

ARTICLE VIII. ITINERANT MERCHANTS, PEDDLERS, SOLICITORS, STREET VENDORS AND TEMPORARY MERCHANTS*

*Editor's note-Ord. No. 3331, § § 1--9, adopted July 16, 1985, has been set out herein as §§ 13-111--13-119 at the discretion of the editor. See the editor's note to Art. I in reference to its repeal by the aforesaid ordinance.

Sec. 13-111. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) *Itinerant merchant* shall mean every person, firm, partnership, corporation, association, receiver or trustee buying for the purpose of sale in any form or selling or offering to buy for the purpose of sale in any form or to sell in the city, at wholesale or retail, any goods, wares, merchandise or chattels of any description and transporting the same by the use, upon any public highway, of a motor truck or trucks or any other vehicle or vehicles except as otherwise provided in this section. The term does not include those engaged in the business of transporting property by motor vehicle for hire or operating vehicles in such business as agents, employees, lessees or contractors, and who do not act on the cargo transported, or interest therein, and who do not act for any party in the acquiring, purchase, sale or disposition of the cargo transported. In addition, itinerant merchant shall not mean or include, and there shall be exempt from the provisions of this section:

- (1) Those using such vehicles for the transportation of grain, fruits, vegetables, hay, livestock or other agricultural products by them;
- (2) Those transporting products or property when such transportation is incident to a business conducted by them at an established place of business operated by them at an established place of business operated by them either within or without the city, and when the property is being transported to and from the established place of business, and when the entire course of such transportation extends not more than two hundred fifty (250) miles from the established place of business; provided, that when the entire course of the transportation is for the purpose of delivery of the property subsequent to sale thereof, the two hundred fifty (250) miles restriction shall not apply;
- (3) Those using such vehicles for the transportation, sale and delivery at retail of any particular group of products having a common trademark, trade name or brand, as agents, employees, or retail dealers of the manufacturers or wholesale distributors of such products through whom they market the same;
- (4) Those having the purpose of hauling products for the use of the owner of such vehicle, or for the use of others where no charge is made for the use of such vehicle, or those using vehicles in the exchange of work;
- (5) Those using such vehicles exclusively within the limits of the city and who are bona fide residents hereof;
- (6) Those using such vehicles for the transportation of livestock bought or sold at any livestock market; and
- (7) The provisions of this section shall not apply to grain.

(b) *Peddler* shall mean a person, or persons, traveling from place to place selling and delivering at the same time.

(c) *Person or persons* shall mean any natural person and any firm, proprietorship, partnership or corporation.

(d) *Solicitor* shall mean a person, or persons, who travel from place to place not carrying his goods with him, but taking orders for future delivery to the general public.

(e) *Street vendor* shall mean a person, or persons, who travel from street to street upon public or private property, carrying, conveying or transporting such items as food, beverages, flowers and balloons, offering and exposing the same for sale by hand or from a mobile-type device such as a push cart.

(f) *Temporary merchant* shall mean a person, or persons, who occupies a temporary, fixed location, and sells and delivers goods from stock on hand, and/or provides services, and does business in much the same manner as a permanent business.

Source: Ord. No. 3331, § 1, 7-16-85; Ord. No. 5158, § 1, 4-18-11

Sec. 13-112. Licenses and permits.

(a) No itinerant merchant shall engage in business as such without:

(1) Obtaining a sales tax permit as required by Section 77-2705, R.R.S. 1943, as amended; and

(2) Paying any occupation tax or permit fee as set forth in [Section 2-5](#) of this Code. In addition, every person, partnership, firm or corporation desiring to engage in business as an itinerant merchant shall, before engaging in such business, make an application to the city clerk for an itinerant merchant's permit. Such application shall be in the form prescribed by the city. All applications shall set forth the name and address of the applicant, his or her post office or residence address, an exact description of the vehicle or vehicles to be used in the conduct of his or her business, and such other information as may be prescribed by the city.

(b) All peddlers, solicitors, temporary merchants, and street vendors shall obtain a permit from the city clerk prior to engaging in any activities defined in section 13-111 of this article.

(c) Each permit issued to a temporary merchant or street vendor shall be valid for no more than two (2) locations.

(d) The permit and fees provided for under section 13-113 of this article shall not pertain to those persons whose entire profits from such activity are contributed to a charitable, religious or education organization, association or institution and/or those persons who conduct business in conjunction with a community festival or event.

