

CHAPTER 4: GENERAL LICENSING

GENERAL LICENSING

Section 4-101. Short Title. This Ordinance shall be known and may be cited as the "General Licensing Ordinance of the Town of Tabor".

Section 4-102. Scope. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance. Where this Ordinance imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control.

Section 4-103. Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Business" is meant to include all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in this Town, or anywhere else within its jurisdiction.
- (2) "Town" is the Town of Tabor.
- (3) "Board of Trustees" is the Board of the Town of Tabor.
- (4) "Town License Officer" or "License Officer" is the License Officer of the Town of Tabor.
- (5) "Insignia," or its singular number "insigne" is any tag, plate, badge, emblem, sticker, or any other kind of device which may be required for any use in connection with any license.
- (6) "License" or "licensee," as used generally herein, shall include respectively the words "permit," or "permittee," or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Ordinance or other law or ordinance.
- (7) "Person" is meant to include individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts, or corporations; or any officers, agents, employees, factors, or any kind of personal representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.
- (8) "Premises" is meant to include all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

Section 4-104. Application of Regulations;

- (A) Compliance Required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or non-profit enterprise, or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license, or permit, is required by any law or ordinance of this

Town, without license, or permit therefore being first procured and kept in effect at all such times as required by this Ordinance or other law or ordinance of this town.

(B) Special Sales. This Ordinance shall apply to all business in the nature of special sales for which a license is required by any law or ordinance of this Town, and it shall be unlawful for any person, either directly or indirectly, to conduct any such sale except in conformity with the provisions of this Ordinance.

(1) One Act Constitutes Doing Business. For the purpose of this Ordinance, any person shall be deemed to be in business or engaging in non-profit enterprise, and thus subject to the requirements of Subsections A and B of this Section, when he does one act of:

(a) selling any goods or service

(b) soliciting business or offering goods or services for sale or hire

(c) acquiring or using any vehicle or any premises in the Town for business purposes.

(2) Agents Responsible for Obtaining License. The agents or other representatives of non-residents who are doing business in this Town shall be personally responsible for the compliance of their principals and of the businesses they represent with this Ordinance.

(3) Separate License for Branch Establishments. A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Ordinance shall not be deemed to be separate places of business or branch establishments.

(a) Rental real property. Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this Ordinance when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent or there is a regular employee of the owner or of the owner's agent working on the premises.

(4) Joint License. A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but, when eligible, shall be issued one license which shall specify on its face all such businesses.

(5) No License Required for Mere Delivery. No license shall be required of any person for any mere delivery in the Town of any property purchased or acquired in good faith from such person at his regular place of business outside the Town where no intent by such person is shown to exist to evade the provisions of this Ordinance.

(6) Special Permits to Non-Profit Enterprise. The Town License Officer shall issue special permits, without the payment of any license fees or other charges therefore, to any person or organization for the conduct or operation of a non-profit enterprise, either regularly or temporarily, when he finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal, or religious purpose.

(a) Application for special permit. An applicant for a special permit shall submit an application therefore to the Town License Officer, upon forms prescribed by the License Officer, and shall furnish such additional information and make such affidavits as the License Officer shall require.

(b) Special permittees must conform. A person or organization operating under a special permit shall operate his non-profit enterprise in compliance with this Ordinance and all other applicable rules and regulations except as provided herein.

Section 4-105. Town License Officer.

(A) Issue Licenses. The Town License Officer shall collect all license fees and shall issue licenses in the name of the Town to all persons qualified under the provisions of this Ordinance and shall:

(1) Make Rules. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Ordinance.

(2) Adopt Forms. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.

(3) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Ordinance.

(4) Obtain Endorsement. Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town regulations which they have the duty of enforcing.

(5) Investigate. Investigate and determine the eligibility of any applicant for a license as prescribed herein.

(6) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Ordinance.

(7) Give Notice. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any license or permit, at the applicant's request, state in writing the reasons therefore and deliver them to the applicant

(B) Information Confidential. The License Officer shall keep all information furnished or secure under the authority of this Ordinance in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this Ordinance.

Section 4-106. Procedure for Issuance of License. Every person required to procure a license under the provisions of any ordinance or law of the Town shall submit an application for such license to the Town License Officer. The application shall:

(1) Form of Application. Be a written statement upon forms provided by the Town License Officer; such form shall include an affidavit, to be sworn to by the applicant before a Notary Public of this State.

(2) Contents of Application. Require the disclosure of:

(a) Name and address of applicant;

- (b) The trade name, if any, under which the license is to be issued;
- (c) If the applicant is a partnership, the name and address of each partner;
- (d) If the applicant is a corporation, the names and addresses of the officers;
- (e) Place of business where license is to be exercised;
- (f) A description of the activity to be carried on under the license and of any other information which the Town License Officer shall find to be reasonably necessary to the fair administration of this Ordinance.

(3) Payment of Fees. Be accompanied by the full amount of the fees chargeable for such license.

(4) Issuance Fee. Be accompanied by the payment of an Issuance Fee.

Section 4-107. Determination of License Fee. License fee shall be in the amounts established in the governing Ordinance,

Section 4-108. Contents of License;

- (A) Information Required. Each license issued hereunder shall state upon its face the following:
 - (1) the name of the licensee and any other name under which such business is to be conducted.
 - (2) the kind and address of each business so licensed.
 - (3) the amount of license fee therefore.
 - (4) the dates of issuance and expiration thereof.
 - (5) such other information as the License Officer shall determine.

Section 4-109. Duties of Licensee:

- (A) General Standards of Conduct. Every licensee under this Ordinance shall:
 - (1) Permit Inspection. Permit all reasonable inspections of his business and examinations of his books by public authorities so authorized by law.
 - (2) Comply with Governing Law. Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
 - (3) Operate Properly. Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare.
 - (4) Cease Business. Refrain from operating the licensed businesses on premises after expiration of his license and during the period his license is revoked or suspended.

Section 4-110. Transfer of License;

(A) No license shall be transferred unless hereinafter provided.

(B) (Reserved)

(C) Liability of Violator:

(1) Unpaid Fee Constitutes Debt. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the Town.

(2) Action by Town Attorney. The Town Attorney shall, at the direction of the License Officer, institute civil suit in the name of the Town to recover any such unpaid fee.

(3) Civil Judgment No Bar. No civil judgment, or any act by the Town Attorney, the License Officer or the violator shall bar or prevent a criminal prosecution for each and every violation of this Ordinance.

Section 4-111. Revocation. The Board of Trustees shall have the power to cancel or suspend any license issued by the Town for the failure of the licensee to comply with any of the provisions of this code or other ordinance of the Town of Tabor or law of South Dakota respecting the license, or for other good cause, after hearing and upon notice to the licensee.

Section 4-112. Effective Date of License. Unless otherwise provided, all licenses prescribed by this code shall take effect when issued and shall terminate on the 30th day of June in the year for which issued, provided that the license fee shall be computed on a prorata basis when a portion of the license year has elapsed at the time of the issuance of such license.