

## TITLE V – LICENSES

### CHAPTER 1

#### GENERAL PROVISIONS

##### Section 5.1.1      License Required

It shall be unlawful for any person, persons, firm or corporation to engage in any trade, business or occupation within the corporate limits of the City of Mount Vernon for which a license is provided for in this title, without first having obtained such license as hereinafter provided; provided that the provisions of this chapter shall not apply to any public officer, who may in pursuance of legal process sell at public auction, any property of any kind whatsoever, nor shall the provisions of this chapter include or apply to persons engaged in the sale of farm products only.

##### Section 5.1.2      Obtaining

Any person, persons, firm or corporation wishing to obtain a license to engage in any trade, business or occupation, as herein provided; shall pay to the City Treasurer the amount provided by this Title for the license applied for, who shall issue a receipt therefore, and shall make written application to the City Council, stating the names of the person, post office address, business, calling or vocation in which such person desires to engage, the length of time for which said license is wanted, and the particular place at which said license is to be used, and upon the presentation of said application to the City Council, said City Council shall act upon said application, and if they shall deem the applicant a suitable and proper person to have such license, shall cause the Finance Officer to issue same, which license shall be countersigned by the Finance Officer, and attested by the corporation seal, and shall authorize said person to carry on the business, calling or vocation named in said application; but if said application be refused, same shall be endorsed upon the receipt by the Finance Officer, and upon presentation of such receipt so endorsed to the City Treasurer, he shall refund said money so paid by said application and take up said receipt which receipt when taken up shall be the Treasurer's voucher for the money so refunded.

##### Section 5.1.3      License, Issuance of

Before any license shall issue, there shall also be filed with the Municipal Finance Officer, an instrument in writing, signed by the applicant under oath, nominating and appointing the Municipal Finance Officer his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of said applicant, and service of summons in any action brought upon said bond shall be deemed made when served upon said Municipal Finance Officer.

Except as otherwise provided, all licenses shall be issued by the Finance Officer, if the issuance of the license be approved by the licensing authority and the applicant shall have complied with all requirements for issuance of this license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the city.

##### Section 5.1.4      Records

The Municipal Finance Officer shall keep a record of all licenses issued by said City Council stating when and to whom issued, for what purposes and for what length of time issued, and the amount of money paid for said license, and the place where the said business is to be carried on.

Section 5.1.5            Expiration

All annual licenses granted under the provisions of this chapter shall expire on the 31st day of December next following the granting thereof, except as in this chapter otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the terminating of said calling, vocation or kind of business for which said license was issued.

Licenses other than annual licenses shall expire on the date specified in such license.

Section 5.1.6            Penalty

Any person, persons, firm or corporation who shall violate any of the provisions of this Title, or who shall engage in any of the callings, vocations, or kinds of business mentioned in this Title, without first having received a license therefore, as specified in this Title, shall upon conviction thereof, be fined not more than One Hundred Dollars (\$100.00) or be imprisoned in the County Jail for a period not more than thirty (30) days, or be punished by both such fine and imprisonment.

Section 5.1.7            Revocation

The Council shall have power to cancel any license issued by the City, for failure of the licensee to comply with any ordinance or regulation of the City or State law respecting such license or the manner of exercise thereof or for other good cause, after hearing upon notice to the licenses. Notice of hearing before the Council for the revocation of any license shall be given by mailing to said licenses, be registered mail a notice of said hearing upon said licensee at least one week prior to the time set for said hearing.

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

Any person or persons violating any of the provisions of this chapter or any owner, proprietor, manager or other person in control of or conducting any public dance who refuses, fails or neglects to prevent vulgar or indecent dancing as herein prescribed or in any manner violates any of the provisions of this chapter, shall upon conviction thereof be punished by a fine of not more than One Hundred (\$100) Dollars or by imprisonment for a period not more than thirty (30) days, or by both such fines and imprisonment in the discretion of the Court for each violation committed. Upon conviction of the owner, proprietor, manager or other person in control of or conducting any public dance hall under this chapter for the violation thereof, the license issued for the offending dance hall shall be forthwith revoked.

