

ORDINANCE No. 329
FOR THE CITY OF AVON, SOUTH DAKOTA
TRANSIENT MERCHANTS AND PEDDLERS

This Ordinance supersedes all Previous Ordinances Pertaining to
Transient Merchants and Peddlers

Be it hereby ordained by the City of Avon, Bon Homme County, South Dakota, as follows:

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Peddler – A person engaged in the selling of property or services to include, but not limited to spraying, trimming, or pruning of trees and/or shrubs of all species; painting or repairing buildings or structures; and pest or rodent control; by going about from place to place, highway or street parking, or house to house either in person or by telephone to sell the same and who carries with him or her such property for delivery at the time of sale or performs such service at the time of contract for such service or immediately thereafter.

Solicitor – A person engaged in going from place to place, highway or street parking, or house to house in person or by telephone to solicit orders for, or to offer to sell, property or services for future delivery.

Transient Merchant – Any person, firm, corporation, partnership, association, or agent thereof transacting a temporary business where goods other than goods produced by him or her are exposed for wholesale or retail sale at any place in this state. A business operated more than six months in one place by the same person shall be deemed a permanent business, but one commenced and discontinued within six months thereafter shall prima facie be presumed a temporary business, and its operator a Transient Merchant.

Every transient merchant, solicitor, or peddler shall obtain a license and pay to the city a license fee of \$ 5.00 for each day that said transient merchant, solicitor, or peddler shall conduct said business licensed under this ordinance. Said license fee shall be payable in advance, and the license issued shall be posted conspicuously in the place of business named therein. Transient merchants, solicitors, or peddlers are required to exhibit their licenses at the request of any citizen.

Applicants for a license under this ordinance, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant with the Finance Officer (FO) showing:

- (1) The name(s) of the applicant for license.

- (2) The name(s) of the person(s) having management or supervision of applicant's business during the time it will be carried on in the city.
- (3) The permanent address of such person(s).
- (4) The capacity in which such person(s) will act, whether proprietor, agent, or otherwise.
- (5) The place(s) in the city where it is proposed to carry on applicant's business.
- (6) The length of time it is proposed that said business shall be conducted.
- (7) A statement of the service to be provided or of the quality of goods, wares, and merchandise to be sold or offered for sale by applicant.
- (8) A statement regarding whether the same merchandise is proposed to be sold from stock in possession or by sample at auction, by direct sale, or by taking orders for future delivery.
- (9) A statement regarding where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.
- (10) At least three references as to the integrity of the applicant, including names, addresses, and telephone numbers.
- (11) Last three locations of operation and dates thereof.
- (12) Proof of sales tax license and license number.
- (13) Any other information that the Council may require.

Any person seeking to obtain a license under the provisions of this ordinance shall have obtained all required county and/or state permits, shall have completed an application for license, and shall have paid to the FO the amount provided for by this ordinance for such a license. The FO shall then furnish the applicant a receipt designating the location of business and kind of activity applied for. Upon presentation of said receipt to the city, the City Council, at its discretion, if it deems the applicant a suitable and proper person to have such license, shall approve such license and direct the FO to sign the receipt. Said receipt when signed shall be deemed a good and sufficient license. If the City Council does not grant said license, the applicant shall be informed of the same and FO shall thereupon refund the amount of the license fee paid and the applicant's receipt shall be the FO's voucher for the money refunded.

Any license issued hereunder may be revoked, after notice and hearing, by the City Council for any of the following reasons.

- (1) Fraud, misrepresentation, or false statements contained in the application for license.
- (2) Fraud, misrepresentation, or false statements made in the course of carrying on the business as a transient merchant, solicitor, or peddler.
- (3) Any violation of this ordinance or other law or regulation.
- (4) Conviction of any crime or misdemeanor involving moral turpitude.
- (5) 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 the public.

Any person feeling aggrieved by the decision of the City Council in regard to the revocation of license or denial of application for license as provided in this ordinance shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the FO within ten days after notice of the decision of the Council, a written statement showing the grounds for the appeal. The FO shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in writing, setting forth the time and place of the hearing. This notice shall be mailed or delivered personally to the licensee/applicant at least five days prior to the hearing date.

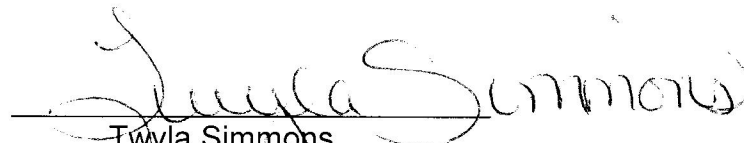
Any transient merchant, solicitor, or peddler selling goods or services without an approved license by the city will be fined \$ 50.00 per day. After three consecutive days, the City Council will decide what the consequences will be.

First Reading: September 5, 2018
Second Reading: October 1, 2018
Pass and approved: October 1, 2018
Published: October 3, 2018
Effective: October 1, 2018

ATTEST:



Keith E Gill
Mayor



Twyla Simmons
Finance Officer

(SEAL)