

**ORDINANCE NO. 1311**

**AN ORDINANCE CREATING SECTION 5.02, BUSINESS  
LICENSES  
TITLES 5.02  
BUSINESS LICENSES**

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**5.02.01 Purpose.**

The purpose of the Business License is to provide an additional protection to the citizens and visitors of the City of Deadwood from fraud and misrepresentation; to ensure compliance with City ordinances; to administer proper land use, quality development and zoning in accordance with the Comprehensive Plan and to provide a database to define and monitor the progress of the local economy.

**5.02.02 Definitions.**

- A. **BUSINESS.** Any activity, trade, calling, profession, or occupation, whether sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Deadwood. Business includes "home occupations" which involve the sale of goods or services as described in this definition.
- B. **PERMANENT BUSINESS.** A business use which occurs for a period equal to or greater than five (5) month from January 1 thru December 31 of the current year in which the license is being applied for at a fixed location within the City of Deadwood. A "Permanent Business" may erect and utilize Temporary Structures for their business operations from May through September each year. The primary method to determine the duration of operation shall be a review of Sales Tax reports.
- C. **BUSINESS ESTABLISHMENT.** A permanent business operating and open to the public at a fixed location within the City of Deadwood, and that is in compliance with Title 17-City of Deadwood Zoning Ordinance.

**D. CORPORATION.** A corporation or any derivative of "Corporation", includes both corporations under South Dakota Business Corporation Act and Limited Liability Companies under South Dakota Limited Liability Company Act as well as limited liability limited partnerships.

**5.02.03 License Required.**

No person or corporation, whether subject to the payment of tax or not, shall engage in any business within the City Limits without first obtaining and being a holder of a valid and current business license pursuant to the provisions of this chapter.

**5.02.04 Application-Issuance of Business License.**

**A.** Application for a permanent business license shall be made on the application form provided by the City of Deadwood and submitted to the City of Deadwood Finance Officer or his or her designee. The business license application shall include all the following information and such other information as the City deems reasonably necessary:

1. Name of business.
2. Name of owner.
3. Complete street and mailing address of business location.
4. A brief description of the nature of the business.
5. Type of business entity. If the business is a corporation, the state where formed and the statutory agent's name and address.
6. A list of any chemicals or hazardous materials or hazardous waste which will be used or stored by the business.
7. The name of the person in charge of the business and their contact information including email address. If the emergency contact is different than the person in charge of the business, the applicant shall supply the name and contact information for an individual who can be called in case of an emergency. This should be a telephone number that will be answered twenty-four (24) hours a day.
8. Number of employees both full-time, part-time and seasonal.
9. If the business specified in this application is subject to a health or sanitary certification by the State of South Dakota, the applicant shall produce such certificate or permit along with the application.
10. South Dakota state sales and/or excise tax identification number.
11. Name and contact information of property owner.

**B.** The City Finance Officer or his or her designee, prior to issuance of a business license to any applicant, shall, with the assistance of the Planning and Zoning Department, determine that the location of the business as submitted by the applicant, is properly zoned for the conduct of the business for which the license is sought; provided, however, that it is the duty of the applicant to assure that the location of the proposed business complies with all the zoning and all other ordinances of the city. In the event that it fails to so comply, any license issued, granted or approved by the city shall be null and void, and the city shall not be liable for loss, claim or damages whatsoever by reason of the applicant or the business for which a

license was issued failing to comply with said ordinances, and regardless of whether a business license was in fact issued.

- C. After receipt of a completed application and the license fee, the City Finance Officer or his or her designee shall review the application and, except as otherwise provided issue or deny the license within five (5) working days after receipt of the completed application.
- D. Nothing in this chapter shall prevent the City Finance Officer or his or her designee or other city officials from requiring the applicant to provide any information necessary to ascertain whether the application is, or will be, in compliance with all city ordinances or state laws.

**5.02.05 Fee/ Term.**

- A. FEE: As set forth by this chapter, the required license fee for a Permanent Business License shall be set by resolution each renewal year.
- B. TERM: Unless otherwise provided by this chapter, all licenses shall be for a period of one calendar year, beginning January 1<sup>st</sup> each year and expiring the following December 31<sup>st</sup>.
- C. Upon receipt of a written statement attesting to the loss, theft or destruction of an otherwise valid license, the City Finance Officer or his or her designee, shall reissue a license for the duration of the original license term after paying the fee set by resolution.

