

Chapter 51  
**Businesses**

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History: This chapter was Ordinance 14-0616-01 (adopted July 21, 2014).

Article II was Adopted on July 16, 2018 by Ordinance 18-0618-03

## **Article I Business License Fee**

### **Section 51-1 License Required**

No person shall operate, maintain or otherwise engage in any business, occupation or activity designated hereafter in this article without first obtaining a license from the City of Delaware City, including, but not limited to, mobile or transient businesses.

### **Section 51-2 Definitions**

As used in this Article, the following terms shall have the meaning indicated:

Establishment: Building or part thereof, from which any merchandise or commodities are dispensed or facilities or services are provided to members of the general public.

Mobile Business: Any motor or horse drawn vehicle, or stand that is not permanent in nature, from which any merchandise or commodities are dispensed or services are provided to members of the general public.

Person: Includes firms, companies, corporations, partnerships and associations, as well as individuals.

### **Section 51-3 License Year**

The license year shall begin January 1 and end December 31 of each calendar year.

### **Section 51-4 License Required Before Start of Business**

Annual licenses must be obtained prior to opening, starting or continuing any business, occupation or activity as described in this chapter for any license year.

### **Section 51-5 License Fee**

The cost of the annual license fee for Establishments shall be \$50.00. The cost of the annual license fee for Mobile Businesses shall be \$150.00.

### **Section 51-6 Application for License**

Applications for licenses shall be addressed to The City of Delaware City, in writing, verified by oath or affirmation and signed by the applicant. Each applicant shall give the following information:

- a.) The home or business address of the applicant;

- b.) If the applicant is a partnership, the names and addresses of the individuals composing the partnership;
- c.) If the applicant is not an individual, the names and addresses of the principal officers of the corporation or entity;
- d.) A full description of the nature of the business or enterprise for which the license is required;
- e.) A statement that the applicant has complied with all laws and ordinances of the City of Delaware City;
- f.) A copy of a current State of Delaware business license; and
- g.) Any Establishment or Mobile Business engaged in preparing or selling food and/or beverages, shall submit a copy of its Board of Health certificate.

#### **Section 51-7 When Taxes or Assessments are Due**

No license shall be issued under this chapter to premises upon which any taxes or assessments are outstanding and past due to The City of Delaware City.

#### **Section 51-8 Licensed Business to be Lawful**

It shall be a condition to the issuance of any and all licenses under this chapter that the business, occupation or activity licensed shall be used and operated only for lawful purposes. The right of The City of Delaware City, Delaware, in its discretion, to refuse to grant any license and to revoke any license previously granted is hereby specifically reserved.

#### **Section 51-9 Prohibited Practices**

a.) A Mobile Business is prohibited from selling its products, merchandise, food and/or beverages, or wares within the C-1 District (Central Commercial) and C-2 District (General Commercial) of The City of Delaware City.

#### **Section 51-10 Issuance of License**

- a.) Upon the receipt of an application completed in good order, the City Manager shall examine such application and shall ascertain by such examination whether the activities indicated and described are in accordance with the requirements of this chapter and all other pertinent laws and ordinances.
- b.) If the City Manager is satisfied, the activities described in the application for a license and the information filed therewith conform to the requirements of this

chapter and other pertinent laws and ordinances, the City Manager shall issue a license to applicant.

c.) If the application for a license describes an activity or contains information which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the City Manager shall not issue a license, but shall return the application to the applicant with his refusal to issue such license. Such refusal shall, when requested, be in writing and shall contain the reasons therefore.

### **Section 51-11 Suspension or Revocation of License**

Any license issued pursuant to this chapter shall be subject to suspension or revocation by the City Manager for violation or any provision of this chapter or for any grounds that would warrant the denial or issuance of such license in the first place. The City Manager, upon revocation or suspension, shall state his reasons in writing and specify the particular grounds for such revocation or suspension.

### **Section 51-12 Posting of Licenses**

All licenses issued under this chapter shall be posted in a public place in the Establishment or Mobile Business for which it is issued, or, as the case may be, shall be carried on the person of the licensee. Establishments and Mobile Businesses engaged in preparing or selling food and/or beverages shall also post a copy of its Board of Health certificate.

### **Section 51-13 Form of License**

The City of Delaware City shall prescribe the form of the license certificate to be issued to applicants.

### **Section 51-14 Violations and Penalties**

Whoever shall violate any provisions of this article shall be subject to a fine of not more than \$100.00. Each day that a business, occupation or activity is carried on, prosecuted, conducted or engaged in without a proper license having been obtained pursuant to this article or any other applicable law shall be deemed to be a separate offense.