- A. Licenses issued under the provisions of this chapter may be revoked by the council of the City of Mount Vernon after notice and hearing for any of the following causes:
  - 1. Fraud, misrepresentation, or false statement contained in the application for license.
  - 2. Fraud, misrepresentation of false statement made in the course of carrying on his business under the license.
  - 3. Any violation of this chapter.
  - 4. Conviction of any crime or misdemeanor involving moral turpitude.
  - 5. Conducting the business of peddling, soliciting or canvassing 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.

- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

The permits and licenses issued pursuant to this chapter may be revoked by the Council after notice of hearing for any of the following causes:

- A. Any fraud, misrepresentation or false statement contained in the application for license.
- B. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
- C. Any violation of this chapter.
- D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- E. Conducting the business licensed under this chapter 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. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five days prior to the date set for the hearing.

Section 5.1.8                      Appeal or Review

Any person aggrieved by the action of the Council in the denial of an application for permit or license as provided in Section 6.0503 or in the decision with reference to the revocation of a license as provided by

Section 6.0513 of this chapter, shall have the right of having the Council review said decision by filing with the Municipal Finance Officer within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for such review. Service of such notice shall be made on the Municipal Finance Officer. The Council shall set a time and place for a full and complete hearing in the same manner as provided in Section 6.0513 for notice of hearing on revocation, and the decision and order of the City Council on such matter shall be final and conclusive.

Section 5.1.9                      Suspension of License

Upon complaint being made to the Council on any of the grounds for revocation set forth in Section 6.0513 and upon their determination that the health, welfare and safety of the citizens of the City of Mount Vernon requires it, they may order immediate suspension of the license, and licensee shall not engage in the business authorized by said license, pending hearing and decision by the Council as provided in Section 6.0513.

Section 5.1.10                      Transfer

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

Section 5.1.11                      Service of Process

Before any license has herein provided shall be issued, for engaging in businesses an itinerant or transient merchant, such applicant shall also file with the Municipal Finance Officer an instrument nominating and appointing the Municipal Finance Officer as true and lawful agent with full power and authority to acknowledge service of notice or process for and on behalf of said applicant in respect to any matters

connected with or arising out of the business transaction under said license, and the bond as heretofore required. Immediately upon service of process upon said Finance Officer as herein provided, the said Municipal Finance Officer shall send to the licensee at his last known address by registered mail a copy of said process. Said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice of process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally serviced upon the person or persons applying for the said license under this chapter, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service.

#### Section 5.1.12      Appeal

Any person aggrieved by the decision of the Council in regard to the denial of application for license as provided in Section 6.6.3 of this chapter shall have the right to appeal to the Council of the City of Mount Vernon. Such appeals shall be taken by filing with the Council, a written statement showing the grounds for the appeal, within ten days after notice of the decision of the Council. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 6.6.8 of this chapter for notice of hearing on revocation. The order of the Commission on such appeal shall be final.

## TITLE V – LICENSES

### CHAPTER 3

#### DANCES

##### Section 5.3.1            License

It shall be unlawful to any person to operate a public dance hall or conduct a public dance as provided herein without first having procured from the City Council a license so to do and the fee for such shall be Twenty-five (\$25) Dollars for each dance.

##### Section 5.3.2            Venues

No license for a public dance hall or dance shall be issued until the City Council shall be satisfied that the room, place or hall to be used for such public dance hall complies with and conforms to all ordinances and health and fire regulations of the City of Mount Vernon and all laws of the State of South Dakota, and that it is properly ventilated and is a safe and proper place for such purpose.

##### Section 5.3.3            Age Limits

It shall be unlawful for any person, firm or corporation engaged in conducting or operating a public dance hall in the City of Mount Vernon to suffer, permit or allow any person under the age of sixteen years unaccompanied by his or her father, mother, or legally appointed guardian to enter or remain in any public dance hall. It shall be unlawful for any person under the age of sixteen years, unaccompanied by his or her father, mother or legally appointed guardian to enter or remain in any public dance hall; provided, that this section shall not apply to social centers operated under the Control of the Department of Education or to dances held under the supervision of the Department of Parks, Playgrounds & Public Building.

##### Section 5.3.4            Hours

It shall be unlawful to continue after the hour of one o'clock AM any public dance; provided, however, that if the following day be Sunday, the closing time shall be one o'clock AM.

