

TITLE 2

BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1
BEER AND LIQUOR

SECTION:

- 2-1-1: Fermented Malt Beverage License; Fee
2-1-2: Malt, Vinous And Spirituous Liquor Licenses; Fees

2-1-1: **FERMENTED MALT BEVERAGE LICENSE; FEE:** The town shall collect an annual license fee for the issuance of fermented malt beverage licenses in the amount set forth in the statute, now in the amount of twenty five dollars (\$25.00). (Ord. 146, 8-14-2000; amd. 2004 Code)

2-1-2: **MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSES; FEES:** The town, upon application and approval as provided by law, may issue malt, vinous, and spirituous liquor licenses upon payment of the license fee provided by statute as well as any application and necessary expenses. (2004 Code)

CHAPTER 2
POOL HALLS

SECTION:

- 2-2-1: Hours Of Operation
2-2-2: Minors Prohibited
2-2-3: Penalty

2-2-1: **HOURS OF OPERATION:** No pool or billiard hall which sells liquor shall be operated or kept open on Sunday or from twelve o'clock (12:00) midnight until six o'clock (6:00) A.M. the other days of the week. (Ord. 75, 1-10-1955; amd. Ord. 146, 8-14-2000; 2004 Code)

2-2-2: **MINORS PROHIBITED:** No person under eighteen (18) years of age shall be permitted or allowed to frequent or be in or about any pool or billiard hall licensed under the terms of this code, nor shall any such person be allowed to play any games in said places; except, that persons between the ages of fourteen (14) and seventeen (17) years of age, inclusive, may be in such pool or billiard halls and may play games therein if they have on file with the licensee a valid permit containing the consent of one of the parents or guardians having the care and custody of such persons signed by such parent or guardian in the presence of the licensee on a form designated by the mayor. A permit may be revoked at any time at the request of either of the parents or guardians, whereupon, it shall be returned to the person revoking the same. All such licensees shall place in a conspicuous position on the premises licensed a sign bearing the following words:

*No persons under 18 years of age allowed here without
parent's consent. Absolutely no persons under 14 years of
age allowed here.*

(Ord. 82, 7-13-1959; amd. Ord. 146, 8-14-2000)

2-2-3: **PENALTY:** Any person violating any of the provisions of this chapter or any person failing to secure a license as herein provided, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code; and upon conviction, such license will be revoked unless the licensee shall appear before the town board and show cause why the license should not be revoked. (Ord. 75, 1-10-1955; amd. 1992 Code; Ord. 146, 8-14-2000)

CHAPTER 3

PEDDLERS, SOLICITORS, AND TRANSIENT SALES PERMITS

SECTION:

- 2-3- 1: Permit Required
- 2-3- 2: Definitions
- 2-3- 3: Exemptions From Chapter
- 2-3- 4: Transient Sales Permit - Application; Fees; Permit Approval/Denial
- 2-3- 5: Verification Of Information; Background Check Of Applicant
- 2-3- 6: Conduct Of Business; Prohibited Acts; Same Declared As Nuisance
- 2-3- 7: Exhibition Of Permit
- 2-3- 8: Record Of Transient Sales Permits
- 2-3- 9: Enforcement
- 2-3-10: Violations - Penalty

2-3-1: PERMIT REQUIRED:

- A. It is unlawful for any person to solicit, peddle, or otherwise engage in transient sales of goods, wares, merchandise, products, personal property or services as defined in section 2-3-2 of this chapter within the Town limits without first procuring a permit as provided in this chapter.
- B. It is unlawful to sell goods, wares, merchandise, chattels, or personal property of any kind whatsoever at public auction or by hawking or peddling the same within the Town limits unless such person shall be first procured a permit therefor, as hereinafter provided.
- C. It is unlawful to operate for gain or hire within the Town limits any striking machine, ring game, ball and puppet game, cane rack, knife board, or other similar game or device typically associated with carnival or fair type activities unless such person shall have first procured a permit therefor, as hereinafter provided. Approval for such permits rests within the discretion of the Board.

