

# 5.12 - Temporary Vendors

## Chapter 5.12 - TEMPORARY VENDORS

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### **5.12.010 Definitions.** Temporary vendors as used in this title shall include any or all of the following:

- A. "Peddler" means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.
- B. "Solicitor" means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order, or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking order for future delivery.
- C. "Transient Merchant" includes any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise, within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the city for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition does not include any person, firm or corporation who, while occupying such temporary location does not sell from stock but exhibits samples for the purpose of securing order for future delivery within the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (Ord. 753-90, 1990: Prior code §5.08.040)

**5.12.020 License required.** It is unlawful for any temporary vendor to engage in any such business within the city without first obtaining a license therefor in compliance with the provisions of this chapter. (Ord. 753-90, 1990: Prior code §5.08.040)

**5.12.030 Exemptions.** The terms of this chapter do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor the acts of merchants or their employees in delivering goods in the regular course of business, nor to persons acting in a political capacity, nor any persons conducting a bona fide auction pursuant to law, nor persons having a current business license in the City of Evans. (Ord. 753-90, 1990)

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**5.12.040 License application.** Applicants for a license under this chapter shall file with the city clerk a sworn application in writing on a form to be furnished by the city clerk, which shall give the following information:

- A. Name and physical description of applicant;
- B. Complete permanent home and local address of the applicant, and, in the case of transient merchants, the local address from which proposed sales will be made;
- C. A brief description of the nature of the business and the goods to be sold;
- D. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- E. The length of time for which the right to do business is desired, the location and proposed hours of operation. If the proposed location is on private property, the applicant must have obtained written consent of the property owner and evidence of such consent must be presented with the application;
- F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- G. A recent photograph of the applicant which picture shall be approximately two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner;
- H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor;
- I. The last cities or towns, not to exceed three, where applicant carried on business immediately preceding the date of application, and the addresses from which such business was conducted in those municipalities;
- J. A complete set of fingerprints, which shall be taken by the police department. (Ord. 753-90, 1990: Prior code §5.08.010)

### **5.12.050 Religious and charitable organization exemptions.**

A. Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in offices or office buildings, by house to house canvass, or in public places for a charitable, religious, philanthropic, or other similar non-profit purposes, shall be exempt from the provisions of 5.12.040; provided that the city clerk may require to be filed sworn application in writing on a form to be furnished by the city clerk, which shall give the following information:

- 1. Name and purpose of the cause for which the permit is sought;
- 2. Names and addresses of the officers and directors of the organization;
- 3. Period during which solicitation is to be carried on;
- 4. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

B. Upon being satisfied that such organization, association or corporation is a charitable philanthropic, religious organization, or other similar non-profit organization, the clerk shall issue a permit without charge to such organization, association or corporation to solicit in the city. Such organization, association or corporation shall furnish all of its members, agents, or representatives conducting solicitation, credentials in writing stating the name of the organization, name of agent and purpose of solicitation. (Ord. 753-90, 1990)

**5.12.060 Bond.** Every applicant not a resident of the county, or who being such resident, represents a firm whose principal place of business is located outside of the state shall file with the city clerk a surety bond, running to the city in the amount of one thousand dollars, with surety acceptable to and approved by the council conditioned that the applicant shall comply fully with all the provisions of this code and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing to any citizen of the city doing business with said solicitor, that the property purchased will be delivered according to the representations of the solicitor. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the full amount of the bond to the clerk of the court in which suit is commenced, be relieved without costs of all further liability. (Ord. 753-90, 1990)

**5.12.070 Exhibition of license.** Licensees are required to exhibit their certificate of license at the request of any citizen. (Ord. 753-90, 1990: Prior code §5.08.030)

### **5.12.080 Application for license fee.**

A. An application for a license under this chapter shall be submitted to the city clerk no less than one working day

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prior to the first day of proposed operation. The application shall be accompanied by a non-refundable application fee. Such fee is established by city council by resolution.

B. Payment of such fee shall entitle the licensee upon approval of the license to a period of operation as specified on the license.