##### Section 5.3.5            Police Supervision

Public dances conducted in any public hall licensed hereunder shall at all times be subject to the police supervision of the police of the City of Mount Vernon who are authorized to remove from such public dance hall any person who is intoxicated or who has intoxicating liquors in his or her possession, or who is conducting himself or herself in an improper or disorderly manner, or who is under the age of sixteen years.

## TITLE V – LICENSES

### CHAPTER 4

#### ANIMALS

##### Section 5.4.1      Purpose

The purpose of this Chapter is to describe the conditions and requirements allowing citizens to keep animals within the City of Mount Vernon, and to describe the City's responsibilities to its citizens regarding the humane and appropriate keeping of animals within the City.

##### Section 5.4.2      Violations are Class 2 Misdemeanor

Pursuant to the laws of South Dakota, it shall be a Class 2 Misdemeanor to violate any of the provisions set forth in Chapter 5.04A.

##### Section 5.4.3      Unlawful to allow any animal to run at large - impoundment.

It shall be unlawful for any owner or other person having custody thereof, to permit any animal to run at large at any time within the limits of the city and any law enforcement or Mt. Vernon City Official is hereby authorized to impound any such animal found running at large in the city. An animal within the automobile of its owner or person in charge thereof shall be deemed upon the owner's property.

It shall be unlawful for any owner or other person having custody thereof, to permit an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner or other person having custody thereof, must immediately and thoroughly clean the fecal material from such property.

##### Section 5.4.4      Fees paid upon release for impoundment and keeping of animals.

When the owner or claimant of any impounded animal shall desire to reclaim such animal, such animal may be released upon payment to Mt. Vernon City Official, the sum of \$35.00 for the first offense, \$50.00 for the second offense, and \$100.00 for the third offense. No previous offense occurring more than two years prior to the date of the offense being charged shall be used to determine that the offense being charged is a second or third subsequent offense.

##### Section 5.4.5      Limit in number of dogs and cats.

It shall be unlawful for any person or persons, or household, in the limits of the City of Mt. Vernon to own or possess more than four dogs and four adult cats. It is the intent of this Ordinance to set a limit to the number of dogs and cats that may be legally owned by one family, household, or co-habitants of any kind. This Ordinance does not apply to litters of dog puppies or kittens from the time of their birth until they are eight weeks old.

##### Section 5.4.6      Unlawful to allow any animal to disturb the peace.

The owner of any animal shall not allow the animal to disturb the peace and quiet of the city or any person therein.

A Mt. Vernon City Official or law enforcement may remove and impound any animal that is disturbing the peace of the City. When the owner of the animal cannot be located, a notice advising the owner of the impoundment must be left on the premises.

Section 5.4.7            Unlawful to maltreat, abuse or neglect any animal or fowl.

No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhuman manner any animal or fowl. Such behavior shall be deemed unlawful. A Mt. Vernon City Official or any law enforcement may remove and impound any abused or neglected animal when the owner cannot be located or when the owner fails to correct such abuse or neglect after notice.

Section 5.4.8            Unlawful to keep certain animals in City of Mt. Vernon.

No person shall keep any animal that poses a threat, nuisance, health hazard or annoyance to the city or any person therein. Upon complaint regarding such animal, it shall be at the discretion of the Mt. Vernon City Council to grant approval to the animal's owner to keep such animal. Prohibited Animals shall include Livestock, native species, and exotic pets are prohibited within the City of Mount Vernon unless approval is granted by the City Council. Common animals hereby identified as prohibited shall include but is not limited to: cattle, sheep, swine, goats, horses, alligators, crocodiles, caymans, raccoons, skunks, foxes, bears, sea mammals, poisonous snakes, hybrids, members of the feline species other than domestic cat (*felis domesticus*), members of the canine species other than domestic dog (*canis familiaris*), domestic fowl of the order Galliformes (chickens, turkeys, grouse, pheasants, pigeons), and the order Anseriformes (ducks and geese) or any other animal that would require a standard of care and control greater than that required for customary household pets.

Section 5.4.9            Unlawful to violate provisions of this article or interfere with officer enforcing the same.

