

CHAPTER 6-3 PEDDLERS AND VENDORS

6-3-1

DEFINITIONS

Farmer's Market: An outdoor market where at least 75% of products sold directly to consumers is local food and agriculturally related products grown or created by canning, baking, preserving, etc.

Peddler: as used in this chapter shall mean any person traveling from place to place, from house to house to from street to street for the purpose of selling or soliciting for sale good, wares, merchandise or services, other than agricultural products produced or processed in this state; and shall also include any person transacting a temporary business within the City at an established place of business.

Residential Route Sales Person: as used in this chapter shall mean any person who travels from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale goods, wares, merchandise or services, but who makes stop for sales or delivery routinely, as part of a usual or regular route, and/or by invitation of the resident(s) of the premises visited.

Sidewalk Vendor: as used in this chapter shall mean any person selling or soliciting for sale goods, wares, merchandise or services, from a stationary but temporary or seasonal location, on private or public property with the City of Brandon.

Legislative History:
Ordinance No. 360, 3/11/05.
Ordinance No. 565, 06/12/18.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-2

EXCEPTIONS TO THIS CHAPTER

Except for Section 6-3-6 herein, the provisions of this chapter shall not apply to solicitations, sales or distributions made (1) by charitable, educational/school sponsored, religious or nonprofit organizations or other nonprofit organization; or (2) in connection with any City or Brandon Chamber of Commerce sponsored event. Each such exempt person or organization shall register each sales project with City Hall Administrative Staff or the Police Department on forms provided by that office. There shall be no fee for such registration.

Legislative History:
Ordinance No. 360, 3/11/05.
Ordinance No. 530, 4/20/16.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-3

REFUSING TO LEAVE

Any peddler, route salesperson, or sidewalk vendor who enters upon premises owned or leased by another and refuses to leave said premises after having been notified by the owner or possessor of said premises, or his agent, to leave the same shall be deemed guilty of a violation of the ordinance.

Legislative History:

Authority:

Ordinance No. 360, 3/11/05.

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

Cross Reference:
SDCL 22-35-6

6-3-4

ENTRANCE TO PREMISES RESTRICTED

It shall be unlawful for any peddler, route salesperson, or sidewalk vendor to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed".

Legislative History:
Ordinance No. 191, §4.
Ordinance No. 360, 3/11/05.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-5

MISREPRESENTATION

It shall be unlawful for any peddler, route salesperson, or sidewalk vendor to make false or fraudulent statements concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

Legislative History:
Ordinance No. 191, §5.
Ordinance No. 360, 3/11/05.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-6

HOURS OF OPERATION

It shall be unlawful for any peddler, route salesperson, or sidewalk vendor to engage in the business of peddling, selling or vending between the hours of 9:00 p.m. and 9:00 a.m. the following morning. Peddling, selling or vending may be allowed on Sundays between the hours of 1:00 p.m and 6:00 p.m. when specified on an approved application. It shall be unlawful for any peddler, route salesperson, or sidewalk vendor to engage in the business of peddling on the following days:

New Year's Day,.....	January 1
President's Day,.....	Third Monday in February
Memorial Day,.....	Last Monday in May
Independence Day,.....	July 4
Labor Day,.....	First Monday in September
Native American Day,.....	Second Monday in October
Thanksgiving Day,.....	Fourth Thursday in November
Day after Thanksgiving Day,..	Fourth Friday in November
Christmas Eve,.....	December 24
Christmas Day,.....	December 25
New Years Eve,	December 31

The City Council may, upon application by the peddler, route salesperson, or sidewalk vendor, grant a permit to operate for longer hours. The Council shall consider the applicant's request for additional times of operation based upon the Council's determination of the health and welfare of the public including but not limited to such criteria as traffic safety, pedestrian safety, location(s) of operation, suitability of days and times requested considering the product to be sold, projected age of customers, etc. If it is determined that a permit may be granted for additional hours and/or Sundays the City shall issue one permit which specifies the hours and days during which the peddler, route salesperson, or sidewalk vendor is

permitted to operate.

Legislative History:
Ordinance No. 191 & 269, §6.
Ordinance No. 360, 3/11/05.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-7

PERMIT REQUIRED

It shall be unlawful for any person to engage in business as a peddler, route salesperson, or sidewalk vendor or to operate a Farmer's Market within this City without first obtaining a permit to do so.

Legislative History:
Ordinance No. 191, §17.
Ordinance No. 360, 03/11/05.
Ordinance No. 565, 06/12/18.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-8

APPLICATION FOR PEDDLER, ROUTE SALESPERSON OR SIDEWALK VENDOR PERMIT

The application for a peddler, route salesperson, or sidewalk vendor permit required by the provisions of this article shall:

- (A) Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or Code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction.
- (B) Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit, of money in advance of final delivery.
- (C) The period of time the applicant wishes to engage in business within the City.
- (D) The local and permanent addresses of the applicant and other persons who will be selling within the City limits of Brandon.
- (E) The local and permanent addresses and the name of the person, if any, that the applicant represents.
- (F))The kind of goods, wares, merchandise or services the applicant wishes to engage in such business within the City.
- (G) The last five (5) cities or towns wherein the applicant has worked before coming to this City.
- (H) The number of the applicants's South Dakota state sales tax license.
- (I) Such other relevant information as the chief of police may require for the investigation of the applicant.