- D. It is unlawful to hold or exhibit any boxing bout or any similar performance within the Town limits unless such person (or sponsor) shall have first procured a permit therefor, as hereinafter provided. (Ord. 192, 6-8-2015)

2-3-2: **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:

PEDDLER: Means any person who travels from place to place by any type of conveyance, carrying his or her goods, wares, and merchandise with him or her, offering and exhibiting such goods, wares, and merchandise for sale; or any person who, without traveling from place to place, sells or offers the same for sale from any type of vehicle or conveyance. A peddler generally offers for sale, consummates the sale, and delivers the goods at one and the same time to the ultimate purchaser or consumer. Any person who solicits, orders, and as a separate transaction, makes deliveries to the purchaser as part of a scheme or design to evade the provisions of this definition shall be deemed to be peddling and shall be subject to the provisions of this chapter.

SOLICITOR: Means any person who travels from place to place within the Town boundaries by any type of conveyance taking or attempting to take orders for the sale of goods, wares, and merchandise, personal property, or services of any kind whatsoever for future delivery, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale, or whether or not he or she is collecting advance payment on such sales.

TRANSIENT SELLER: Means any person, either as principal or agent, who engages in a business of selling and delivering goods, wares, and merchandise or services from a temporary fixed location within the Town of Flagler, and who, in the furtherance

of such purpose hires, leases, uses, or occupies any building, structure, room, apartment, lot, parking lot, street, sidewalk, or other place, whether public or private, within the Town, for the exhibition and sale of such goods, wares, and merchandise, either privately or at an auction. Any person who engages in transient selling shall not be relieved from complying with the provisions of this chapter by reason of associating himself or herself with any established local dealer, trader, merchant, or auctioneer, or by conducting transient selling in connection with as part of, or in the name of, any established local dealer, trader, merchant, or auctioneer, or by conducting transient selling in connection with, as part of, or in the name of any established local dealer, trader, merchant, or auctioneer. If the conduct of any person falls within the definitions of both peddler and transient selling as contained in this section, he or she shall be deemed to be transient selling for the purposes of this chapter. (Ord. 192, 6-8-2015)

2-3-3: EXEMPTIONS FROM CHAPTER:

- A. Religious, educational, and charitable nonprofit organizations shall be exempt from the provisions of this chapter.
- B. Town resident yard and garage sales of less than two (2) days in duration and less than seven (7) days in any particular year shall be exempt from the provisions of this chapter.
- C. Vendors, merchants, exhibitors, and salespersons who exhibit, demonstrate or solicit orders for goods, wares, or merchandise in conjunction with a Town sponsored event, or as part of an organized program of conventions, professional meetings, trade association meetings, seminars, or other similar meetings held at hotels, motels, or public or private meeting areas within the Town shall be exempt from the provisions of this chapter.
- D. Any art or crafts fair, show, exhibition of arts, crafts, or similar handiwork, or Town wide celebrations, observances, or special events such as an annual sidewalk or parking lot sale, which

includes more than five (5) exhibitions or merchants, shall be exempt from this chapter; provided that the event sponsor advise the Town Clerk of the name and address of the event sponsor, purpose and duration of the event, number of exhibitions or merchants taking part in the event, and the location of the event.