No person shall violate any of the provisions of this chapter or evade or attempt to evade the provisions hereof, or shall refuse to comply with the same or shall in any manner interfere with a Mt. Vernon City Official, any law enforcement or any person engaged in carrying out the provisions of this chapter and in the discharge of the duties imposed thereby.

## TITLE V – LICENSES

### CHAPTER 5

#### PEDDLERS, SOLICITORS, CANVASSERS

##### Section 5.5.1          License

It shall be unlawful for any person to engage in the business of peddler, solicitor or canvasser, within the corporate limits of the City of Mount Vernon without first obtaining a license therefore as provided herein.

The Mayor of the City of Mount Vernon shall issue any license issued under the provisions of this chapter, and shall have discretion whether or not to grant the license after considering the showing on applicant's behalf, and after making the investigation they deem necessary.

##### Section 5.5.2          Exceptions

This chapter shall not include any person retailing goods, wares or merchandise which can be shown to be his or her manufacture or production, or farm produce raised within the State of South Dakota by such person.

##### Section 5.5.3          Application

After payment of the requisite license fee to the Municipal Finance Officer, any person desiring to obtain a license under the provisions of this chapter shall make and file with the Municipal Finance Officer a sworn application in writing (in duplicate) on a form furnished by the Municipal Finance Officer, which shall give the following information: throughout the ordinances.

- A. Name and description of applicant
- B. Address (legal and local)
- C. A brief description of the nature of the business and the goods to be sold, services to be rendered; if goods, wares and merchandise are to be sold, whether of the seller's own manufacture, and in the case of products of farm or orchard, whether grown or produced by the applicant.
- D. If employed, the name and address of the employer, together with the credentials establishing the exact relationship.
- E. The length of time for which the right to do business is desired.
- F. If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
- G. Names of other towns and cities in the State of South Dakota where applicant has had a similar license in the past year.
- H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, the punishment or penalty assessed, and the name of the Court, and the city or city.

Section 5.5.4            Investigating and Issuance

Before issuing a license under this chapter to any person applying therefore, the licensing authority shall refer the application to the Chief of Police who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, including the inquiry of the Federal Bureau of Investigation and the Investigation Division of the Office of the Attorney General of the State of South Dakota, except that in the event applicant has received a like license from the City of Mount Vernon within one year last past, the licensing authority may waive this requirement. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the licensing authority whether or not the moral character and business responsibility of the applicant is satisfactory.

Section 5.5.5            Licensing Fees

The license fee shall consist of basic fee of \$3.00 to defray the cost to the city of processing the application and investigatory expense; and in thereto, a license fee of \$5.00 per day, \$25.00 per week, or assistant. \$50.00 per month shall be paid by the applicant, for himself, and a like fee for each additional employee

Section 5.5.6            Bond

Before any such license shall issue, every applicant not a resident of the City of Mount Vernon or who, being a resident of the City of Mount Vernon, represents a firm whose principal place of business is located outside the State of South Dakota, shall file with the Municipal Finance Officer a surety bond; running to the City in the amount of \$1,000.00 with surety acceptable to and approved by the Council, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Mount Vernon and the statutes of the State of South Dakota regulating and concerning the business of peddler, solicitor or canvasser and guaranteeing to any citizen of Mount Vernon that all money paid as a down payment will be accounted for and applied according to the representations made, and further guaranteeing to any citizen of the City of Mount Vernon, doing business with such licensee that the property purchased will be delivered according to the representation of said license, that all merchandise sold and delivered shall be as represented and that he will refund any money or deposit on any merchandise which is not as represented. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person.

Section 5.5.7            Renewal

In event any license desires to continue the business authorized under the license after the expiration date of such license, a new application shall be filed and the same procedure followed as for the initial license.

Section 5.5.8            Use of Street

No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location upon the public streets, alleys, or public grounds of the City of Mount Vernon, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 5.5.9            Exhibition of Licenses

Any person licensed under this chapter is required to exhibit his license at the request of any citizen.

Section 5.5.10            Duty of Police to Enforce

It shall be the duty of any police officer of the City of Mount Vernon to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this chapter against any person found to be violating same.

Section 5.5.11            Records

The Sheriff or Council member shall report to the Municipal Finance Officer all convictions for violation of this chapter and the Municipal Finance Officer shall maintain a record for each license issued and record the reports of violation thereof.