Legislative History:
Ordinance No. 191, §18.
Ordinance No. 360, 03/11/05.
Ordinance No. 565, 06/12/18.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-8.1

FARMER'S MARKET PERMIT

Operation of a Farmer's Market must be permitted by the City. A permit to operate a Farmer's Market may only be issued to an individual owning property or operating a business in a Central or General Business or Light or Heavy Industrial or Institutional District. Operation of a Farmer's Market is limited to the hours of 9 a.m. to 9 p.m. requires all temporary structures to be removed on the same day as operation of the

market, and requires compliance with all City and County Ordinances, and State Laws. A permit is only valid for the calendar year in which the permit is issued. The operator of the Farmer's Market, not City, is responsible and liable for those vendors involved and is responsible to secure the contact information for the vendors and any sales tax obligations. The application for a Farmer's Market permit shall include:

- A. The name, and address of the applicant;
- B. The location at which the proposed Farmer's Market will be held;
- C. The proposed hours and days of operation of the proposed Farmer's Market; and
- D. Such other relevant information as the Brandon City Administrator, Brandon Building Official-Code Enforcement Officer, or Chief of Police may require.

Wine may be sold off-sale at a Farmer's Market if (1) the vendor selling it has an off-sale alcohol license issued by the City; and (2) if the Farmer's Market is within one hundred (100) yards of a school or church the vendor has provided to the City written consent from the entity for the operation and the City Council through motion has authorized such sales. Other than up to a fifty milliliter (50 ml) sample of the wine, wine may not otherwise be consumed at the Farmer's Market.

Legislative History:
Ordinance No. 565, 06/12/18.
Ordinance No. 655, 6/1/22.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-9

FALSE INFORMATION

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this article.

Legislative History:
Ordinance No. 191, §19.
Ordinance No. 360, 3/11/05.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-10

FINGERPRINTS, PHOTOGRAPHS

At the request of the City Finance Officer, the applicant for a permit required by this chapter shall submit to fingerprinting and photographing by the Brandon Police Department or City Administrative Staff.

Legislative History:
Ordinance No. 191, §20.
Ordinance No. 360, 3/11/05.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-11

FEE FOR PERMIT

The application fee for a permit required by the provisions of this article shall be established by resolution of the City Council and may be amended by the Council from time-to-time. All such fees are due by cash, cashier's check, or money order tendered at the time of application. The fee is not refundable, even if no permit is granted.

Legislative History:
Ordinance No. 191, §21.
Ordinance No. 360, 03/11/05.
Ordinance No. 565, 06/12/18.

Authority:
SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-12

PROCESSING APPLICATION

The Brandon City Administrative Staff and Police Department shall complete a review of each application for a permit applied for under this article within 48 (forty-eight) hours of completion of the application and payment of the application fee. Weekends and holidays do not count as part of that 48-hour period.

Legislative History:

Ordinance No. 360, 03/11/05.
Ordinance No. 565, 06/12/18.

Authority:

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-13

ISSUANCE RESTRICTED

No peddler, route salesperson, or sidewalk vendor's permit shall be issued to a corporation, partnership or other impersonal legal entity. Each individual person engaging in the business of peddling within the City shall be required to have a permit whether acting for himself or as an agent or representative of another.

Legislative History:

Ordinance No. 191, §22.
Ordinance No. 360, 3/11/05.

Authority:

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-14

DISPLAY

Every peddler, route salesperson, or sidewalk vendor having a permit issued under the provisions of this article and doing business within the City shall openly display his permit. Failure to do so shall be deemed a violation of this ordinance.

Legislative History:

Ordinance No. 191, §23.
Ordinance No. 360, 3/11/05.

Authority:

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-15

REVOCAION OF PERMIT

A permit issued under the provisions of this article may be revoked for the violation by the permittee of any provision of this Code, state law or City ordinance. Upon such revocation, such permit shall immediately be surrendered to a law enforcement, and failure to do so shall be a violation of this ordinance.

Legislative History:

Ordinance No. 191, §24.
Ordinance No. 360, 3/11/05.

Authority:

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-16

PERMIT EXPIRATION DATE

Any permits issued under the provisions of this ordinance will expire at 9:00 o'clock p.m. on the date of expiration which is written on the permit.

Legislative History:

Ordinance No. 191, §25.
Ordinance No. 360, 3/11/05.

Authority:

SDCL 9-30-4
SDCL Ch. 9-34-1, 7, 8, 18

6-3-17

PENALTY FOR VIOLATION

Violation of this ordinance is punishable by a fine or by imprisonment as established in 1-10-1 of the Brandon Municipal Code.

Legislative History:

Ordinance No. 191 & 269, §26.

Ordinance No. 360, 3/11/05.

Authority:

SDCL 9-30-4

SDCL Ch. 9-34-1, 7, 8, 18