

TITLE XI: BUSINESS REGULATIONS

Chapter 110. GENERAL LICENSING PROVISIONS

Section

110.01 Purpose

110.02 Exemptions

110.03 Definitions

110.04 License required

110.05 Application

110.06 License fees

110.07 Approval, denial, suspension, or revocation of license

110.08 Appeal

110.09 Disclaimers and exceptions

110.10 General license requirements

Cross-reference:

Offenses Concerning Alcoholic Beverages, see ' ' 131.35 et seq.

' 110.01 PURPOSE.

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purpose and to provide for the health, safety, and welfare of the citizens of the city through regulation of businesses, occupations, and trade.

(Ord. 97, passed 3-7-1996)

' 110.02 EXEMPTIONS.

(A) Nothing in this chapter shall be construed to apply to any person transacting and carrying on business within the city which is exempt from taxation or regulation by the city by virtue of the Constitution of the United States or the state.

(B) No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the city, and it is the intention that all license fees will be borne by the employer.

(C) Any business paying a franchise tax or fee under any city ordinance or resolution now existing is exempt from the requirements of this chapter.

(D) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city are exempt from the requirements of this chapter.

(E) Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than \$1,500, is exempt from this chapter.

(Ord. 97, passed 3-7-1996)

' 110.03 **DEFINITIONS.**

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

APPLICANT. *Agent or owner of the named business.*

AUCTION. *The sale, or offer to sell, by public outcry or to the highest bidder.*

BUSINESS. *Any profession, trade, occupation, shop, and every type of calling wherein a charge is made for goods, materials, or services.*

LICENSE. *The permission granted for the carrying on of a business, profession, or occupation within the city limits.*

LICENSEE. *The business as specified and named by the applicant.*

NON-PROFIT ORGANIZATION. *A bona fide organization with tax exempt status.*

PEDDLER. *A person or persons, traveling from place to place selling and delivering at the same time.*

PERSON. *All public and private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the city.*

REVOCAION. *In reference to any business license, withdrawal of approval to operate a business.*

SOLICITOR. *One who travels from place to place, not carrying his or her goods with him or her, but taking orders for future deliveries.*

SUSPENSION. *In reference to a business license, an official order to suspend business operations pending correction or ceasing of certain conditions or practices.*

TRANSIENT MERCHANT. *One who occupies a temporary fixed location, sells and delivers from stock on hand, and does business in much the same manner as a permanent business.
(Ord. 97, passed 3-7-1996)*

' 110.04 **LICENSE REQUIRED.**

(A) A license fee is hereby imposed on any business not licensed by other ordinances of the city, and it shall be unlawful for any person to engage in any such business within the city without first having obtained a license for the current year as provided under this chapter.

(B) The agent, or agents, of a non-resident proprietor engaged in any business for which a license is required by this chapter shall be liable for any failure to comply with the provisions of this chapter, or for any penalty assessed under this chapter, to the extent, and with like effect, as if the agent or agents were themselves the proprietors or owners of the business.

(C) A person engaged in business in more than 1 location, or in more than 1 business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

(D) A person representing himself or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the city on which a license fee is levied by this chapter, shall be deemed to be actually engaged in the business and shall be liable for the payment of the license fee and subject to the penalties for failure to comply with the requirements of this chapter.

(E) The city may require proof of bonding, insurance, or state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if city approval is a prerequisite, before a city license will be issued.

(F) The City Council reserves the right to waive or reduce the fee for non-profit organizations having tax exempt status.

(Ord. 97, passed 3-7-1996) Penalty, see ' 10.99

' 110.05 APPLICATION.

(A) Application for a new business license, or for renewal of an existing business license, shall be made to the City Manager upon forms furnished by the city.

