

CITY OF BOX ELDER ORDINANCE NO. 713

TO AMEND BOX ELDER CODE OF ORDINANCES CHAPTER - 8 BUSINESSES

WHEREAS, the Municipal Code of the City of Box Elder provides for the regulation of businesses, consistent with State law; and,

WHEREAS, the City Council of the City of Box Elder has determined that the Business License Ordinances should be amended to provide clarity to City staff and business owners operating within the City; and,

WHEREAS, updating the City's Business License ordinance requires repealing certain sections of the City's codified ordinances which would be inconsistent with the updates; and,

WHEREAS, this Ordinance supersedes and replaces all previous Ordinances hereto relating to the subject matter hereof.

NOW, THEREFORE, be it ordained by the City Council of the City of Box Elder that the Code of Ordinances of the City of Box Elder, South Dakota, Section 4-27, "Kennels prohibited" be repealed in its entirety; and,

BE IT FURTHER, ordained by the City Council of the City of Box Elder that Code of Ordinances of the City of Box Elder, South Dakota, Chapter 8, Article IV, be repealed in its entirety; and,

BE IT FURTHER, ordained by the City Council of the City of Box Elder that the following shall be added to Chapter 8 – Businesses, to the Code of Ordinances of the City of Box Elder, South Dakota:

Chapter 8- BUSINESSES

ARTICLE I. IN GENERAL

Sec. 8-1. - Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AMUSEMENTS. A business designed for entertainment using amusement devices, and/or activities including but not limited to, devices commonly known as foosball

tables, air hockey tables, shooting gallery games, dart board, pinball machines, shuffleboard, ray guns, bowling games, bumper games, go carts, ski ball, electronic video games, jukebox and shall also include billiard tables and pool tables (whether coin operated or not).

APPLICANT. A person, owner, manager, or operator making an initial or a renewal application for a general or regulated business license.

APPROVED MECHANIC. Any individual working in the capacity as an automotive mechanic or a City of Box Elder mechanic trained and capable of completing a passenger vehicle safety inspection.

AUCTIONEER. A person offering personal property for sale by means of an auction sale.

BOWLING ALLEY. A building or enclosed area containing a number of lanes or alleys for the game of bowling.

BUSINESS LICENSE SPECIALIST. A City of Box Elder employee responsible for and tasked with assisting businesses in the issuance, renewal, and maintenance of business licenses within the City in accordance of this Chapter.

CITY: The City of Box Elder, South Dakota.

CONSTRUCTION. Includes, but is not limited to, concrete, masonry, carpentry, excavation, steel, window and door, insulation, taping, plaster, flooring, landscaping, mechanical or building trade work (which includes roofing, painting, remodeling, siding, and rough framing) for new construction, alteration, addition, repairs, or demolition of structures, streets, sidewalks, pavement, or utilities or any items within the jurisdiction of the City that require either the issuance of a building, demolition, or grading permit or that is subject to inspection by the City.

CONTRACTOR. A person who is engaged in the act of construction or in the supervision of construction on any property within the jurisdiction of the City. A Contractor does not include a property owner acting as his own contractor for work to be done on property which he occupies or will occupy; or a landlord or landlord's agent acting as his own contractor on property owned by the landlord.

DEALER IN PRECIOUS METALS AND PRECIOUS GEMS. A person who engages in a business of purchasing or receiving, for resale, any precious metals, or any precious gems, which were previously sold at retail, or coins. This shall not include any person who makes only casual purchases of precious metals or precious gems nor any person who purchases only at wholesale nor any person who purchases only occasionally at a coin show or antique show, the primary purpose of which is showing, rather than buying or selling the regulated articles.

DRIVER. A person engaged in business as a driver of a passenger service vehicle.

FAMILY (IN-HOME) DAYCARE. See ARSD 67:42:03:01.

FOOD SERVICE. See ARSD 44:02:07

GOODS. All goods, wares, merchandise, and other personal property, except money or rights to recover possession of property or money.

JOURNEYMAN HVAC INSTALLER. A person who has the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, service, and clean air handling equipment and air distribution systems for heating, ventilation, or air conditioning.

JUNK DEALER. A person, firm or corporation engaged in the business of purchasing or selling hides or junk, other than used books.

KENNEL. Any lot or premises or portion thereof established for boarding, training or breeding, of animals, where more than four animals, six months of age or older, are maintained, boarded, bred, or cared for, in return for any compensation, or kept for the purpose of sale.

LICENSE. The general or regulated business certificate which indicates the legal entity named on the certificate is licensed to operate the business indicated on the certificate and includes the date of expiration of the license issued by the City of Box Elder..

LICENSEE. A person or legal entity named on a license to operate a business, as well as the individual listed as an applicant on the application for a license.

MASTER HVAC INSTALLER. A person who has the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, service, and clean air handling equipment and air distribution systems for heating, ventilation, or air conditioning and to supervise and direct the work of others engaged in the same.