**5.02.06 Denial/ Revocation.**

Compliance with any other code and zoning provisions. The City Finance Officer or his or her designee, shall not issue a City business license, and any license so issued shall be void and subject to immediate revocation by the city, to any person, or corporation which operates or proposes to operate or conduct any business in violation of any city ordinance or State and Federal Laws. In addition, the City Finance Officer or his or her designee, may deny any application for a business license where the applicant is not in compliance with all city ordinances or state statutes, as now or later amended.

**5.02.07 Denial- Applicant Right to Appeal.**

Any applicant denied a license by the City Finance Officer or his or her designee, under this Chapter shall be entitled to have said decision reviewed by the City Commission. If after review the said person is unsatisfied, he or she may appeal the decision to the Circuit Court. The process shall be as follows:

An Appellant shall first file a written request for review with the City Finance Officer or his or her designee, setting forth the basis for which he or she believes the City Finance Officer or his or her designee's decision, to be in error. The writing shall also include the person's name and mailing address.

Upon receipt of a written request for review, the City Finance Officer or his or her designee, shall review his or her decision and mail a written response to the Appellant within twenty (20) days.

If the Appellant is not satisfied with the decision of the City Finance Officer or his or her designee, following review, he or she may file a Notice of Appeal with the City Commission.

Upon receipt of a Notice of Appeal, the Finance Officer shall notify the City Commission. The

Appellant shall be heard at a regularly scheduled Deadwood City Commission Meeting no longer than 21 days after receiving the Notice of Appeal. If the Appellant is not satisfied by the Commission's decision, they may appeal the same to the Circuit Court.

**5.02.08 Posting - Inspection.**

A business license shall be conspicuously posted at the business for which it was issued, and shall be produced for inspection upon the request of any authorized city official.

**5.02.09 Change of Location.**

A business that possesses a current business license shall notify the City of Deadwood Finance Officer or his or her designee, in writing of any change of address within ten (10) days of the change of address. There will be no fee associated with a change of address if the change occurs within the current year the business license is valid for.

**5.02.10 Transfer.**

No license issued under the provisions of this Chapter shall be transferable or assignable; provided that in the event of death of licensee, the surviving spouse, or heir may operate the business under the existing license for the remaining term of the license. In the event of the sale, transfer, conveyance or gift of a business, the new owner shall be required to apply for and obtain a new business license for the duration of the license period, prior to commencing to conduct business in the city.

**5.02.11 Prohibited Business Locations.**

No person shall conduct business within the City of Deadwood in any structure or area where conducting such business is prohibited by law, by the City of Deadwood Zoning Ordinance, by applicable building code or applicable fire code.

**5.02.12 Exemptions.**

A business license shall not be required when:

- A. A garage or yard sale, providing that it does not last longer than 72 hours in any 30 consecutive day time period(s).
- B. Any business otherwise licensed under City Ordinance, Federal or State law that precludes requiring a business license for the business.
- C. Sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of charitable, non-profit status as declared by the IRS (i.e. 501(c) (3) documentation must be presented during application.
- D. Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.
- E. The sale of fruits, vegetables or farm or garden products as allowed under 5.28.080 of this chapter.
- F. The distribution of goods for which there is no charge.
- G. All persons, firms or corporations distributing goods or performing a service for which there is no charge, shall be required to register with the City Finance Officer or his or her designee, their name, address, location of said distribution or service and goods which he/she

or it is distributing or service which they are performing.

H. Sales by youth age 16 years and under selling lemonade and like items and incidentals thereto from residential property which they reside.

**5.02.13 Multiple Businesses-Same Location.**

Any person engaged in two (2) or more separate businesses operating at the same physical location and which are under the same ownership, shall be required to obtain one license for the main permanent business and for each subsequent business's at that location, but shall only be charged one (1) license fee.

**5.02.14 Same Business-Multiple Locations.**

Any person conducting the same business at two (2) or more permanent locations shall be required to obtain a separate license for each place of business.

**5.02.15 Penalty.**

Any violation of this chapter shall be guilty of a Class 2 misdemeanor punishable by the maximum sentence as set forth in SDCL 22-6-2. Each day the violation continues to exist shall be punishable as a separate offense. In addition, any person holding a license under this Title who is found to be in violation of any provisions of this Title shall face the possibility of revocation or non-renewal of any license.

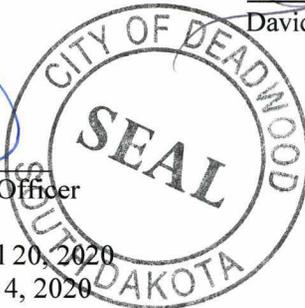
Dated this 4th of May, 2020.

CITY OF DEADWOOD

David Ruth, Jr., Mayor

ATTEST:

Jessicca McKeown, Finance Officer



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