(B) Each application shall state:

(1) The name of the proposed business;

(2) A description of the trade, shop, business, profession, occupation, or calling to be carried on;

(3) The name and address of the applicant;

(4) The address at which the business will be conducted, or the address of its city office;

(5) The amount of the license fee tendered with application;

(6) The signature of the applicant or agent making the application;

(7) The date of application;

(8) Evidence of satisfaction of state registration, bonding, or insurance, including registration number and expiration date;

(9) The year for which application is made; and

(10) Hazardous material on premises identified.

(C) The City Manager may require the applicant to supply any additional information necessary to determine under ' 110.07 of this code the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.

(Ord. 97, passed 3-7-1996) Penalty, see ' 10.99

' 110.06 LICENSE FEES.

*All business license fees shall be determined by resolution of the City Council.
(Ord. 97, passed 3-7-1996)*

' 110.07 APPROVAL, DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(A) Approval of application.

(1) The City Council shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and the required fee upon a finding that the applicant has met all requirements of federal, state, and county law and this chapter.

(2) The City Manager shall issue a license renewal upon finding that the applicant has met all requirements of federal, state, and county law and this chapter.

(3) If an application for a new license is approved, the City Manager shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the City Council deems necessary to protect the public health, safety, or welfare which are required by federal, state, or county law, or this chapter.

(B) Denial, revocation, or suspension of license. The City Council may deny, suspend, or revoke a business license upon finding that:

(1) The license fails to meet the requirements of, or is doing business in violation of federal, state, or county law or requirements of this chapter;

(2) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license;

(3) The applicant's past or present violation of law or ordinance presents a reasonable doubt of his or her ability to perform the licensed activity without endangering property or the public health or safety;

(4) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or

(5) The licensed activity or device would endanger property or the public health or safety.

(C) Notice. The City Manager shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason of the action taken and shall inform the applicant of the right to appeal under ' 110.08 of this code. The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the City Manager may discontinue the revocation proceedings.

(D) Reapplication. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

(E) Disqualification. A person whose application for any business license has been denied, or whose license has been revoked for a total of 2 times within 1 year, or who has a total of 4 denials or revocations, shall be disqualified from applying for a license for a period of 2 years from the date of the revocation or denial.

(F) Summary suspension. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Manager may summarily suspend the license for the activity or device. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. The notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under ' 110.08 of this code. Within 10 days of a summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether those facts deem it necessary to continue the suspension in order to protect the health, safety, and welfare of the citizens of the city, or to otherwise ensure that the requirements of this chapter are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under ' 110.08 of this code.

(Ord. 97, passed 3-7-1996) Penalty, see ' 10.99

' 110.08 APPEAL.

In the event an applicant for a license under this chapter is denied the license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Manager within 15 days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regards to the appeal at its next regular meeting immediately following the filing of the notice of appeal. The decision of the City Council on the appeal shall be final and conclusive.

(Ord. 97, passed 3-7-1996)

' 110.09 DISCLAIMERS AND EXCEPTIONS.

(A) The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein in the event the business shall be unlawful, illegal, or prohibited by state or federal laws, or ordinances of the city.

(B) Nothing herein contained shall be taken or construed to vest any right in any license as a contract obligation on the part of the city. Business license fees, as set by Council resolution, may be increased or decreased, and additional fees may be levied, increased, or decreased, at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

(C) None of the fees, bonds, or insurance requirements provided for in this chapter or the rules adopted under this chapter shall be required if the applicant is a municipality.

(Ord. 97, passed 3-7-1996)

' 110.10 GENERAL LICENSE REQUIREMENTS.

In addition to any other requirement of this chapter, each licensee shall:

(A) Conform to all federal, state, and local laws and regulations, the provisions of this chapter, and any rules adopted hereunder;

(B) Notify the city within 10 days of any change in material information contained in the application, related materials, or license; and

(C) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the city.

(Ord. 97, passed 3-7-1996) Penalty, see ' 10.99

I acknowledge that I have received a copy of the Donald Municipal Code: 110 General Licensing Provisions for my records and that my business will comply with them.

Signature: _____ *Date:* _____

Print Name: _____

Business Name: _____

Business License No. _____ *Renewal Date:* _____