

AN ORDINANCE AMENDING AMC CHAPTER 5.10 TO MODIFY THE APPLICATION FOR, AND DURATION OF, TRANSIENT MERCHANT LICENSES, REPEALING ORDINANCE NO. 5610, AND DECLARING AN EMERGENCY

WHEREAS, AMC 5.10 governs applications for transient merchant licenses and sets forth the duration during which business may be conducted pursuant to such a license; and

WHEREAS, the City desires to simplify transient merchant application procedures; and

WHEREAS, transient merchant sales, while appropriate for specialty sales of limited duration are often unsightly and less well regulated in design and layout than permanent commercial uses.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO HEREBY ORDAIN AS FOLLOWS:

Section 1: Amendment of AMC 5.10.010 Definitions

“5.10.010 Definitions.

For the purpose of this chapter a "transient merchant, itinerant merchant, or itinerant vendor" is defined as any person, firm, or corporation, whether it is the owner, agent, consignee, or employee, whether a resident of the City or not, who engages in the 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~~, parking lot, vacant lot, motor vehicle, tent, street, or alley for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction.

Section 2: Amendment of AMC 5.10.030 License – Exemption to requirement – Notice of claimed exemption.

“5.10.030 License – Exception to requirement – Notice of claimed exemption.

(1) The provisions of this chapter requiring application for license shall not apply to ~~one~~ ~~selling products of the farm or orchard actually produced by the seller~~ nonprofit organizations where the proceeds of the sale do not inure to the direct benefit of an individual member of the organization; ~~or~~ sales where a contract has been signed by the City and the applicant providing that the proceeds received by the applicant from such business, occupation, or trade will be used to improve a part of the City’s public park system; **sales conducted on public property with the prior written consent of the public entity that owns or controls said property; indoor sales; or sales of services which are subject to separate license requirements, such as door-to-door sales.**

(2) A person or organization claiming an exemption from the provisions of this licensing chapter shall, prior to engaging in a temporary business, give notice of the proposed sale to the City Recorder of the City or, in his/her absence or in the event the City Recorder’s office shall be closed, then to the Albany Police Department at its headquarters. Notice shall state the location of the proposed sale and the basis of the claimed exemption.”

Section 3: Amendment of AMC 5.10.040 License – Application.

“5.10.040 License – Application.

Applicants for license under this chapter, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant, if an individual; by all partners of a partnership; and by the President, if a corporation; with the City Recorder, showing:

(1) The name or names of the person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the City; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent, or otherwise); the name and address of the person, firm, or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated;

~~(2) The fingerprints of the person or persons having the management or supervision of the applicant's business or, in lieu thereof, at least three letters of recommendation from property owners in the City certifying as to the applicant's good character and business responsibility;~~

(32) The place or places in the City where it is proposed to carry on the applicant's business and the length of time during which it is proposed that the business shall be conducted;

(43) The place or places, other than the permanent place of business of the applicant, where applicant, within the six months next preceding the date of the application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

~~(5) A statement of the nature, character, and quality of the goods, wares, or merchandise to be sold or offered for sale by the applicant in the City, the invoice value and the quality of such goods, wares, and merchandise, whether the same are proposed to be sold from stock and possession or from stock and possession by sample; at auction, by direct sale or by the taking of orders for future deliveries; where the goods or the property proposed to be sold are manufactured or produced and where such goods or products are located at the time the application is filed;~~

~~(6) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Recorder, copies of all advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to the application as exhibits thereto; signs permitted under this chapter shall be limited to one temporary (A frame or standard) maximum 24 square feet each side, plus one banner or other painted sign attached to merchant's or vendor's vehicle or equipment, maximum 100 square feet per each street frontage; all signs shall be located on private property; attachment to power poles, light standards, existing sign poles, or other similar locations is prohibited;~~

~~(7) Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor, or violation of any municipal ordinance, the nature of such offense and the punishment assessed therefore;~~

~~(8) Credentials from the person, firm, or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and~~

~~(9) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the City Recorder may deem proper to fulfill the purpose of this ordinance in protection of the public."~~

Section 4: Amendment of AMC 5.10.050 License – Issuance – Investigation.

“5.10.050 License - Issuance – Investigation.

Upon receipt of such application ~~the City Recorder shall cause such investigation of such person or persons' business responsibility as is deemed necessary for protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of such investigation, the character and business reputations appear to be~~

~~satisfactory, the City Recorder shall so certify in writing. Upon~~ and payment by the applicant of a license fee, a license shall be issued by the City Recorder. The City Recorder shall keep a full record in his/her office of all licenses issued. This license shall contain the name of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of the license, the place where the business may be carried on under the license, and the name or names of the person or persons authorized to carry on the same.”

- (1) An application for a sale that will occur no longer than 30 days duration in a calendar year will pay a license fee of \$50.
- (2) An application for a business that will operate longer than 30 days but less than 120 days will be referred to the Community Development Department for site plan review under “Option C” in the Albany Development Code and staff recommendation. The license fee will be \$100 plus applicable planning fees.
- (3) A business operating for more than 120 days will be subject to all of the Development Code requirements for permanent businesses and shall not require a transient merchant license.

Section 5: Amendment to AMC 5.10.100 Expiration of License.

“5.10.100 Expiration of license.

All licenses issued under the provisions of this chapter shall **expire at the end of their stated term. No applicant who has received a license shall again be eligible for issuance of a new license within twelve (12) months of the issuance of the previous license. No location, at which a previous license has been issued, shall again be eligible for issuance of a new license within twelve (12) months of the issuance of the previous license.**

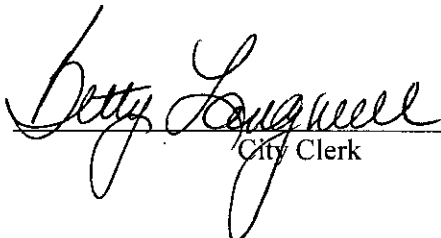
Section 6: Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the city of Albany, and an emergency is hereby declared to exist; this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by Council: October 12, 2005

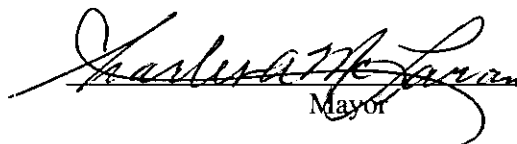
Approved by Mayor: October 12, 2005

Effective Date: October 12, 2005

ATTEST:



City Clerk



Mayor