

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. TRANSIENT MERCHANTS**



## CHAPTER 110: TRANSIENT MERCHANTS

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### § 110.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**TRANSIENT MERCHANT.** Includes all persons, firms, limited liability companies and corporations, both as principals and agents, who engage in, do or transact any temporary or transient business in the town, either in one locality or in traveling from place to place in the town, offering the sale or selling of goods, wares or merchandise, and those who, for the purpose of carrying on the business, hire, lease or occupy any permanent or mobile building, structure or real estate for the exhibition by means of samples, catalogues, photographs and price lists or sale of the goods, wares or merchandise, and also includes those giving or sponsoring an exhibition, slide show, moving picture show, floating theater, museum show, circus or menagerie, exhibition or operation, or any striking machines or other devices, or games for hire or gain, but does not include:

- (1) A citizen who makes crafts or items by hand and sells them or offers them for sale;
- (2) An auctioneer who is licensed under I.C. 25-6.1;
- (3) A resident of the town in which the sale takes place who conducts a sale of tangible personal property for no more than four days per calendar year;

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(4) An organization that is exempt from the state gross retail tax under I.C. 6-2.5-5-26 and/or is tax exempt under I.R.C. § 501(c)(3);

(5) A person who:

(a) Sells merchandise;

(b) Offers to sell merchandise; and

(c) Provides proof that the sale is being conducted as part of an activity sponsored by an organization described in division (5) above;

(6) A person who holds a registered retail merchant's certificate under I.C. 6-2.5-8-1. (Prior Code, § 110.01) (Ord. 2009-2, passed 6-8-2009)

**§ 110.02 LICENSE REQUIRED.**

It shall be unlawful for any transient merchant to solicit, sell or offer to sell in the town any goods, wares, merchandise, services, exhibits, magazines, papers, books, pamphlets or subscriptions thereto or to conduct any business in the town, without first having obtained a license, as provided by this chapter from the town, and having complied with the other requirements of this chapter. (Prior Code, § 110.02) (Ord. 2009-2, passed 6-8-2009) Penalty, see § 110.99

**§ 110.03 OBTAINING LICENSE; WHERE TO APPLY.**

Each transient merchant upon his or her arrival in the town and/or each agent or employee of the transient merchant desiring to operate in the town shall apply at the office of the Clerk-Treasurer for a license. (Prior Code, § 110.03) (Ord. 2009-2, passed 6-8-2009)

**§ 110.04 APPLICATION.**

The Clerk-Treasurer shall require each applicant to fill out a verified application blank, which shall contain:

(A) Name of applicant (individual, firm, limited liability company or corporation); officers of the corporation or limited liability company; and state of incorporation of organization;

(B) Permanent address;

(C) Local address, if any;

(D) Date and place of birth (if a limited liability company or corporation, the date authorized and qualified to conduct business in the state);

(E) Merchandise or product to be sold and a detailed inventory and description of the goods, wares and merchandise to be sold and representations to be made in connection therewith;

(F) Employer and address of employer;

(G) Immediate supervisor and his or her permanent address;

(H) Length of time and location of proposed place of business or expected area of solicitation; and

(I) Attached to the application shall be a receipt showing that personal property taxes on the goods, wares and merchandise have been paid.

(Prior Code, § 110.04) (Ord. 2009-2, passed 6-8-2009)

**§ 110.05 PHOTOGRAPHING, FINGERPRINTING AND CRIMINAL RECORDS CHECK.**

(A) The applicant shall be required to report to the Police Department with his or her duly executed application where the applicant shall be required to present picture identification and/or be photographed and fingerprinted. The applicant shall also sign a release authorizing the Police Department to conduct a criminal records and background check on the applicant or upon any employee or agent of the applicant proposing to work in the town.

(B) No license shall be issued to any transient merchant, employee or agent of the same if, within 15 years of merchant's application date, the applicant has been convicted of a felony involving dishonesty, fraud, theft and/or moral turpitude.

(Prior Code, § 110.05) (Ord. 2009-2, passed 6-8-2009)

**§ 110.06 LICENSE FEE.**

The applicant shall be required to pay the following license fee:

(A) One month: \$50; and

(B) Each additional month: \$15.

(Prior Code, § 110.06) (Ord. 2009-2, passed 6-8-2009)

**§ 110.07 TERM OF LICENSE.**

No license shall be issued for less than one month.

(Prior Code, § 110.07) (Ord. 2009-2, passed 6-8-2009)

**§ 110.08 ISSUANCE; POSSESSION; SURRENDER.**

Upon the fulfillment of the requirements of all requirements of this chapter and the payment of the required fee, the Clerk-Treasurer shall issue a license which the licensee shall be required to carry the license on his or her person and shall be required to surrender same on leaving the town.  
(Prior Code, § 110.08) (Ord. 2009-2, passed 6-8-2009)

**§ 110.09 TIME OF OPERATION.**

Unless otherwise listed on the license, the hours of operation for the transient merchant shall be from 12:00 p.m. to 8:00 p.m.  
(Prior Code, § 110.09) (Ord. 2009-2, passed 6-8-2009)

**§ 110.99 PENALTY.**

(A) Any transient merchant and/or any employee or agent of a merchant who engages in solicitation in violation of this chapter shall be subject to a fine of \$100 for each separate offense during which the same engages in the conduct, with a maximum penalty of up to \$1,000 per day.

(B) The town may seek a temporary and/or permanent restraining order against any vendor and/or any employee or agent thereof in any court of competent jurisdiction.

(C) The town's remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

(D) Willful or intentional disregard of this section shall, to the full extent permitted by law, entitle the town to collect from the violator the town's attorney fees, court costs, litigation expenses and all other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

(Prior Code, § 110.99) (Ord. 2009-2, passed 6-8-2009)