MOBILE FOOD VENDOR. Any business establishment consisting of any enclosed trailer, van, pushcart, recreational vehicle, or similar enclosed mobile facility that is transported from site to site for the purpose of selling food to the public upon a public street and which is operated by a food sales establishment and/or a mobile food service establishment licensee.

PASSENGER SERVICE VEHICLE. A motor vehicle that carries passengers for a fee.

PAWNBROKER. Any person who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the property back again at a stipulated price,

or who loans money secured by chattel mortgage on personal property and by taking possession of the property or any part thereof so mortgaged.

PEDDLER. A person, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, wares, merchandise, or services, including food and beverages, and shall also mean and include any person transacting a temporary business within the City. This definition does not include a mobile food truck.

PERSON. Any individual, firm, partnership, cooperative nonprofit membership, corporation, joint venture, professional association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.

PET DAYCARE. Any lot or premises or portion thereof where dogs, cats, or other pets are cared for in return for compensation, but does not fit the definition of kennel.

POOL ROOM. A commercial establishment where pool or billiard games are played.

PRECIOUS GEMS. Diamonds, emeralds, rubies, sapphires and pearls, and any other gem of similar value, and any article made, in whole or in part, of the gems.

PRECIOUS METALS. Gold, silver, and platinum and any article made, in whole or in part, of any of the metals.

RESIDENTIAL BUSINESS. Any business operating out of a residence that is not regulated by the State of the South Dakota.

SECONDHAND GOODS DEALER. Any person other than a pawnbroker or dealer in precious metals or gems, who, in the course of his or her economic activity, buys, sells, deals in, or takes in trade for the purpose of resale, the following secondhand goods: portable electric appliances; power tools; tools; toolboxes; electronic devices; stereos, or components thereof; computers and other digital devices; media of electronic devices, computers, and other digital devices; sporting goods; sporting equipment; serial numbered items; bicycles and e-bicycles; and precious metals or precious gems.

The following are exempt:

1. Bona fide garage, rummage, yard, or moving sales which do not occur at the same location more than four times per year for more than four days each time;
2. Any person, firm, or company that operates an automobile salvage business;
3. Transactions in secondhand goods at stores or events sponsored by nonprofit corporations or associations or religious organizations;
4. Transactions by secondhand goods dealer in goods or articles other than those of the type listed under the definition of secondhand goods dealer; however, any transaction

as it pertains to a good or article of the type listed under the definition of secondhand goods dealer is not exempt from the requirements of this chapter; and

5. Transactions by secondhand goods dealer in goods or articles of the type listed under the definition of secondhand goods dealer to the extent that the good or article is contained in and integrated into a motor vehicle and the motor vehicle is the good or article actually being transacted.

SUB-CONTRACTOR. Any person or company hired by a contractor to perform specific tasks or services in their area of expertise.

TATTOOING. To puncture the skin of a person with a needle and insert indelible Permanent colors through the puncture to leave permanent marks or designs.

TRANSIENT MERCHANT. Any person, firm, corporation, partnership or association not having an operating place of business within the City who, for one to twelve (12) days, engages in temporary or transient business in the City, selling goods, wares, merchandise or services or a permanent business person, firm or corporation which is located within the City limits who, for one to twelve (12) days, is selling such goods, wares, merchandise or services, away from his or her or its usual operating place of business and who, for the purpose of carrying on such business, hires, leases or occupies any public or private property or right-of-way. Excluded here from, however, are farmer's markets retailing merchandise or products of the person's own manufacture or production (SDCL 9-34-7) and the sale of fruits, vegetables or farm or garden products in their natural state.

VACATION RENTAL PROPERTIES. Any fully furnished privately owned residential property that is rented for a short period of time to transient guests (e.g. tourists).

ARTICLE II. GENERAL BUSINESS LICENSES

Sec. 8-2. - Purpose.

The purpose of this chapter is to require the annual licensing and regulation of all businesses conducted within the City of Box Elder and to provide the City with necessary information concerning the business activity to protect the property, health, welfare, peace and safety of its citizens, inhabitants, and visitors.

Sec. 8-3. - License required.

No person shall engage in any general or regulated business activity without first having obtained a business license as set forth in this ordinance or any other ordinance or code.

Sec. 8-4. - Application.

Unless otherwise provided, an application for a license shall state at a minimum:

- (1) Name and address of applicant;
- (2) Trade name or “doing business as” (DBA) if any, under which the license is to be exercised;
- (3) Place of business or location where the license is to be exercised;
- (4) Description of the activity to be carried on under the license.

Sec. 8-5. - Fee.

A license fee shall be required for the activities, trades, occupations, businesses, and professions which will be performed or conducted within the City. The license fees shall be set in the City’s Master Fee Schedule. Except as otherwise provided, an applicant for a City license shall pay the amount of the license fee to the City at the time the application is submitted.

Sec. 8-6. - Renewal.

