

CHAPTER 22 - BUSINESSES

ARTICLE III. TRANSIENT AND ITINERANT MERCHANTS AND VENDORS*

DIVISION 1. GENERALLY

Sec. 22-61. 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:

Transient merchant, itinerant merchant and itinerant vendor mean any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise by associating temporarily with any local business, dealer, trader, merchant, lodge, fraternal organization religious entity or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local business, dealer, trader, merchant, lodge, fraternal organization, religious entity or auctioneer, other than agricultural products, within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, lodging houses, shops, alley or other place within 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 securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local business, dealer, trader, merchant, lodge, fraternal organization, religious entity, 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, lodge, fraternal organization or auctioneer. *The selling or marketing of goods shall be expressly prohibited from a motor vehicle, tent, boat, or public room in hotel.*

Temporary seasonal vendor means a person and/or temporary merchant engaged in the business of selling agricultural products, including fruits, vegetables, trees, pumpkins or similar products, in a stationary location for a limited seasonal time period.

Sec. 22-63. Loud noises and speaking devices.

No permittee under this article, nor anyone in his behalf, shall shout, make an outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced there from capable of being plainly heard upon the streets, avenues alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell.

Sec. 22-64. Enforcement.

It shall be the duty of the code enforcement officers of the city to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating this article.

Secs. 22-65-22-80. Reserved.

DIVISION 2. PERMIT

Sec. 22-81. Required.

It shall be unlawful for a transient merchant, itinerant merchant or temporary seasonal vendor to engage in such business within the city without first obtaining a permit to do so.

Sec. 22-83. Application.

Application shall be filed with City Clerk or his/her designee at least thirty days (30) prior to event. City Clerk may waive requirement upon the applicant showing good cause. Applicants for permit under this division, shall file a written sworn application signed by the applicant, if an individual; by all partners, if a partnership; and by an officer if a duly licensed entity (e.g. corporation, limited liability company) with the city clerk, showing:

(1) The name or names of the person or persons having the management or supervision of 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 such 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 business is incorporated.

(2) .

(3) The place or places in the city where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business shall be conducted.

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

(5) 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 clerk, copies of all such advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to the application as exhibits thereto and permits attained as required by the code.

(6)(background checks are not reasonable)

(7) Credentials from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(8) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of 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 article in the protection of the public good.

Sec. 22-84. Investigation and issuance.

Upon receipt of an application for a permit under this division, the city clerk shall cause such investigation of such person's business responsibility or moral character to be made as he/she deems necessary to the 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 the investigation, the character and business reputation appears to be satisfactory, the city clerk shall so certify in writing, and a permit shall be issued by the city clerk. The city clerk shall keep a full record in his/her office of all permits issued. Such permit shall contain the number of the permit, the date the permit is issued, the nature of the business authorized to be carried on, the amount of the permit fee paid, the expiration date of such permit, the place where such business may be carried on under such permit, and the name or names of the person or persons authorized to carry on such business.

Sec. 22-87. Exhibition of permit.

The permit issued under this division shall be posted conspicuously in the place of business named therein. If the person applying for such permit shall desire to do business in more than one place within the city, separate permits may be issued for each place of business, and shall be posted conspicuously in each place of business.

Sec. 22-88. Fee.

The fee for any permit to be issued under this division shall be as set forth in the schedule of fees and charges and on file in the office of the city clerk.

Sec 22-88.1 Hours of Business

It shall be unlawful for any merchant or vendor to engage in the business within the city between the hours of 9:00 a.m. and 9:00 p.m., absent an express exception from the city manager.

22-88.2 Limitations

Such permits shall be available to an applicant on a particular parcel of land for a period not to exceed 30 days and obtainable once every three months (3), provided

- (a) Sales must occur on property that contains a principal structure;
- (b) No display shall be erected or installed, nor shall any sale of goods and merchandise take place within 50 feet of the curb or within the public right-of-way.
- (c) Sales shall not be permitted within a residential zoning district.
- (d) Sales shall be permitted only on property where controlled vehicular ingress and egress with adequate off-street parking.
- (e) No merchant or vendor shall solicit directly to the motoring public.
- (f) Charitable or non-profit events not to exceed four (4) days.

Sec. 22-89. Transfer.

No permit issued under this division shall be transferred.

Sec. 22-90. Revocation of permit.

- (a) Any permit issued pursuant to this division may be revoked by the city manager, after notice and hearing, for any of the following causes:
 - (1) Any fraud, misrepresentation or false statement contained in the application for permit.
 - (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
 - (3) Any violation of this article.
 - (4) Conviction of the permittee of any felony or of a misdemeanor involving moral turpitude.

(5) Conducting the business permitted under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed or personally served on permittee at his last known address, at least five days prior to the date set for the hearing.

Sec. 22-91. Appeal.

Any person aggrieved by the decision of the city clerk in regard to the denial of application for permit as provided in section 22-84 or in connection with the revocation of a permit as provided for in section 22-90, shall have the right to appeal to the Zoning Board of Appeals of the city. Such appeal shall be taken by filing with the Zoning Board of Appeals within 14 days after notice of the decision of the city clerk has been mailed to such person's last known address, a written statement setting forth the grounds of appeal. The Zoning Board of Appeals shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in section 22-90 for notice of hearing on revocation. The order of the Zoning Board of Appeals on such appeal shall be final with any appeal by writ of certiorari to Gwinnett Superior Court

Sec. 22-92. Expiration.

All permits issued under the provisions of this division shall expire 90 days after the date of issuance thereof unless a prior date is fixed therein.