- E. Any person who exhibits a privately owned vehicle for sale on private property or who temporarily parks a privately owned vehicle on which a "for sale" sign is displayed shall be exempt from the provisions of this chapter.
- F. Wholesale and distributor representatives servicing existing businesses in the Town or such representatives soliciting new business with existing businesses in the Town shall be exempt from the provisions of this chapter.
- G. Vending machines, coin-operated amusement machines, signs and billboards shall be exempt from the provisions of this chapter.
- H. Private sales made by telephone or mail appointment where the solicitor is invited to a private residence shall be exempt from the provisions of this chapter. (Ord. 192, 6-8-2015)

2-3-4: TRANSIENT SALES PERMIT - APPLICATION; FEES; PERMIT APPROVAL/DENIAL:

- A. Any person transacting any business or selling activity defined in this chapter shall first obtain from the Town Clerk a permit before engaging in any such selling or soliciting activities. This permit shall be referred to as a "transient sales permit". Applicants must be at least eighteen (18) years of age. Each sales representative of the permitted business must have a copy of the permit on his person.
- B. Persons requesting a transient sales permit shall provide the following information to the Town Clerk on an application furnished by the Town Clerk.
 1. Applicant's name, date of birth, driver's license or State identification number, or other form of photo identification, home and business address and telephone numbers.
 2. Description and license numbers of vehicles used for the transient sales activity.

3. Name, date of birth, social security number, driver's license number and home address of each sales representative operating under this permit.
 4. Name of business firm represented and parent company, if any, State tax resale number, Federal tax identification number, and a brief description of the nature of the business and goods being sold.
 5. Location(s) and/or method the applicant intends to use to conduct business (such as selling out of home or building, selling out of car/truck, concession stand or booth, or door-to-door sales, etc.).
 6. Length of time the applicant intends to be doing business under this permit.
- C. Permit fees shall be paid at the time of application and prior to issuance of the permit. Permits are non-transferable. The Town Clerk or designee may impose conditions on the approval of permits including, but not limited to, cleanup, sanitation, or security measures. The fees to be paid for the issuance of permits shall be established by resolution of the Board during the first regular meeting of each year and kept or posted in the Office of the Town Clerk. The cost of the permits shall vary in amount as to the applicant's need to have a permit issued for a day, for a season, or for a year.
- D. The transient sales permit shall contain the permit number, the name of the applicant and his or her representatives, business name, description of the type of goods to be sold or business activity, location where sales will take place and/or method of sales, any special conditions, date of issuance and expiration, and the Town Clerk's signature.
- E. The Town Clerk may deny an application for, or suspend or revoke a transient sales permit based on the criminal record, misrepresentation, fraud, deceit, or impropriety of the applicant or his or her representatives or other grounds that such transient business would not be in the best interest of the Town or its citizens. The Town Clerk shall give the applicant or permit holder prompt written notice and an opportunity for an appeal hearing before the Board. If the applicant or permit holder requests an appeal hearing, the Town Clerk shall provide written notice of the time and place of the hearing. Such notice shall be mailed postage prepaid by regular United States mail at least five (5) days prior to the date set for hearing. (Ord. 192, 6-8-2015)

2-3-5: VERIFICATION OF INFORMATION; BACKGROUND CHECK OF APPLICANT: Upon receipt of an application, the Town Clerk shall verify information on the application and provide a copy of the application to the Town Police Department. The Police Department may conduct a criminal background check and provide the results to the Town Clerk. The Town Clerk shall also coordinate the application with the Town Maintenance Chief to ensure the proposed transient business will not interfere with public works operations during the specified time period. (Ord. 192, 6-8-2015)

2-3-6: CONDUCT OF BUSINESS; PROHIBITED ACTS; SAME DECLARED AS NUISANCE:

- A. No solicitor, peddler, or transient seller shall:
1. Sell from any location within the Town limits without a valid transient sales permit.
 2. Carry on his or her business upon any street, alley, sidewalk, park, or any other public place unless specified on the permit that such business activity in such public place be permitted thereunder.
 3. Park or stand his or her sales stand, wagon, automobile, or other vehicle upon any sidewalk or sidewalk area, street, alley, highway, or public thoroughfare so as to obstruct free travel thereon.
 4. Enter into a sale with any individual under the age of eighteen (18) unless provided for in the permit.
 5. Enter into any sale with any individual who appears to be intoxicated or under the influence of drugs.
 6. Knowingly provide any inaccurate, false, or misleading information with respect to required records of any transactions conducted by the permit holder.
 7. Enter into any private residence or premises in conjunction with transient sale business without having first been invited or requested by the owner or occupant of such residence or premises.
- B. Any of the above described prohibited activity committed by solicitors, peddlers, or transient sellers shall be declared as a violation of

this section and shall be deemed to be a public nuisance. (Ord. 192, 6-8-2015)