Each licensee is entitled to renew their license upon the payment of the renewal fee. In the event such licensee fails to renew their license on or before the expiration date thereof, they will be required to pay a late renewal fee in addition to the renewal fee as set forth by the City’s Master Fee Schedule.

Sec. 8-7. - Issuance.

Licenses shall be issued by the Business License Specialist or designee if the applicant has complied with all requirements for issuance of the license including compliance with all applicable Zoning Ordinances. All licenses shall be signed by the Business License Specialist or designee.

Sec. 8-8. - Term.

Unless otherwise provided, all licenses shall take effect when issued and will terminate on December 31 in the year for which the license was issued. The initial license fee will be prorated based on the month of the application.

Sec. 8-9. - Display required.

Every person to whom a license is issued by the City will keep the license posted in a conspicuous place in the place of business or vehicle, or if there is no conspicuous place available then the licensee shall provide the license upon request by a City official, police officer, or other authorized representative of the City.

Sec. 8-10. - License non-transferrable.

No business license issued shall be transferable from person to person. Any relocation requires a transfer application to be submitted to the Business License Specialist with the appropriate fee as identified in the City's Master Fee Schedule.

Sec. 8-11. - Denial.

After a person has made application to the City for a business license, the application may be denied for any of the following reasons:

- (1) For a new or renewal application, due to a non-sufficient fund returned item and the non-repayment of the required license fee, NSF fees, and any applicable late fees.
- (2) False or incomplete information given on the application.
- (3) Noncompliance with any City, state or federal statutes or regulations governing the applicant's proposed business.
- (4) Improper Zoning or unallowable use related to Air Installation Compatible Use Zone specifications as outlined in City ordinances.
- (5) Any other reason expressly provided for in this Chapter.

Sec. 8-12. - Appeals.

An applicant or license holder who has been denied a new or renewal license or who has had a license suspended or revoked may appeal the decision by submitting a written appeal to City of Box Elder C/O Appeals at 420 Villa Drive, Box Elder, SD 57719. The process for the appeal will be the same as provided for appeals of administrative citations located in Chapter 2.

Sec. 8-13. - Violations.

(a) Any person, who violates any of the provisions of this chapter, will be subject to a fine as per the City's Master Fee Schedule. Each day the violation exists may be treated as a separate offense.

(b) Any person discovered by City staff to be engaged in business without a valid license issued under this article shall be given seven (7) business days from the time of discovery to submit a complete license application, the applicable application fee and any applicable late application fees to the Finance Office to avoid being found in violation of this article.

Sec. 8-14. - Severability and separability.

Should any Article, Section, Subsection, or Provision of this Article be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Article as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

Sec. 8-15. - Additional Types, with specific municipal requirements.

The following business types shall apply for, obtain, and maintain a general business license, as set forth herein:

(a) RESIDENTIAL BUSINESSES.

Persons exchanging goods or services for the purpose of profit using their residence with the object of gain, benefit, or advantage, either directly or indirectly (including online) must comply with the requirements as set forth in this Article.

(b) VACATION RENTAL PROPERTIES.

Persons exchanging lodging for the purpose of profit using their residential property(s) with the object of gain, benefit, or advantage, either directly or indirectly (including online) for more than fourteen (14) days in a calendar year must comply with the requirements as set forth in this Article.

ARTICLE III. REGULATED BUSINESS LICENSES

In addition to the General Business License Requirements those businesses set forth in this chapter must comply with the additional requirements.

Sec. 8-16. - Insurance required.

(a) Regulated businesses licensed by the City pursuant to this Article, must maintain general commercial liability insurance of not less \$300,000.00 for damages caused by injury to one person, not less than \$2,000,000.00 for damages caused by injury to more than one person in one accident and not less than \$300,000.00 for property damage for one accident, with an aggregate of not less than \$2,000,000.00 for accidents in one year. General commercial liability insurance shall be maintained during the term of the license and a copy of the Certificate of Liability Insurance must accompany the Business License Application.

(b) Any entity discovered by City staff to be engaged in business within the jurisdiction of the City without current liability insurance shall be given three (3) business days from the time of discovery to submit proof of insurance to the Finance Office to avoid being found in violation of this article.

Sec. 8-17. – Violations.

(a) Any entity discovered by City staff to be engaged in business without a valid license issued under this article shall be given seven (7) business days from the time of discovery to submit a complete license application, the applicable application fee and the late application fee to the finance office to avoid being found in violation of this article. If the business does not apply for a license within seven (7) business days they will be subject to Civil/Administrative Penalties as outlined in the City's Master Fee Schedule.

(b) Any entity discovered by City staff to be engaged in business within the jurisdiction of the City without current liability insurance and who has failed to submit proof of insurance to the Finance Office shall be subject to Civil/Administrative Penalties as outlined in the City's Master Fee Schedule until the violation is resolved and the fees are paid.

(c) Entities whose license has been cancelled, revoked, or suspended who are discovered by City staff to be engaged in business shall be subject to a cease-and-desist order to stop work immediately and shall be deemed to be in violation of this article.

