business is desired;
- (f) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
- (g) Names of other towns and cities in the State of South Dakota where applicant has had a similar license in past year;
- (h) 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, and the name of the Court, and the town or city.

Before issuing a license under this chapter 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 deems necessary for the protection of the public good, including the inquiry of the Investigation Division of the Office of the Attorney General of the State of South Dakota, except that in the event the applicant has received a like license from the City within the year when issued, 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.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-4 LICENSING AUTHORITY**

The Finance Officer of the City shall issue any license issued under the provisions of this chapter, and shall have discretion whether or not to grant the license after considering the showing on applicant's behalf, and after making the investigation they deem necessary.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-5 LICENSE FEES**

The license fee shall be set by resolution.

*Authority: SDCL 9-34-1, 9-34-8*

#### **6-1-6 BOND**

Before any such license shall be issued, every applicant who represents a firm whose principal place of business is located outside the State of South Dakota shall file with the City Finance Officer a surety bond, running to the City in an amount to be designated by the city council, with surety acceptable to and approved by the council, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City and the statutes of the State of South Dakota regulating and concerning the business of peddler, solicitor, canvasser, or transient merchant and guaranteeing to any citizen of Platte that all money paid as a down payment will be accounted for and applied according to the representations made. The bond shall further guarantee to any citizen of the City doing business with such licensee that the property purchased will be delivered according to the representation of said licensee, that all merchandise sold and delivered shall be as represented and that he will refund any money or deposit on any merchandise which is not as represented. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person.

*Authority: SDCL 9-34-1, 9-34-8*

#### **6-1-7 RENEWAL OR CONTINUATION**

In 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.

*Authority: SDCL 9-34-1, 9-34-8*

#### **6-1-8 LICENSE: 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 true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of said applicant, and service of summons in any action brought upon said bond shall be deemed made when served upon said City Finance Officer.

*Authority: SDCL 9-34-1, 9-34-8*

#### **6-1-9 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 be permitted to operate in any congested area where his 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.

*Authority: SDCL 9-34-1, 9-34-8; See Also: 9-30-2*

#### **6-1-10 EXHIBITION OF LICENSE**

Any person licensed under this chapter shall exhibit said license at the place of business.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-11 DUTY OF POLICE TO ENFORCE CHAPTER**

It shall be the duty of any police officer of the City to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce license and to enforce the provisions of this chapter against any person found to be violating these provisions located in this chapter.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-12 RECORDS**

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

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-13 LICENSE; REVOCATION OF**

(a) Licenses issued under the provision of this chapter may be revoked by the council of the city for any of the following causes:

1. Fraud, misrepresentation, or false statements contained in the application for license;
2. Fraud, misrepresentation or false statement made in the course of carrying on his business under the license;
3. Any violation of this chapter;
4. Conviction of any crime or misdemeanor involving moral turpitude as defined by state statute; 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.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-14 SUSPENSION OF LICENSE**

Upon complaint being made to the council of any of the grounds for revocation set forth in §6-1-13 and upon their determination that the health, welfare, and safety of the citizens of the City requires it, they may order immediate suspension of the license, and the licensee shall not engage in the business authorized by said license.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-15 LICENSE; NON-TRANSFERABILITY OF**

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

*Authority: SDCL 9-34-1, 9-34-8*

### **6-1-16 LICENSE; EXPIRATION OF**

All annual licenses issued under the provisions of this chapter shall expire on the 31<sup>st</sup> day of December in the year when issued. Licenses other than annual licenses shall expire on the date specified in such license.

*Authority: SDCL 9-34-1, 9-34-8*