2-3-7: **EXHIBITION OF PERMIT:** Transient sales permit holders are required to exhibit their license at the request of any Town officer or citizen, and each authorized sales representative must have a copy of the permit on his or her person. In addition, any transient sales permit holder(s) are required to exhibit their driver's license or other State issued identification upon the request of any Town officer or employee. (Ord. 192, 6-8-2015)

2-3-8: **RECORD OF TRANSIENT SALES PERMITS:** The Town Clerk shall maintain a record of all permits issued pursuant to the provisions of this chapter and all permit fees shall be paid into the General Fund of the Town of Flagler. (Ord. 192, 6-8-2015)

2-3-9: **ENFORCEMENT:** It shall be the duty of the Town Police Department to enforce the provisions of this chapter as to any solicitor, peddler, or transient seller found to be engaged in business without a valid transient sales permit or in violation of any other provision of this chapter. (Ord. 192, 6-8-2015)

2-3-10: **VIOLATIONS - PENALTY:** Upon the conviction of any person or persons charged with a violation of this chapter or any provisions thereof, such person or persons shall be guilty of a petty offense and shall be subject to a fine as imposed by section 1-4-1 of this Code. (Ord. 192, 6-8-2015)

CHAPTER 4

MUNICIPAL SALES TAX

SECTION:

- 2-4- 1: Purpose
- 2-4- 2: Definitions
- 2-4- 3: Sales Tax Levied
- 2-4- 4: Collection And Schedules Of Sales Tax
- 2-4- 5: Exemptions
- 2-4- 6: General Provisions For Sales Tax
- 2-4- 7: Vendor's Fee
- 2-4- 8: Amendments
- 2-4- 9: Effective Date Of Sales Tax
- 2-4-10: Penalty

2-4-1: **PURPOSE:** The purpose of this chapter is to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services within the town. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-2: **DEFINITIONS:** For the purpose of this chapter, the meanings of words herein contained shall be as defined in Colorado Revised Statutes, section 39-26-102, as amended, and said definitions are incorporated herein. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-3: **SALES TAX LEVIED:** There is hereby levied and there shall be collected and paid a tax equal to two percent (2%) of gross receipts from all sales of tangible personal property at retail and the furnishing of services within the town. The sales of tangible personal property and the furnishing of services taxable under this chapter shall be the same as those taxable pursuant to Colorado Revised Statutes, section 39-26-104, as amended. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-4: COLLECTION AND SCHEDULES OF SALES TAX:

- A. Collection: The collection, administration and enforcement of this sales tax shall be performed by the executive director of the department of revenue of the state of Colorado (hereinafter the "executive director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of Colorado Revised Statutes, title 39, article 26, as amended, and all rules and regulations promulgated thereunder by the executive director shall govern the collection, administration and enforcement of this sales tax.
- B. Schedules: The sales tax on individual sales levied by this chapter shall be collected in accordance with schedules set forth in the rules and regulations promulgated by the executive director under Colorado Revised Statutes, title 29, article 2, or title 39, article 26, as amended. If any vendor, during any reporting period, shall collect as a sales tax under this chapter an amount in excess of two percent (2%) of his total taxable sales for that period, he shall remit to the executive director the full amount of this sales tax and also such excess. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-5: EXEMPTIONS:

- A. The sales of tangible personal property and the furnishing of services taxable under this chapter shall be subject to the exemptions from taxation specified in Colorado Revised Statutes, section 39-26-114, as amended, including the exemption specified by subsection 114(1)(a)(XXI) for residential light, heat and power, and including the exemption specified by subsection 114(11) for certain machinery purchases. It is the intent hereof that the exemption specified by subsection 114(1)(a)(XX) for sales of food for home consumption not be an exemption under this chapter.
- B. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from this sales tax when such sales meet both of the following conditions:
 - 1. The purchaser is a nonresident of or has his principal place of business outside the corporate limits of the town; and
 - 2. Such personal property is registered or required to be registered outside the corporate limits of the town under the laws of the state.