(d) Violations of this article are Class 2 misdemeanors. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. A finding or plea of guilty shall be grounds for immediate revocation or suspension of the violator's license.

Sec. 8-18. - Cease and desist.

If any business is operating without a license, the Business License Specialist shall issue notice requiring the business to submit an application to initiate the process for acquiring a valid City of Box Elder business license within seven (7) business days. If

the business does not obtain a business license within thirty (30) days from receipt of notice date, the City may seek a cease-and-desist order from a court of competent jurisdiction ordering all business activity cease until the business acquires a license in accordance with this section. The Finance Officer or designee or the Business License Specialist, in his or her sole discretion, may extend the time for acquiring the license under this section. These proceedings shall not relieve or discharge anyone from the payment of a penalty.

Sec. 8-19. – Suspension.

Any license issued under the provisions of this subchapter may be suspended for violation of any provision of this Code or state law, by the City's Business License Specialist in consult with his/her supervisor.

In addition, a license may be suspended for the following reasons:

- (1) The licensee does not now meet the qualifications for a license as provided under this chapter;
- (2) False or incomplete information given on an application;
- (3) The licensee has obtained or aided another person to obtain a license by fraud.
- (4) The licensee has failed to pay any property taxes, sales taxes, or City fees when due;
- (5) The licensee has refused authorized representatives of the City access to the licensed premises for the purpose of an inspection or has interfered with such representatives while in the performance of their duty in making such inspection.
- (6) The licensee is not complying with a requirement or condition set by the Planning and Zoning Division, if applicable, under a conditional use permit; by the Planning and Zoning Division, if applicable, granting a variance or special exception; by the City Council, or by agreement;

Sec. 8-20. - Revocation.

Any license issued under the provisions of this subchapter may be revoked if the license is suspended pursuant to Sec. 8-1X and the cause for suspension is not remedied. Upon the revocation, the license shall immediately be surrendered.

Sec. 8-21. - Suspension and revocation process.

- (1) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the City's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder and/or sent by certified mail, return receipt requested to the physical address of the business.
- (2) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Chief of Police, Planning & Zoning Director and the Community and Economic Development / Marketing & Events Director. The determination of the hearing panel shall be delivered in writing to the license holder within 7 days of the determination.
- (3) If the license holder disputes the determination made by the hearing panel, the license holder may request a review by the City Administrator. The City Administrator will review any documents and information relevant to the suspension or revocation but will not hold a hearing. The City Administrator will either affirm or reverse the hearing panel's decision and provide written notice of the decision to the license holder within 7 days of the decision.
- (4) A suspension will be for thirty (30) days or until the reason for the suspension is remedied, whichever is longer, and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its right to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (5) A revocation will remain until the following business license renewal date or January 1st of the following year, whichever is longer, and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.

ARTICLE IV. TYPES OF REGULATED BUSINESS LICENSES

Sec 8-22. - ADULT ORIENTED BUSINESS ESTABLISHMENTS.

Adult Oriented Business Establishments as defined in SDCL 11-12 must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License

Sec. 8-23. Purpose and intent.

It is the purpose of this article to regulate adult oriented businesses to promote the health, safety and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the concentration of adult oriented businesses within the City. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented entertainment to their intended market, unless otherwise restricted by law.

Sec. 8-24. Additional Regulations of Adult Oriented Businesses.

(a) Location.

1. Sexually oriented businesses must comply with current Zoning Ordinance.

(b) Sign requirements.

1. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises;
2. Window areas shall be covered and opaque.

Sec. 8-25. - AMUSEMENTS.

Amusements, including pool rooms, bowling alleys, skating rinks, shows, and exhibitions, must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

(A) A Copy of their Sales Tax License

Sec. 8-26. - CONTRACTORS.

Contractors, including any sub-contractors meeting the definition of contractor must comply with the requirements for regulated businesses as set forth in this Article.

General Contractors are reminded that any sub-contractor working with them on a construction project must also comply with the provisions of this article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A copy of the applicant's state excise or sales tax license
- (B) List of all sub-contractors working under individual contractors' purview.

Sec. 8-27. - DELIVERY MEN, TAXI DRIVERS, AND EXPRESSMEN.

Delivery men, taxi drivers, and expressmen must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License

Sec. 8-28. - DELIVERY VEHICLES AND TRUCKS.

Delivery vehicles and trucks must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

(A) A Copy of their Sales Tax License

Sec. 8-29. - ELECTRICIANS.

Electricians and Electrical Contractors including all professionals defined in SDCL 36-16-2 must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; *the application shall also include:*

- (A) A copy of your South Dakota electrician's license.
- (B) List of all sub-contractors working under electrician's purview
- (C) A copy of the applicant's state excise or sales tax license.

Sec. 8-29. - ELECTRICIANS.

