

ORDINANCE 291

LICENSES - GENERAL PROVISIONS

(a) *License, Unlawful Without.*

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 a license, as hereinafter provided. The Town Council may at any time expand the general provisions of this Title by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the Town of Hayti which is not specified by this Title to obtain a license, as deemed necessary.

(b) *Application for License.*

Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Town Council, stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

Fees for all licenses shall be fixed by the Town Council, where not specified in this Ordinance, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.

(c) *License Expiration.*

Any annual licenses granted under the provisions of this Title shall expire on the 31st day of December next 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.

(d) *Revocation.*

The Town Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Title whenever said Council 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 improper or illegal manner, and in case of such revocation, the Town Council may refund to the holder of such license such proportionate amount of money paid therefore as said Council shall deem just.

(e) *Issuance of License.*

Except as otherwise provided, all licenses shall be issued by the Finance Officer after issuance of the license has been approved by the Town 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 Town of Hayti.

(f) Record of Licenses.

The Finance Officer shall keep a record of all licenses issued by the Town stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

***TRANSIENT MERCHANTS, PEDDLERS
DEFINITIONS.***

For the purpose of this Title, a “transient merchant”, “itinerant merchant” or “itinerant vendor” is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the Town of Hayti or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Town. “Temporary business” is one established for temporary operation only. 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. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Title merely by reason by associating temporarily with any local dealer, trader, merchant, or by conducting such transient business in connection with as a part of or in the same of any local dealer, trader, or merchant. The word “peddler” as used herein shall include any person, whether a resident of the Town or not, traveling by foot, automotive vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers. (SDCL 9-34-7)

(g) License Required.

Every transient merchant, itinerant merchant; or itinerant vendor as defined herein shall pay to the Town a license fee of Twenty Five dollars (\$25) per day that said transient merchant, itinerant merchant or itinerant vendor shall conduct said business licensed under this Title. Said license fee shall be payable in advance, and the license issued under this Title shall be posted conspicuously in the place of business named therein.

(h) Peddlers License.

It shall be unlawful for any person to be engaged in the business of peddler within the corporate limits of the Town of Hayti without first obtaining a permit and license therefore as provided herein. The fees required for such peddlers for said licenses shall be Twenty Five Dollars (\$25) per day 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)

(i) Approval of License.

Any person seeking to obtain a license under the provisions of this Title shall pay to the Municipal Finance Officer the amount provided for by this Title for such license, for which the Finance Officer shall furnish the applicant a receipt designating kind of place and activity applied for. Both the Municipal Finance Officer and Chief of Police shall endorse said receipt.

(j) Applicants shall furnish the following information:

- (i) Name of Applicant (s);**
- (ii) Permanent address of applicant (s);**
- (iii) Whether he transacts business for himself or someone else;**
- (iv) If for someone else, the name and address of the person, firm, or corporation he represents;**
- (v) Whether he sells and delivers the property directly to the purchaser or takes orders for it by carrying samples or catalogs;**
- (vi) Manner in which he intends to travel and a complete description of the vehicle he intends to use in doing so;**
- (vii) Copies of contracts and agreements he intends to make with the customers;**
- (viii) South Dakota Sales Tax license.**
- (ix) Any other information as the Municipal Finance Officer or Chief of Police may require.**

(k) Use of Permit.

No more than one (1) or two (2) persons shall deal on the same permit as agents or otherwise, nor shall such permit be assignable from the persons to whom it was originally issued to any other person, firm, or corporation.

(l) Peddler Required to Leave.

No peddler shall remain upon the property of any customer or prospective customer who has requested the peddler or solicitor to leave such property. Any peddler, who does so, will have their license revoked without refund.

(m) Revocation of License.

Any license issued hereunder may be revoked, after notice and hearing, for any of the following causes:

- (i) Fraud, misrepresentation or false statements contained in the application for license;**
- (ii) Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler, itinerant merchant, itinerant vendor or transient merchant hereunder;**
- (iii) Any violation of this Title;**
- (iv) Conviction of any crime or misdemeanor involving moral turpitude;**
- (v) 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 public;**

(n) Penalties.

Any person violating any of the provisions of this Title, shall, upon conviction thereof, be punished by fine of Two Hundred Dollars (\$200) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment for each day of operation in violation of this Title. Each day in violation of this Title shall be deemed a separate offense.

(o) Exceptions.

Nothing in this Title shall extend to any sale of livestock or farm products, or any second hand furniture or household goods by or for any person or persons who shall have actually used the same in the Town of Hayti, or to any sale of goods, wares, or merchandise by public officers in the pursuance of legal process.

Dated this ____ day of _____, 2014.

HAYTI TOWN COUNCIL

Chairperson

ATTEST:

Finance Officer

First Reading: August 11, 2014

Second Reading: September 8, 2014

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