- C. The value of construction and building materials on which a use tax has previously been collected by an incorporated town shall be exempt from this sales tax if the materials are delivered by the retailer or his agent to a site within the corporate limits of the town. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-6: GENERAL PROVISIONS FOR SALES TAX:

- A. All retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the corporate limits of the town or to a common carrier for delivery to a destination outside the corporate limits of the town.
- B. Gross receipts from sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Colorado Revised Statutes, title 39, article 26, as amended, regardless of the place to which delivery is made. Gross receipts shall not include the state sales and use tax imposed by Colorado Revised Statutes, title 39, article 26, as amended.
- C. In the event a retailer has no permanent place of business in the town or more than one place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Colorado Revised Statutes, title 39, article 26, as amended, and by the rules and regulations promulgated thereunder by the executive directors. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-7: VENDOR'S FEE: The vendor shall be entitled, as collection agent for the town, to withhold a collection fee in the amount of three and one-third percent ($3\frac{1}{3}\%$) from the total amount of the sales tax remitted by the vendor to the executive director. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the executive director, this vendor shall not be allowed to retain any amounts to cover his expense in collecting and remitting said tax, and an amount equivalent to the full three and one-third percent ($3\frac{1}{3}\%$) shall be remitted to the executive director by any such delinquent vendor. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-8

2-4-10

2-4-8: **AMENDMENTS:** The town board of trustees may amend, alter or change this chapter, except as to the two percent (2%) rate of sales and use taxes herein imposed, subsequent to its adoption. Such amendment, alteration or change need not be submitted to the registered electors of the town for their approval. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-9: **EFFECTIVE DATE OF SALES TAX:** Upon adoption of this chapter and subsequent approval of the sales tax by the registered electors of the town, the sales tax shall apply to all retail sales, unless exempt, made on or after January 1, 1990. (Ord. 127, 8-14-1989; amd. Ord. 146, 8-14-2000)

2-4-10: **PENALTY:** Any person convicted of violating any of the provisions of this chapter shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 127, 8-14-1989; amd. 1992 Code; Ord. 146, 8-14-2000)

Town of Flagler

RESOLUTION 140

A RESOLUTION ADOPTING COLORADO STATE HB22-1055 SALES AND
USE TAX EXEMPTION FOR ESSENTIAL HYGIENE PRODUCTS

WHEREAS, HB22-1055 has created a sales tax exemption for hygiene products.

WHEREAS, the bill provides that municipalities choose to adopt either or both exemptions by express inclusion in the sales and use tax ordinance or resolution.

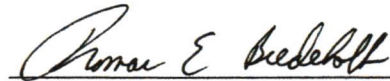
WHEREAS, the Town of Flagler includes all definitions as described by HB22-1055 (a.5) and (b.5) for incontinence and period products.

WHEREAS, this exemption is effective January 1, 2023 and continues indefinitely.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES ON OCTOBER 10, 2022 OF THE TOWN OF FLAGLER, COLORADO THROUGH UNANIMOUS VOTE:

Approve the Town of Flagler to apply this sales tax exemption for all hygiene products as described by HB22-1055. This exemption is effective January 1, 2023 and will continue indefinitely.

ADOPTED AND APPROVED this 14th day of November, 2022.



Thomas Bredehoft, Mayor

ATTEST:



Emily Strunk, Town Clerk