Source: Ord. No. 3331, § 2, 7-16-85; Ord. No. 5189, § 1, 11-21-11; Ord. No. 5455, § 1, 2-21-17

Sec. 13-113. Occupation taxes and permit fees.

Itinerant merchants, peddlers, solicitors, street vendors and temporary merchants shall pay the following occupation taxes or permit fees as follows:

(a) *Itinerant merchant.* Each itinerant merchant shall pay a permit fee as set forth in [Section 2-5](#) of this Code along with an occupation tax for each vehicle to be used in his or her business, in the amount of fifty dollars (\$50.00) per vehicle, per calendar year to the city clerk. All fees and occupation taxes are nonrefundable.

(b) *Peddler or solicitor.* Each peddler or solicitor shall pay a permit fee as set forth in Section 2-5 of this Code. In addition, each peddler or solicitor shall pay a permit fee as set forth in [Section 2-5](#) of this Code per vehicle used by him or her. Any person who shall transport, sell or deliver at retail of any particular group of products having a common trademark, trade name, or brand, as agents, employees or retail dealers of the manufacturers or wholesale distributors of such products through whom they market the same shall be exempt hereunder.

(c) *Street vendor or temporary merchant.* Each street vendor or temporary merchant shall pay a permit fee as set forth in [Section 2-5](#) of this Code. This fee is nonrefundable. In addition, each street vendor or temporary merchant shall pay a permit fee as set forth in [Section 2-5](#) of this Code per vehicle used by him or her.

Source: Ord. No. 3331, § 3, 7-16-85; Ord. No. 5135, § 9, 9-7-10; Ord. No. 5189, § 1, 11-21-11; Ord. No. 5253, § 1, 5-6-13; Ord. No. 5455, § 2, 2-21-17

Sec. 13-114. General requirements.

Itinerant merchants, peddlers, solicitors, street vendors and temporary merchants shall meet the following standards and conditions:

- (1) Provide personal identification including date of birth, driver's license number and/or other appropriate identification, together with a recent photograph of the individual, or individuals, who will be selling within the community.
- (2) Supply copies of any state or county licenses which are also required to operate or conduct activities proposed by the applicant.
- (3) Specify a local agent to receive complaints against the business.
- (4) List the names and identification of all individuals within the area who will be working for the applicant.
- (5) Provide a description of the merchandise or services offered for sale.

Source: Ord. No. 3331, § 4, 7-16-85; Ord. No. 5158, § 2, 4-18-11; Ord. No. 5189, § 1, 11-21-11

Sec. 13-115. Special standards for itinerant merchants, peddlers and solicitors.

(a) An itinerant merchant, peddler and solicitor shall limit their hours of operation to only those hours between 8:00 a.m. and 8:00 p.m.

(b) No person, while engaged in the business of itinerant merchant, peddler or solicitor, shall enter uninvited into a private building, structure or room.

(c) An itinerant merchant, peddler or solicitor shall perform the following requirements when soliciting door to door:

- (1) Within thirty (30) seconds after beginning the conversation, the itinerant merchant, peddler or solicitor shall:
 - a. Provide identification of both the person and whom the person represents;
 - b. Explain the purpose of the person's call;
 - c. Provide a description in commonly understood terms of the goods or services offered for sale; and
 - d. Inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response.
- (2) During the course of the solicitation, state the total cost of the goods or services offered for sale and the number, timing and amount of installment payments if payment on an installment basis is available to the person being solicited.
- (3) Carry on their person at all times while engaging in the activities defined in Section 13-111 of this article the permit issued to them as an itinerant merchant, peddler, or solicitor.

Source: Ord. No. 3331, § 5, 7-16-85; Ord. No. 4422, § 1, 7-6-99; Ord. No. 5455, § 3, 2-21-17

Sec. 13-116. Special standards for temporary merchants and street vendors.

A temporary merchant or street vendor shall adhere to the following additional standards and conditions:

- (1) If located on private property, the temporary merchant shall obtain a signed, written consent from the owner of the property which authorizes the temporary merchant to conduct business from the property. A copy of said written consent shall be filed with the city clerk.
- (2) The temporary merchant or street vendor shall obtain a written authorization from the police division to allow any sales of merchandise or services from public property.
- (3) The activities of the temporary merchant shall not impair or impede the proper flow of traffic on public or private property.
- (4) The activities of the temporary merchant shall not unduly restrict parking spaces on public or private property. Any parking spaces which are customarily in use during normal working hours shall not be used as a location for a temporary merchant or street vendor.
- (5) Permits for temporary merchants and street vendors shall be displayed by the temporary merchant or street vendor in a visible location and they are required to show their permit to any customer or police officer upon request.

