

ARTICLE VIII. TRANSIENT MERCHANTS¹

Sec. 18-414. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Established business merchant means any person who engages in the sale of merchandise and anticipates becoming a business merchant for a continuous period of time of 60 days or longer in the city.

Group event means vendors or exhibitors participating in a group event including, but not limited to, antique shows, recreational vehicle, boat, or automotive shows, hobby shows, or similar events which are to be held for the purpose of sale or rental for such items or services to the general public. Group events shall not include events not open to the general public where there may be on-floor sales which are not the primary purpose of the event.

Transient merchant means any person who engages in the sale of merchandise in any place in the city on a temporary basis and does not anticipate becoming an established business merchant for a continuous period of time of 60 days or longer. Transient merchants include anyone who for himself or as an agent for another, rents, erects, purchases, uses, or occupies any vehicle, room, building, or other structure including, but not limited to, those located in or along parking lots, shopping centers, sidewalks, or other areas for the purpose of purchasing, selling, or offering for sale anything of value at such location without becoming an established business merchant.

(Code 1985, § 121.01; Ord. No. 3388, 7-2-1990)

Sec. 18-415. License required.

Everyone who anticipates selling merchandise as a transient merchant shall, before engaging in business in the city, obtain a license from the city controller's office.

(Code 1985, § 121.02; Ord. No. 3388, 7-2-1990)

Sec. 18-416. Application for license.

- (a) Application forms shall be provided by the city controller's office. Completed forms must be filed no later than 30 days prior to the first date for which the applicant intends to do business. Said application shall require, but not be limited to, the applicant providing the following information:
- (1) The name under which the business will be conducted.
 - (2) The name, address, and telephone number of the applicant. If the business includes more than one person all principal partners and owners must be listed by name, address.
 - (3) The location where the applicant intends to do business and a description of the facilities or premises to be used.

¹State law reference(s)—Transient Merchant Law of Indiana, IC 25-37-1-1 et seq.; municipal regulation of businesses, crafts, professions and occupations, IC 36-8-2-10; regulation of solicitations, IC 36-8-2-11.

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- (4) The dates and times for which the applicant intends to do business.
 - (5) A description of the types of merchandise intended to be sold or contracted for.
 - (6) A copy of all proposed advertisements intended to be used on the radio, television, newspapers or other media, including handbills.
 - (7) The name, address, and telephone number of the contact person who will be available for a period of time of not less than 60 days following the last date of business who will respond to consumer complaints. Said information must be included in all written advertisements prior to engaging in business.
 - (8) The applicant's state retailer license number.
 - (9) A notarized statement or copy of a signed contract verifying that the owner of the property where the transient merchant anticipates selling merchandise has agreed to lease said location for the dates and times indicated, and that the property owner realizes that such a sale requires a lessee to have a valid transient merchant license issued by the city prior to the transaction of such transient merchant business.
 - (10) Verification under oath that all of the information provided is truthful.
- (b) If the application is for a group event, the sponsoring organization, agency, group, or person, shall complete one application form on behalf of all proposed participants in the group event. For such group events, one fee shall be required of the sponsoring organization for the number of days that the group event shall take place, and one bond or property liability insurance policy shall be filed by the sponsoring organization on behalf of all participants. A listing of all participants by name, address, telephone number, and the state retailer's license number shall be attached to said application when filed by the sponsoring organization. The name, address, and telephone number of the sponsoring organization shall be sufficient for all requirements addressing contact persons required by this section.
 - (c) All applicants who intend to sell any type of merchandise sold by weight or measure must file a copy of a current and valid certificate signed by the inspector of weights and measures of the city that all scales and measures to be used by the applicant in his business have been tested and approved. Said copy must accompany the written application.
 - (d) All applications and accompanying information shall then be referred to the police department for review and recommendation to the board of public works and safety. Said review shall address a background investigation of the applicant.
 - (e) All proposed locations must be properly zoned for the proposed business activity. Therefore a copy of the completed application form shall be referred to the city planner or his designee for review and recommendation to the board of public works. Said review shall address but not be limited to the following: ingress and egress, parking requirements, zoning requirements, and related health and safety requirements of this Code.

(Code 1985, § 121.03; Ord. No. 3388, 7-2-1990)

Sec. 18-417. Licensing procedures.

- (a) Upon receipt of the written reports of an applicant from the police department and the city planner, the clerk of the board of public works shall submit to the board for its review and action a copy of said reports, the application, and all other required documents filed by the applicant.
- (b) The clerk of the board shall set a date for the public hearing on said application with the board and notify the applicant of the date and time of said hearing.

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- (c) The applicant, or a proper designee, must be present at said hearing and be available to answer any questions propounded by the city with regard to the proposed business activity.
 - (d) The board shall make all licenses approved under this section subject to the applicant filing a bond or property liability insurance policy. Said bond or policy shall be in the amount of not less than \$500,000.00 for injury to or destruction of property as a result of any one occurrence and a public liability amount covering accidental bodily injury, including death, to any member of the public in the amount of not less than \$5,000,000.00 for all public liability from any one occurrence. Any policy of insurance filed must contain the following provision: "The city, through the office of the city controller, shall be given 15 days of notice prior to the effective date of the cancellation or material change of this policy."
 - (e) Upon favorable review by the police department and city planner of the applicant's application, favorable action by the board of public works and safety, and the filing of all documents and fees required by the city, the city controller's office shall issue a transient merchant license.

(Code 1985, § 121.04; Ord. No. 3388, 7-2-1990)

Sec. 18-418. Display of license and other documents required.

- (a) Anyone intending to operate as a transient merchant and who is issued a license herein, must display the license along with all written advertisements used for the proposed sale, and the name, address, and telephone number of the contact person for consumer complaints in a conspicuous location near the entry of the facilities or premises.
- (b) The documents must remain posted throughout the duration of the time for which the license was issued.

(Code 1985, § 121.05; Ord. No. 3388, 7-2-1990)

Sec. 18-419. License fees.

The license fees for transient merchants shall be as follows:

- (1) Three hundred and fifty dollars for proposed business operations of three consecutive days or less.
- (2) Five hundred dollars for proposed business operations of more than three consecutive days but less than 14 total days of operation.
- (3) One thousand dollars for proposed business operations of more than 14 total days, but less than one year in any licensing year.

(Code 1985, § 121.06; Ord. No. 3388, 7-2-1990)

Sec. 18-420. Exceptions.

The provisions of this article do not apply to the following:

- (1) Any person or organization who has filed and received a charitable solicitation permit pursuant to chapter 23, charitable solicitation.
- (2) Any person or organization who is exempted from filing for a charitable solicitation permit pursuant to section 26-23.
- (3) Any person or organization that participates in an event which is sponsored or co-sponsored by the city.

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- (4) Work proposed for business operations for applicants who are veterans of the United States Armed Services and have provided proper documentation of an honorable discharge from a branch of the armed services. Upon the presentation of the person's certificate and papers of discharge, properly executed, and proving the person's identity as the person named in the person's certificate of honorable discharge, the controller shall issue to the former soldier, airman or sailor a free license.

(Code 1985, § 121.07; Ord. No. 3388, 7-2-1990; Ord. No. 3475, 5-6-1991)

Sec. 18-421. Penalty.

Any person who violates or disregards any of the provisions of this article in any manner whatsoever shall be fined as provided in section 1-7, general penalty; continuing violation, and the license for that person may be revoked by the city controller, after hearing on ten days' notice given to the person at the address indicated on the license application.

(Code 1985, § 121.99; Ord. No. 3388, 7-2-1990)

Secs. 18-422—18-445. Reserved.