## TITLE V – LICENSES

### CHAPTER 6

#### TRANSIENT MERCHANTS

##### Section 5.6.1      License

It shall be unlawful for any person, firm or corporation to engage in business in the City of Mount Vernon as a transient retail merchant or an itinerant merchant as defined in Section 6.0602 of this ordinance without first having obtained a license therefore in compliance with the provisions of this chapter.

##### Section 5.6.2      Application

Applicants for license under this chapter whether a person, firm or corporation shall file a written, sworn application signed by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation, with the Municipal Finance Officer showing:

- A. The name or names of the applicant for license
- B. The names or names of the person or persons having the management or supervision of applicant's business during the time it is proposed that it will be carried on in the City of Mount Vernon and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent or otherwise.
- C. The place or places in the City of Mount Vernon where it is proposed to carry on applicant's business and the length of time it is proposed that said business shall be conducted.
- D. A statement of the nature and character and quality of the goods, wares and merchandise to be sold or offered for sale by applicant, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale, or by taking orders for future delivery, where the goods or property proposed to be sold are manufactures or produced and where such goods or products are located at the time said application is filed.
- E. At least three references as to the integrity of the applicant.

##### Section 5.6.3      Investigation and Issuance

Upon receipt of such application, the Municipal Finance Officer shall refer such application to the Sheriff for the City of Mount Vernon who shall cause such investigation of such person or persons' business responsibility or moral character to be made as he deems necessary to the protection of the public good. The Sheriff shall, as soon as such investigation can be made, return such application to the Municipal Finance Officer with his recommendations as to whether or not such application should be granted and, in the event of his recommendations that such application be refused, his reasons therefore. Upon the receipt of such application to the Council at their next regular meeting at which time the Council shall act upon such application and, at their discretion, either approve or disapprove the same.

##### Section 5.6.4      Fees

The fee required to be paid by such transient merchant or itinerant merchant as herein defined for the procuring of such license shall be \$25 per day, \$50 per week or \$100 per month and such license fee shall be paid to the Municipal Finance Officer at the time of making the application and the license issued shall state the time for which said license is granted and the expiration date.

Before any license as provided in this chapter shall be issued for engaging in a transient or itinerant business, as defined by Section 5.6.2 of this chapter, in the City of Mount Vernon, such applicant may be required to file with the Municipal Finance Officer a bond running to the City of Mount Vernon up to the sum of Ten Thousand Dollars (\$10,000.00) executed by the applicant as principal and two sureties upon which service or process will be made in the State of South Dakota, said bond to be approved by the Council of the City of Mount Vernon and conditioned that the said applicant shall comply fully with all ordinances of the City of Mount Vernon and statutes of the State of South Dakota regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinance or statutes or any of them, together with all judgments and costs that may be received against him by any person or persons for damage growing out of any misrepresentation or description practiced on any person transacting such business with such applicant, his agent, servants or employees. Amendment adopted July 4, 2006

TITLE V – LICENSES

CHAPTER 7

HOUSE MOVERS

Section 5.7.1            License

It shall be unlawful for anyone to pursue the business of a house mover unless he shall have previously obtained a license so to do as hereinafter provided.

Section 5.7.2            Application

Any person desiring a license as a house mover shall make application to the City Council, said application to be accompanied by a permit of twenty-five (\$25) dollars and a bond running to the City in the sum of Ten Thousand Dollars (\$10,000.00) with sureties to be approved by the City Council, conditioned that the applicant will in pursuing the business of house mover, conform to all the regulations relating thereto, which are or may be established by the City Council; that he will promptly repair and make good any and all damage or injury to any pavement, sidewalks, crosswalks, hydrants, street or any public building or part thereof and that he will identify and keep harmless said City against all liability or damages which may arise in favor of any person by reason of any negligence or misconduct on his part of or on the part of his agents or employees in connection with the moving of any building on any public street.

Section 5.7.3            Permits

Any such licensed house mover intending to move any building shall make application for permit so to do as provided by Chapter 8.4 of this Ordinance provided, however, that a licensed house mover shall not be required to make the One Hundred Dollar (\$100.00) deposit provided for in said Chapter 8.4.