Electricians and Electrical Contractors including all professionals defined in SDCL 36-16-2 must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; *the application shall also include:*

- (A) A copy of your South Dakota electrician's license.
- (B) List of all sub-contractors working under electrician's purview
- (C) A copy of the applicant's state excise or sales tax license.

Sec. 8-30. - FAMILY (IN-HOME) DAYCARES.

All family Day Care Homes must comply with the provisions of ARSD 67:42:03 regardless of whether services are paid for directly or indirectly out of public funds.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License*
- (B) Copy of CPR/First Aid Certification*

Sec. 8-31. - FOOD SERVICE.

Food Service Businesses must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License*
- (B) Copy of South Dakota Department of Health Food License*

Sec. 8-32. - HEATING, VENTILATION, AND AIR CONDITIONING (HVAC).

Heating Ventilation, and Air Conditioning Contractor businesses including but not limited to, Journeyman HVAC Installers and Master HVAC Installers must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) The South Dakota Contractor's license number.*
- (B) Worker's compensation insurance policy number (copy required) or statement of non-participation.*
- (C) Number of years' experience.*
- (D) Number of years in business.*
- (E) Type of contracting or service provided.*

- (F) Trade school attended, degree or certificate earned, years attended; and
- (G) Four verifiable references.
- (H) List of all sub-contractors working under HVAC Contractor's purview.
- (I) A copy of the applicant's state excise or sales tax license.

Sec. 8-33. - JUNK DEALERS, SECONDHAND GOODS DEALERS, AND DEALERS IN PRECIOUS METALS AND GEMS.

Any junk dealer, secondhand goods dealer, or dealer in precious metals and gems must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License

Sec. 8-34. - MIND READERS AND FORTUNETELLING.

Any palmists, clairvoyants, phrenologists, mind readers, fortunetellers, and fakirs who demands or receives a fee for demonstration or exercise of his/her art or profession, must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License

Sec. 8-35. - MOBILE FOOD VENDORS.

Mobile Food Vendor businesses must comply with the requirements for regulated businesses as set forth in this Article.

Health and sanitation requirements.

Mobile food vendors shall comply with the minimum public health and safety requirements as made and enforced by the South Dakota Department of Health. Additionally, proof of the licenses issued by the South Dakota Department of Health to the operator for a food service establishment and for the mobile unit as a mobile food service establishment shall be provided to the City of Box Elder prior to operation.

Investigation.

Mobile Food Vendor businesses shall obtain their own background check from the SDDCI/SD Accident Records and/or the Highway Patrol. The results of those will be reviewed by the PD.

The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant has done any of the following will constitute valid reasons for disapproval of an application:

- (1) Has made willful misstatements in the application;
- (2) The person has at any time received a conviction for any crime against a minor, including but not limited to crimes involving child molestation or child pornography, or child abuse;
- (3) The person is a verified registered sex offender;
- (4) Has been convicted of a crime of violence as that term is defined in SDCL 22-1-2(9).

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License*
- (B) Copy of South Dakota Department of Health Food License*

Sec 8-36. - PASSENGER SERVICE VEHICLES.

Passenger service vehicles as defined in this article must comply with the requirements for regulated businesses as set forth in this Article.

Safety inspection required.

No passenger service vehicle shall be operated in the City of Box Elder until it has been thoroughly and carefully tested and inspected and found to be in a safe condition for the transportation of passengers, and clean, fit, of good appearance and in compliance with all other applicable state and federal motor vehicle laws and standards.

Frequency of Safety inspection.

The owner of each passenger service vehicle shall have a professional thorough, periodic inspections by an approved mechanic of each vehicle. The inspections must be conducted by an approved mechanic at least once every 6 months (January 1st and June 1st). A vehicle inspection form will be available on the City website. The owner shall submit the completed safety inspection form to the Business License Specialist. Falsification of the passenger service vehicle inspection forms is prohibited and shall result in suspension and/or revocation of license. The City may inspect the vehicles at any time to determine compliance with applicable state and federal motor vehicle laws and standards.

DRIVERS. No license shall be granted to any person who does not possess a valid driver's license.

Investigation, examination of applicant.

(a) Each passenger service vehicle owner's application shall include a background check provided by the applicant, from the South Dakota Division of Criminal Investigation (SD DCI) and will be reviewed by the Police Department to ensure compliance with the prohibitions listed below. No permit shall be granted to any person:

- (1) Who is subject to registration as a sex offender in any state, protectorate, or other country.
- (2) Who has a conviction or date of discharge from prison, jail, probation, or parole within the last five years of the application.
- (3) Who has knowingly omitted or provided false information on the application; or
- (4) Who has been convicted of a crime of violence as that term is defined in SDCL 22-1-2(9).

(b) Convictions in other states considered. Any conviction for an offense in another state which, if committed in this state, would prevent a license from being granted, shall be used to determine if an applicant is eligible for a license.

Sale of alcoholic beverages.