- (6) Temporary merchants shall comply with all zoning setback requirements, and no sign, storage, display or sales of goods or services may take place in an area inside the required setback (front yard) area except as otherwise allowed in this subsection. When adjacent real property closest to that side of the property on which a temporary merchant is conducting lawful business activities has a building that is located closer to the street than what is allowed by the setbacks applicable to the property on which the temporary merchant is located, then the temporary merchant shall be allowed to place its sign, storage, display or sales of goods or services in a location that is up to or even with the plane of the front of the building on the adjacent real property closest to that side of the property on which the temporary merchant is located.
- (7) Temporary merchants and street vendors shall comply with all vision clearance requirements set forth in Chapter 27, Article IX of this Code.
- (8) Signs for street vendors shall be of professional appearance and mounted upon the mobile-type device or push cart used for sales. No accessory signs shall be permitted.
- (9) Temporary merchants are limited to the use of no more than two (2) signs which shall have a professional appearance and comply with the provisions of Chapter 27, Article XI of this Code.
- (10) Temporary merchants shall be located only on property that is currently being used for commercial or industrial purposes.
- (11) Temporary merchants shall not be located on property that is either zoned as residential or which property's primary use is residential.
- (12) Temporary merchants shall not be located on any area that is not hard-surfaced with concrete or asphaltic concrete as approved by the city engineer.
- (13) Temporary merchants shall comply with off-street parking space requirements set forth in Section 27-347 of this Code.

Source: Ord. No. 3331, § 6, 7-16-85; Ord. No. 5158, § 3, 4-18-11; Ord. No. 5455, § 4, 2-21-

17

Sec. 13-117. Permit approval, authority and appeals.

The city clerk shall have the authority to approve or deny any application for a permit to be issued under this article. Any application for a permit which is denied may be appealed to the city council. The city council shall affirm or revoke the denial, or issue the permit on the basis of the evidence presented at the hearing. All appeals must be made by submitting a formal request of an appeal to the city clerk, together with a nonrefundable processing fee as set forth in [Section 2-5](#) of this Code.

A permit shall not be issued to any applicant where any of the following has been determined during the initial investigation and review of the application:

- (1) If the applicant has been convicted of a crime, the nature of which indicates a lack of honesty and reliability which would lead one to believe that future violations of the

law could occur. An example of such crimes would be theft, burglary, robbery, fraud, deceit or any other crime of violence.

- (2) Any previous history relating to the manner in which the applicant made door-to-door sales which resulted in a violation of the law.
- (3) Providing false information on the application form.
- (4) A failure to comply with any condition, standard or requirement of this article or any city, county or state regulation.

Source: Ord. No. 3331, § 7, 7-16-85; Ord. No. 5135, § 9, 9-7-10; Ord. No. 5189, § 1, 11-21-

11

Sec. 13-118. Parking for certain purposes prohibited.

(a) It shall be unlawful for any person, who is not required to have a permit or pay an occupation tax under this article, to stand or display any animal, goods or merchandise whatsoever, upon the street or sidewalk, or terrace any vehicle displayed for sale without the prior consent of the mayor and city council; provided, however, that duly organized trade associations may apply for and receive consent for all members of their association.

(b) It shall be unlawful for an owner or occupant of a place of business to allow any wagon, cart, carriage or other vehicle, whether left for safekeeping, repair, refueling or otherwise, to be or remain standing on the sidewalk, street or alley adjoining or in front of any such place of business.

Source: Ord. No. 3331, § 8, 7-16-85

Sec. 13-119. Penalty.

Any person identified within section 13-111 of this article who engages in activities within the city limits without having first paid the occupation tax or applied for and obtained the permit herein provided for or who violates any other of the provisions of this article shall be guilty of an offense and, upon conviction thereof, be punished by a payment of a fine of not less than fifty dollars (\$50.00) for each and every offense. Every day of a continuing violation shall be deemed a separate offense for the purposes of these penalties.

Source: Ord. No. 3331, § 9, 7-16-85; Ord. No. 5189, § 1, 11-21-11