C. Licensee must remove all vehicles and structures from the premises at end of licensing period. (Ord. 1124-98, 1998; Ord. 753-90, 1990; Prior code §5.08.050)

### **5.12.090 Finance requirements.**

A. Upon approval of an application for a license but prior to the issuance of the license, the director of finance (or designee) will determine a sales and use tax deposit requirement up to a maximum of five hundred dollars. The deposit requirement shall be in the form of certified funds made payable to the city. The deposit will be refunded at the end of the licensing period conditioned upon the applicant's compliance with the provisions of the code, including but not limited to, any ordinances pertaining to the collection and remittance of retail sales and use taxes.

B. The deposit requirement shall not apply to applicants holding a current city sales tax license for business within the city limits. (Ord. 753-90, 1990)

### **5.12.100 Requirements for issuance.**

A. Each license shall be valid for not more than one location, a description of which shall appear on the face of the license.

B. In addition to the licensee's name, address and telephone number, the license shall contain the following:

1. The type of operation;
2. The period for which the license was issued;
3. The hours and days of operation;
4. The designated location;
5. A brief description of any vehicle, kiosk, table, chair, stand, box, container or other structure or display device to be utilized by the licensee;
6. Any special terms and conditions for issuance;
7. A statement that the license is personal and is not transferable in any manner;
8. A statement that the license is valid only when used at the location designated on the license;
9. A statement that a numbered receipt must be given with each sales transaction;
10. A statement that the license is subject to the provisions of this chapter. (Ord. 753-90, 1990: Prior code §5.08.020)

### **5.12.110 Restrictions and operations.**

A. No license may use for the purpose of on-site storage, display or sale, any vehicle, cart, kiosk, table, chair, stand, box container or other structure or display device not described on the fact of the license.

B. Except as otherwise specifically authorized by law, no such vehicle, structure or device referred to in subsection A of this section shall be located:

1. Within any portion of a street, alley, roadway or highway designed or ordinarily used for vehicular traffic, except for the purpose of transporting the licensee's goods, wares or merchandise to, from or within the designated location;
2. Upon a public sidewalk within the extended boundaries of a crosswalk;
3. Within ten feet of the extension of any building entrance, doorway or driveway;
4. In locations so as to impede or interfere with or visually obstruct the safe movement of vehicular and pedestrian traffic.

C. All licensees who during the course of their licensed activities enter upon a public right-of-way or publicly owned property shall maintain liability insurance in an amount to be determined by the finance director according to the administrative regulation with proof of the same to be presented at the time of submission of the application. Any licensee who fails to provide proof of such insurance shall be prohibited from operating within or entering upon such property.

1. Liability insurance of one hundred thousand dollars must be maintained unless otherwise determined by the director of finance.

D. The licensee shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers or any litter which is deposited within twenty-five feet of the point of any sale or transaction made by the licensee. The licensee shall provide and carry a suitable container for the placement of such litter by customers or other persons.

E. Each licensee shall maintain in safe condition any vehicle, structure or device as described in subsection A of this section, so as not to create an unreasonable risk or harm to the person or property of others.

F. The licensee shall not leave unattended any such vehicle, structure or device on a public right-of-way or at the designated location.

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G. The licensee shall be responsible for a numbered receipt for each sales transaction.

H. The licensee shall comply with the provisions of all applicable ordinances of the city as well as the requirements of all state and federal laws. (Ord. 753-90, 1990)

**5.12.120 Renewal.** Renewal of a license shall be treated as a new application under the provisions of this chapter. Any violations by the licensee of the provisions of this chapter shall be an additional factor to be considered in the renewal process. (Ord. 753-90, 1990)

**5.12.130 Suspension.** If the operation of the licensee at any designated location becomes unsafe due to construction activity or other temporary condition, the license to operate at such location shall be temporarily suspended until such time, if at all, as the operation may be safely resumed. Any such suspension shall not extend the term of the license. (Ord. 753-90, 1990)

**5.12.140 Violation--Penalty.** Any person who violates any of the provisions of this chapter is guilty of a violation of this chapter and shall be punished as provided in Section 1.16.010. (Ord. 842-92, 1992: Ord. 753-90, 1990)

### Code Documents



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