### **Sections 51-15 to 51-20 Reserved**

## **Article II Contractor Licenses**

### **Section 51-21 Purpose**

The City Council has deemed it necessary to establish a contractor license in order to ensure the safety and welfare of residents and their property while engaging a contractor for construction work.

### **Section 51-22 Definitions**

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

#### **CONTRACTOR**

Any person, firm, entity, corporation, or jobber engaged in building, altering, repairing, remodeling, and/or constructing buildings or engaged in any other type of construction, including but not limited to paving, curbing, and side walk installation or repair, plumbing, electrical, landscaping, or other types of maintenance or construction.

#### **PERSON**

Any individual, firm, corporation, entity, company, partnership, or joint venture.

### **Section 51-23 License Required**

No person shall perform construction work or otherwise be engaged in any work as a contractor, including subcontractors, within the boundaries of the City of Delaware City without first obtaining a contractor license issued by the City.

### **Section 51-24 Exemptions**

A person performing construction or maintenance work on his/her own property is exempt from the requirements of this chapter.

### **Section 51-25 License Application**

A. Applications for contractor licenses shall be upon forms provided by the City which shall include the following information:

- (1) The name and address of the applicant;
- (2) The trade, business, or occupation for which the license is required;
- (3) A statement that the applicant is knowledgeable of and has complied with and will continue to comply with all ordinances of the City, including but not limited to the

current City of Delaware City building, zoning, subdivision and property maintenance codes; and

(4) Any such other information as deemed necessary by the City Manager and/or his/her designee.

B. The application shall be verified by the oath or affirmation of the individual licensee or of one member of a partnership, firm, or association or the president, secretary, or a director of a corporation applying for a contractor license.

C. Proof of liability insurance as described in §51-32 shall accompany the application

D. A copy of any business licenses issued by the State of Delaware and/or any other approvals issued by the Division of Revenue or another governmental or quasi-governmental agency (i.e., ABCC, Administrative Services, Banking Commissioner, Insurance Commissioner, PSC, DNREC, EPA, IRS, etc.) shall accompany the application. Possession of any such license or approval shall not exempt a person from obtaining a City of Delaware City business license.

#### **Section 51-26 Issuance of License; Expiration; Records; Form**

A. Each contractor license shall be valid and effective from the first day of July each year, or the date of issuance, to June 30 at 11:59 p.m. of the fiscal year in which it was issued.

B. A record of all licenses issued and license fees paid shall be maintained at City Hall.

C. Each such license shall be upon a form provided by the City Manager and/or his/her designee that shall set forth the following information:

(1) The name and business address of the licensee;

(2) The date of expiration of the license;

(3) The amount of the license fee paid to the City; and

(4) Any such other information as deemed necessary by the City Manager and/or his/her designee.

#### **Section 51-27 Denial of License**

A. The City Manager and/or his/her designee shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance by the applicant pursuant to the application.

B. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not engage in the business for which the license was refused unless a license is issued to him/her pursuant to a judgement ordering it.

**Section 51-28 License Fees; Refunds; Exemptions**

- A. A fee in the amount of one hundred twenty dollars (\$125) must be paid to the City of Delaware City before a license will be issued to any applicant.
- B. Contractor license fees are prorated on a half-year basis.
- (1) Applicants for a contractor license between July, and December 31 shall pay the full annual license fee.
- (2) Applicants for a contractor license between January, and June 30 shall pay half of the annual license fee.
- C. No prorating, rebate, or refund of any license fee or part thereof shall be made by reason of nonuse of the license. The City Manager and/or his/her designee shall have the authority to refund a license fee only if the license fee was collected through an error.
- D. All 501(c)(3) nonprofit companies and government entities are exempt from license fees, provided, however, that contractors performing work for or on behalf of 501(c)(3) nonprofit companies and government entities are required to obtain a license.

**Section 51-29 Display of License**

A contractor license issued under the provisions of this chapter shall be displayed in a public place in the establishment or place of business for which it is issued or, if applicable, carried by the licensee.

**Section 51-30 Transfer of License**

Each contractor license granted under this chapter shall be for the sole use and benefit of the person or entity to whom it is issued and shall not be transferable. In case of the death of any individual, his/her personal representative shall succeed to all rights thereunder until the expiration of the license.

**Section 51-31 Duplicate License**

A duplicate license shall be issued by the City Manager and/or his/her designee to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public attesting to that fact.