It shall be unlawful for any passenger service vehicle business to sell or serve or to allow the sale or serving of alcoholic beverages to passengers without first obtaining a carrier license pursuant to SDCL 35-4-2(9) and each such passenger service vehicle business must comply with SDCL 35-4-2 and 35-4-2.12

Sec. 8-37. - PAWNBROKERS.

Pawnbrokers must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

(A) A Copy of their Sales Tax License

Records required.

Every pawnbroker shall keep books or records of pawn tickets where they shall accurately and legibly enter, in ink, in the English language, at the time of purchasing or receiving any personal property, and after requiring and observing identification from the person seeking to pawn the property, the following information:

(A) The name of the person from whom the property is purchased or received, their place of residence and their date of birth.

(B) A detailed and accurate description of each article.

(C) The date of transaction.

(D) The amount necessary for redemption.

(E) The date when the article is to be redeemed.

(F) Any mortgage or bill of sale taken, or receipt of pawn ticket given.

(G) The article's serial number and model number, if any.

Every pawnbroker shall also record the date of disposition or redemption of said article or any part or portion thereof. Said disposition report shall be located in the same book and at the same place where the receiving records of said article are located. Any person who fails to keep such records or fails to make the required entries therein, or shall intentionally or knowingly make any false or unintelligible entry, or any entry which he has reason to believe is untrue, or who shall fail to make the inquiries necessary to enable him to make such entries on any of them, or who shall fail to produce his records when requested by an officer having authority to examine it, or who shall destroy or willfully permit such records to be destroyed or lost, shall be guilty of a misdemeanor.

Inspection of Records and Pledged Property.

The book or records required by the Pawn Tickets section shall be opened to inspection by Police Officers during reasonable business hours. The pawnbroker shall produce and show any article pledged in connection with any loan.

Pawn Tickets.

At the time of receiving a pledge and upon the subsequent renewal of any loan, the pawnbroker shall deliver to the pledger or his agent a pawn ticket; where upon the pawn tickets shall be correspondingly serially numbered, and shall contain the following information: The name and address of the pawnbroker; a generic description of the pledge with such particular details noted whenever possible in order to distinguish the article or articles; the date of the transaction; the amount, duration, and terms of the loan. The pawnbroker may insert on the pawn ticket any other terms, conditions, and information that are not inconsistent with the provisions of this section.

All pawn tickets shall be issued in triplicate with the original being issued to the pledger or his agent, at the time of receiving a pledge or upon the subsequent renewal of any loan. The pawnbroker shall upload the information into a centralized database intended for specific industry use.

Holding Period; Exceptions.

Any person licensed as a pawnbroker who shall purchase any new or second-hand goods of any individual not engaged in trade shall keep the same for inspection for 10 days from the time of the transfer, except on written release from COBE PD. The property shall be held during this period on the licensed premises or some other secure location within the City and shall not be disposed of or altered from the form in which it was received.

Pawn Articles to be Held for Forty Days.

Every article of any kind or description which is taken in pawn by a pawnbroker shall be held by the pawnbroker for a period of forty (40) days. During said time, the item or

items shall not be shown, either for sale or for inspection to any person, other than a duly qualified City, State, or Federal law enforcement officer.

Hold Orders - Effect.

Any authorized law enforcement officer may, by written order, order a pawnbroker for purpose of further investigation by the Police Department to hold an article. A hold order shall remain in effect for a period of forty (40) days commencing the day on which the hold order is delivered to the pawnbroker. A hold order shall prevent the sale or other disposition of said article or articles while such hold order remains outstanding, unless released by officers issuing the hold order.

Accepting Articles from Other than Lawful Owners.

A pawnbroker who accepts in pledge any article as security for a loan from a pledger who is not the owner thereof, obtains no property in the article, either by reason of maturation of the loan or by transference of the pawn ticket to the pawnbroker by the pledger or holder thereof. Ignorance of the fact that the pledged article was lost or stolen shall not be construed to affect the question of title, and if the pawnbroker shall sell such article to a third person, he shall remain liable to the original owner.

Unlawful Transactions.

It shall be unlawful for any pawnbroker to accept any articles in pawn or purchase any secondhand personal property by acquiring a pawn ticket by transference from any person under eighteen (18) years of age.

Concealing Articles to Prevent Identification.

No pawnbroker shall conceal, secrete, or destroy for the purpose of concealing any article purchased or received by him for the purpose of preventing identification by enforcement officers.

Examination of Premises by Law Enforcement.

No pawnbroker or any other person shall refuse, resist, or attempt to prevent any law enforcement officer with or without warrant, from examining the licensed premises occupied by the pawnbroker or other secured premises within the City limits where property is stored, during reasonable business hours for the purpose of discovering stolen property.

Sec. 8-38. - PEDDLERS, SOCLICITORS, AND EMPLOYMENT AGENCIES.

Peddlers, Solicitors, and Employment Agencies must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

(A) A Copy of their Sales Tax License

Misrepresentation.

