

CHAPTER 42
TRANSIENT MERCHANTS*

Art. I. In General. §§ 42-1-42-15
Art. II. License, §§ 42-16-42-20

ARTICLE I. IN GENERAL

Sec. 42-1. Defined.

For the purpose of this chapter a transient merchant, itinerant merchant or itinerant vendor is defined as any person, whether as 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, motor vehicle, tent, railroad boxcar or boat, public room in hotels, lodging houses, apartments, shops or any street alley or other place in the city for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock but exhibits samples only for the purpose of procuring orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer. Transaction of business, as defined herein, by any person for a period of less than six (6) months consecutively shall be prima facie evidence that such person was a transient trader within the intent and meaning hereof. (Gen. Code 1946, Ch. 6, 211.2; Code 1972, 7.92)

Cross reference – Definitions and rules of construction generally, 1-2.

Cross references – Peddlers and solicitors, Ch. 30; transient photographers, Ch. 43
State law reference – Licensing and regulation of transient merchants, MCL 445.371 et seq., MSA 19.691 et seq.

Secs. 42-2 – 42-15. Reserved.

ARTICLE II. LICENSE*

Sec. 42-16. Required.

It shall be unlawful for a transient merchant to engage in such business within the city without first obtaining a license therefor in compliance with the provisions of this article. (Gen. Code 1946, Ch. 6, 211.1; Code 1972, 7.91)

Sec. 42-17. Application.

Applicants for license under this article, whether a person, firm or corporation, shall file a written application signed by the applicant, if an individual, by all partners, if a partnership, and by the president, if a corporation, with the city clerk, showing:

- (1) The name of the person 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 of such person while engaged in such business; the permanent address of such a person; the capacity in which such person will act; that is whether as proprietor, agent or otherwise, the name and address of the person 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 place in the city where it is proposed to carry on the applicant's business, the kind of business and the length of time during which it is proposed that the business shall be conducted;
- (3) The place other than the permanent place of business of the applicant where the applicant, within the six (6) 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 the business was conducted;
- (4) Credentials from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative; and
- (5) Such other reasonable information as to the identity or character of the person having the management or supervision of the applicant's business or the method or plan of doing such business as the city clerk may deem proper to fulfill the purpose of this chapter in the protection of the public good. (Gen. Code 1946, Ch. 6, 211.3; Code 1972, 7.93)

Sec. 42-18. Agent for process; bond; fee; issuance.

If the applicant is acting as agent for another person, he shall cause to be filed with the city clerk, a power of attorney appointing said city clerk the agent of said principal upon whom service of process may be made in any suit commenced against him. Said applicant shall at the time deposit with the city clerk, or file a corporate surety bond, in a like amount, the sum as prescribed in section 21-24, conditioned that said licensee will faithfully observe the provisions of this chapter, will pay any taxes which may be regularly assessed against him in accordance with the provisions of state and local law, pay any fine regularly levied for the violation of this Code and within thirty (30) days after the same shall become final, pay any judgment which may be rendered in any court in the state against

said licensee arising out of any transaction in connection with the local business of such licensee. Upon payment of the license fee required by section 21-24, the city clerk, provided no reasonable cause appears to him for withholding same, shall issue to the applicant a license, which license shall expire on the date therein specified for in the case of an annual license as provided in Chapter 21 of this Code.

(Gen. Code 1946, Ch. 6, 211.4; Code 1972, 7.94; Ord. of 7-19-82)

Sec. 42-19. Claims on bond.

Deposits made with the city clerk as required by section 42-18 shall be subject to the payment of any taxes regularly assessed against the transient merchant by the city, to the payment of any fines regularly levied for the violation of any city ordinance, and to claims of creditors in all cases thirty (30) days after a judgment obtained against such transient merchant in any court in this state has become final. In such cases, garnishment proceedings may be commenced in such court against the city clerk. Any balance of the cash deposit remaining in the hands of the city clerk four (4) months after the expiration of the license shall be remitted to the transient merchant, provided, if, at such date, the city clerk shall have received notice of any suit then pending against the transient merchant, the deposit shall not be returned until sixty (60) days after the termination of such suit. (gen. Code 1946, Ch. 6, 211.5; Code 1972, 7.95)

Sec. 42-20. Void upon exhaustion of bond.

Any license issued under this article shall be void as soon as the deposit made with the city clerk as provided in section 42-18 shall have been exhausted. (Gen. Code 1946, Ch. 6, 211.6; Code 1972, 7.96)