**Section 51-32 Liability Insurance**

- A. All contractors, including the contractor(s) in charge and the subcontractor(s), shall maintain insurance coverage for bodily injury and property damage liability as follows:



- (1) Bodily injury liability with a minimum limit of \$250,000 for all damages arising out of personal injury to or death of one person in any one occurrence, and, subject to that limit for each person, an aggregate limit of \$500,000 for all damages arising out of personal injury to or death of two or more persons in any one occurrence; and
  - (2) Property damage liability with a minimum limit of \$250,000 for all damages arising out of injury to, destruction of, or loss of use or property in any one occurrence.
- B. The City of Delaware City shall be listed as the certificate holder on the proof of liability insurance.

**Section 51-33 Code Compliance**

A contractor operating in the City shall at all times be in compliance with all City codes and ordinances. Each licensee shall refrain from operating after expiration of his/her license and during the period his/her license is revoked.

**Section 51-34 Inspection by City Officials**

The City Manager and/or his/her designee shall have the authority to make or have made all inspections and investigations reasonably necessary to enforce this chapter and to perform inspections in order to ensure that the construction, maintenance, or other work is in compliance with all applicable building, safety, zoning, and other City codes. All persons authorized by this chapter to perform inspections shall have the authority to enter the premises to inspect at all reasonable times.

**Section 51-35 Enforcement; Revocation or License**

- A. The City Manager and/or his/her designee shall make or have made all investigations reasonably necessary to the enforcement of this chapter.
- B. The City Manager may order a contractor to cease operations in the City and suspend his/her contractor license (if a contractor license has been obtained) for any of the following reasons:
- (1) The contractor is found to be operating in violation of the terms of this chapter.
  - (2) The contractor is in violation of any provisions of the Code of the City of Delaware City or the laws of Delaware.

(3) The Fire Marshal or any public safety authority having jurisdiction has requested that the contractor cease until certain conditions have been remedied.

C. The City shall provide the contractor with written notice of the violation(s), which notice shall state that the contractor shall be ordered to cease operations and its contractor license (if applicable) shall be revoked without further notice if within ten (10) business days of the date of the notice the contractor fails to remedy the violations or file an appeal with the City's Board of Adjustment. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the contractor. If the contractor does not remedy the violations or appeal the determination of the City Manager within the prescribed time period, the contractor shall not be permitted to operate in the City until such violations have been remedied.

Notwithstanding the foregoing, notice shall not be required to order a contractor to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

#### **Section 51-36 Appeals**

A. Any person aggrieved by any decision of the City Manager and/or his/her designee pursuant to this Article II of Chapter 51 shall have the right to appeal to the Board of Adjustment by filing a written appeal with the Board of Adjustment within ten (10) business days following the date of the notice of violation or decision complained of. The appeal shall set out a copy of the notice of violation or decision appealed from and shall include a statement of facts relied upon to avoid the order.

B. The Board of Adjustment shall fix a time and place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing him/her of the hearing. The hearing may be held as part of a regularly scheduled Board of Adjustment meeting. The findings of the Board of Adjustment shall be final and conclusive and shall be mailed to the person who requested the appeal.

C. The fee to appeal to the Board of Adjustment shall be five hundred dollars (\$500).

#### **Section 51-37 Violations and Penalties**

A. Any contractor operating within the City without a valid contractor license will be subject to penalties for failure to obtain a license in the amount of one hundred twenty five dollars (\$125) per day.

B. A stop-work order issued by the City Manager and/or his/her designee will stay in effect until the contractor complies with all conditions associated with the issuance of a valid contractor license, including annual contractor license and penalty fees.

C. Continued violation of any provision of this chapter or the Delaware City Code is subject to fines in the amount of one hundred twenty five dollars (\$125) per day for the first offense, and two hundred fifty dollars (\$250) per day for subsequent offenses. To the extent the fines set forth in this chapter conflict with other penalty provisions in the Delaware City Code, the fine provisions set forth in this chapter shall control.

D. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

E. The amount of any unpaid penalty, including the unpaid business license fee, shall constitute a debt owed to the City, and the City may institute a civil suit or use any other lawful methods authorized by the City Charter or the laws of the State of Delaware to recover any unpaid fee.

F. Notwithstanding the other provisions of this Chapter, the City may, at any time, seek equitable relief, including an injunction, to compel compliance with this Chapter and for violations of the Delaware City Code. If the City obtains an injunction or other equitable relief, the violator shall be required to pay the City's attorneys' fees and costs incurred in the litigation.

G. All persons requiring a license under this chapter are subject to the good standing requirements of the Delaware City Code, specifically §46-149, the provisions of which are incorporated herein by reference.<sup>1</sup>

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<sup>1</sup> Ordinance 18-0616-03 Created Chapter 51 Article II and was adopted on July 16, 2018