No peddler or solicitor shall make false or fraudulent statements concerning the quality or nature of their goods, wares, merchandise, or services for the purpose of inducing another to purchase the goods, wares, merchandise, or services.

Hours of operation.

No peddler or solicitor shall peddle door-to-door between the hours of 8:00 p.m. and 8:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

Prohibited conduct.

Any peddler selling or soliciting for sale goods, wares, merchandise, or services by traveling from place to place, house to house or street to street shall not remain in any one place for a period longer than necessary to make a sale.

Investigation, examination of applicant.

(a) Each peddler or solicitor's application shall include a background check provided by the applicant, from the South Dakota Division of Criminal Investigation (SD DCI) and will be reviewed by the Police Department to ensure compliance with the prohibitions listed below. No permit shall be granted to any person:

(1) Who is subject to registration as a sex offender in any state, protectorate, or other country.

(2) Who has a conviction or date of discharge from prison, jail, probation, or parole within the last five years of the application.

(3) Who has knowingly omitted or provided false information on the application; or

(4) Who has been convicted of a crime of violence as that term is defined in SDCL 22-1-2(9).

(b) Convictions in other states considered. Any conviction for an offense in another state which, if committed in this state, would prevent a license from being granted, shall be used to determine if an applicant is eligible for a license.

Sec. 8-39. - PET DAYCARES AND KENNELS.

Any person owning, possession, keeping, or desiring to keep or maintain within the City a pet daycare composed of four or more animals of any one species shall obtain from the City a license therefor before such daycare may be kept or maintained. For purpose of this provision, anyone keeping, or has the ability to keep, four or more of any animal species shall be deemed to operate a pet daycare or kennel and shall comply with specifically all provisions of this section.

The location and use of a pet daycare or kennel must be in compliance with the City zoning ordinances and animal control ordinances.

Hospitals, clinics, and other premises operated by a licensed veterinarian for the care and treatment of animals are exempt from the provisions of this section.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist.

(A) A Copy of their Sales Tax License

(B) No business license may be issued until the property has been inspected by a Community Service Officer and they have reported to the Business License Specialist, in writing, that the pet daycare or kennel meets the requirements of all City ordinances, state statutes, and is being operated in a humane manner. Additional inspections during the calendar year may also be conducted upon license application renewal, complaints, or public concern(s).

Sec. 8-40. - PLUMBERS.

Plumbers including all professionals defined in SDCL 36-25-1 must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A copy of your South Dakota plumber's license.
- (B) List of all sub-contractors working under plumber's purview.
- (C) A copy of the applicant's state excise or sales tax license.

Sec. 8-41. - TATTOOING, SALINE TATTOO REMOVAL, AND BODY PIERCING ESTABLISHMENT.

Tattooing, Saline Tattoo Removal, and/or Piercing Establishment businesses and must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

- (A) A Copy of their Sales Tax License
- (B) Prior to receiving a Business License from the City of Box Elder, All Tattoo and Piercing Establishments must demonstrate compliance with the applicable South Dakota Administrative Rules, currently found at ARSD 44:12:01 and ARSD 44:12:02 et seq., respectively. Failure to comply with the applicable Administrative Rules may result in revocation or suspension of the Establishment's Business License.

Sec. 8-42. - TRANSIENT MERCHANTS, AUCTIONEERS, AND BANKRUPT STORES

Transient Merchants, Auctioneers, and Bankrupt Stores must comply with the requirements for regulated businesses as set forth in this Article.

Issuance of license.

Applications, along with the required fee, shall be submitted to the Business License Specialist; the application shall also include:

(A) A Copy of their Sales Tax License

ARTICLE V. ADDITIONAL INFORMATION AND REGULATIONS.

Additional Information and Regulations maybe found in the following sub-links.

ADDICTION AND PREVENTION PROFESSIONALS- [SDCL 36-34](#)

ADULT ORIENTED BUSINESS- [SDCL 11-12](#)

ADVANCED LIFE SUPPORT PERSONNEL- [SDCL 36-4B](#)

AMBULANCE SERVICE- [SDCL 34-11](#)

ATHLETIC TRAINERS- [SDCL 36-29](#)

AUCTIONEERS- [SDCL 59-8](#)

BANKS- [SDCL 51A](#)

BARBERS AND BARBERSHOPS- [SDCL 36-14](#)

BED AND BREAKFAST ESTABLISHMENTS. [ARSD 44:02:06](#)

BEFORE AND AFTER SCHOOL CARE- [ARSD 67:42:14](#)

BOXING, KICKBOXING, MIXED MARTIAL ARTS, AND SPARRING- [SDCL 42-12](#)

CAMPGROUND. [ARSD 44:02:14](#)

CERTIFIED NURSE PRACTITIONERS AND CERTIFIED NURSE MIDWIVES- [SDCL 36-9A](#)

CERTIFIED PROFESSIONAL MIDWIVES- [SDCL 36-9C](#)

