

Chapter 5.06

TRANSIENT MERCHANTS

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5.06.010 Definitions. For the purpose of this Chapter, the following definitions shall apply unless in conflict with the context or plain meaning.

Transient Merchant: Any person, whether a resident of the City or not, who engages in the business of selling or soliciting orders for goods or services, who does not have a regularly established place of business within Delta County, and includes transient drummers, peddlers, hawkers and salesmen. Provided, however, wholesalers; real estate and insurance agents licenses by the State; persons engaged in non-commercial religious activities; persons selling only religious literature; persons soliciting donations not involving any sales; persons representing Delta County non-profit organizations, and retailers with a Delta sales tax license who have collected and paid City sales and use taxes for the preceding year without delinquency, shall not be subject to the provisions of this Chapter. (Ord. 3, §4(part), 1987)

5.06.020 License required.

A. It shall be unlawful for any transient merchant to engage in the business of a transient merchant without obtaining a license from the City in accordance with this Chapter or being sponsored as provided in Section 5.06.040 of this Chapter.

B. A license application shall be filed with the City on forms furnished by the City, and shall provide the following information:

1. The name and address of the applicant and each employee or agent thereof, who will engage in business within the City.

2. A description of the nature of the business and goods or services offered, and the locations within Delta in which the business will be conducted.

C. Accompanying the application shall be an application fee in the amount of twenty-five dollars (\$25.00).

D. A surety bond in the amount of one thousand dollars (\$1,000) shall be submitted conditioned upon:

1. Compliance with all ordinances of the City, and statutes of the State, including payment of all City, County and State taxes and fees, and

2. Payment of any judgment rendered in favor of a resident or business of the City against the applicant or any of his agents or employees, shall be submitted with the application.

Such bond shall remain in effect for a minimum period of nine (9) months beyond the expiration date of the transient merchant license issued to the applicant. The bond must be approved by the City Attorney prior to the issuance of the license. In lieu of a bond, the applicant may deposit one thousand dollars (\$1,000) in cash, to be held by the City upon the same conditions provided above, which amount shall be returned to the applicant following compliance with the above stated conditions.

E. Also submitted with the application shall be an instrument appointing the City Clerk as the true and lawful agent with full power and authority to acknowledge service of process for and on behalf of the applicant, and each of his agents or employees, upon a form to be provided by the City. If any process is served upon the City Clerk, the City shall send a copy of such process to the applicant at the address listed on the application by registered or certified mail. (Ord. 3, §4(part), 1987)

5.06.030 Issuance of license.

A. Following receipt of a properly completed application accompanied by the bond, appointment of agent for service of process, and the application fee, the City shall issue a transient merchant's license for a term of ninety (90) days.

B. The license shall state the expiration date and describe the goods or services to be offered. The license shall contain a notice to customers that a one thousand dollar (\$1,000) bond has been filed with the City, conditioned on compliance with all City ordinances and State laws, and the payment of any judgment rendered against the applicant in favor of a resident of the City, and that the City Clerk is the licensee's agent for service of process.

C. The applicant shall post a copy of the license at his place of doing business. The applicant and each employee or agent shall carry his copy of the license with him at all times,

and produce it upon request to any customer, police officer, or other agent or employee of the City. (Ord. 3, §4(part), 1987)

5.06.040 Local sponsor.

A. In lieu of the provisions of Sections 5.06.020 and 5.06.030, a transient merchant may be sponsored by a merchant with an established place of business within the City who has paid City sales taxes without delinquency for the previous year.

B. The sponsoring merchant shall file a sponsor letter with the City, on forms provided by the City, in which the sponsoring merchant shall take responsibility for the business related acts of the transient merchant and each agent or employee thereof, and shall guarantee payment of all City, County and State taxes due or judgment rendered against the transient merchant as a result of the business, and shall act as the transient merchant's agent for service of process, and handling of warranty and customer complaints.

C. After approval of the sponsor letter by the City, the transient merchant may conduct the business described thereon. The applicant and each agent or employee shall carry a copy of the approved letter and produce it upon request of any police officer, employee or agent of the City, or any customer. A copy shall be posted at the transient merchant's place of business.

D. In addition to the provisions of subsections A, B and C of this Section, transient merchants participating in a civic event sponsored by a Delta County Civic Organization may be sponsored by such organization in lieu of the provisions of Sections 5.06.020 and 5.06.030 if

1. the sponsor has obtained a "Civic Event" sales tax license or if each transient merchant in the event has obtained any required individual sales tax license and

2. the City approves such sponsorship pursuant to this subsection. The sponsoring civic organization shall file a sponsor application with the City on forms provided by the City listing each transient vendor participating in the civic event and other information convenient for the administration of this provision. (Ord. 3, §3, 1988; Ord. 3, §4(part), 1987)

5.06.050 Revocation of license.

A. The license issued hereunder may be revoked by the City Council following notice and hearing on account of any material misstatement contained in the application, any violation of this Chapter, any violation of other City ordinances and regulations applicable to the business activity of the applicant, or upon conviction of any felony.

B. Notice of hearing shall be either served upon the applicant in accordance with the Colorado Municipal Court Rules

of Procedure or mailed, postage prepaid, to the applicant at the address set forth in the application for license.

C. No license shall be issued to any applicant, or agent or employee thereof, for whom a license has been revoked, until at least one year has elapsed since revocation. (Ord. 3, §4(part), 1987)

5.06.060 Interstate commerce provisions. In the event any applicant believes that the license fee required by this Chapter constitutes an undue burden upon interstate commerce, he may apply to the City Council for an adjustment in the amount of the fee, in which event a hearing shall be heard before the Council to consider the matter. The applicant may appear and present such evidence as he may desire at the hearing. Following the hearing, the Council shall determine a license fee which is fair and reasonable and does not constitute a burden on interstate commerce. (Ord. 3, §4(part), 1987)