CHIROPRACTORS- [SDCL 36-5.](#) [ARSD 20-41](#)

CORPORATIONS- [SDCL 47](#)

COSMETOLOGISTS, ESTHETICIANS, NAIL TECHNICIANS, AND SALONS- [SDCL 36-15.](#) [ARSD 20:42](#)

CREMATORIES AND CREMATIONS- [SDCL 34-26A](#)

DEALERS AND MANUFACTURERS OF MANUFACTURED HOMES AND MOBILE HOMES- [SDCL 32-7A](#)

DENTISTS, DENTAL HYGIENISTS AND DENTAL AUXILIARIES- [SDCL 36-6A](#)

DIETETICS AND NUTRITION- [SDCL 36-10B](#)

ELECTRICIANS AND ELECTRICAL CONTRACTORS- [SDCL 36-16](#), [ARSD 20:44](#)

FAMILY (IN-HOME) DAYCARE- [SDCL 9-29-26](#)

FOOD SERVICE CODE. [ARSD 44:02:07](#)

FUNERAL DIRECTORS, EMBALMERS AND FUNERAL ESTABLISHMENTS- [SDCL 36-16](#)

GENETIC COUNSELORS- [SDCL 36-36](#)

HEARING AID DISPENSERS AND AUDIOLOGISTS- [SDCL 36-24](#), [ARSD 20:46](#)

HOME INSPECTORS- [SDCL 36-21C](#)

HOTELS- [ARSD 44:02:02](#)

INTENSIVE RESIDENTIAL TREATMENT CENTERS- [ARSD 67:42:15](#)

LICENSED DAYCARE PROGRAMS- [ARSD 67:42:10](#)

LODGING AND FOOD SERVICE- [ARSD 44:02](#)

MARRIAGE AND FAMILY THERAPISTS- [SDCL- 36-33](#)

MASSAGE THERAPISTS- [SDCL 36-35](#)

MORTGAGE LENDER BUSINESS - [SDCL 54-14](#)

MUNICIPAL TRADE REGULATION AND LICENSES- [SDCL 9-34](#)

NURSING FACILITY ADMINISTRATORS- [SDCL 36-28](#)

OCCUPATIONAL THERAPISTS- [SDCL 36-31](#)

OPTOMETRISTS- [SDCL - 36-7](#)

PHARMACIES AND PHARMACISTS- [SDCL 36-11](#)

PHYSICAL THERAPISTS- [SDCL 36-10](#)

PHYSICIAN ASSISTANTS- [SDCL 36-4A](#)

PHYSICIANS AND SURGEONS- [SDCL 36-4](#)

PLUMBERS- [SDCL 36-25](#)

PODIATRISTS- [SDCL 36-8](#)

PRACTITIONERS OF HEALING ARTS IN GENERAL- [SDCL 36-2](#)

PROFESSIONAL COUNSELORS- [SDCL 36-32](#)

PSYCHOLOGISTS- [SDCL 36-27A](#)

PUBLIC ACCOUNTANTS- [SDCL 36-20B](#)

REAL ESTATE APPRAISERS- [SDCL 36-21B](#)

REAL ESTATE BROKERS AND SALESPERSON- [ARSD 20:69](#)

REAL ESTATE LICENSING- [SDCL 36-21A](#)

REGISTERED AND PRACTICAL NURSES- [SDCL 36-9](#)

RESPIRATORY CARE PRACTITIONERS- [SDCL 36-4C](#)

RETAIL STORE- [SDCL 10-45](#)

SOCIAL WORKERS- [SDCL 36-26](#)

SOUTH DAKOTA PROFESSIONS AND OCCUPATIONS- [SDCL 36](#)

SOUTH DAKOTA TRADE REGULATIONS- [SDCL 37](#)

SPECIALTY RESORTS- [ARSD 44:02:05](#)

SPEECH-LANGUAGE PATHOLOGISTS- [SDCL 36-37](#)

TATTOOING, SALINE TATTOO REMOVAL, AND BODY PIERCING- [ARSD 44:12](#)

TECHNICAL PROFESSIONS- [SDCL 36-18A](#)

TRANSPORTATION NETWORK COMPANIES- [SDCL 32-40](#)

VACATION HOMES- [ARSD 44:02:08](#)

VEHICLE DEALERS- [SDCL 32-6B](#)

VETERINARIANS- [SDCL 36-12](#)

WHOLESALE DRUG DISTRIBUTORS- [SDCL 36-11A](#)

Additional activities, trades, occupations, and businesses are regulated pursuant to SDCL and ARSD. See [South Dakota Codified Laws \(sdlegislature.gov\)](#) and/or [Administrative Rules](#) for more information.

PASSED, APPROVED and ADOPTED this 20th day of December, 2022.

Larry Larson, Mayor

APPROVED AS TO FORM:

ATTEST:

Matthew E. Naasz, City Attorney

Nicole Schneider, Finance Officer

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