Chapter 8.08 Itinerant or Transient Merchant's License

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8.08.010 Definitions. For the purposes of this chapter the following shall mean:
a. "Temporary business" is a business or enterprise that is to be carried on for a period of less than sixty days per calendar year duration within the City.
b. "Transient or itinerant merchant" means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the municipality or not, who engages in a temporary business of selling and delivering goods, and/or services, wares and merchandise within the City, and who, in furtherance of such purpose, peddles from door to door or hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad car, boat, any room in a hotel, lodging house, apartment, shop, or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, and/or the performance of services, either privately or publicly. The person, firm or corporation 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, provided the temporary business is conducted in conformance with Chapter 21 of the Homer City Code as it pertains to the residential zones which prohibits selling from homes.
c. "Isolated or casual sales" means the transfer of personal or real property from one individual to another on an occasional basis, for an agreed-upon fee. (Ord. 89-9(A) §1, 1989; Ord. 86-21 §1, 1986; Ord. 84-36 §1, §2, 1984; Ord. 83-2 §1(part), 1983).

8.08.020 Itinerant or transient merchant--License required--Exemptions. It is unlawful for a transient or itinerant merchant, as defined in Section 8.08.010 to engage in business within the City without first obtaining a license therefore in compliance with the provisions of this chapter. The licensing requirements of this chapter do not extend to isolated or casual sales of personal goods, wares, vehicle, animals, etc., or to the sale of similar items at such functions as garage sales, flea markets, and bazaars nor to activities conducted at conferences that cater to a specialized audience. A commercial fisherman, who has a valid commercial fishing license issued by the State of Alaska and who has completed and filed with Alaska Department of Fish and Game the forms required to qualify as a "catcher-seller" shall be exempt from this chapter. (Ord. 89-9(A) §1, 1989; Ord. 83-2 §1(part), 1983).

8.08.030 Itinerant or transient merchant license--Application. Applicants for an itinerant or transient merchant license, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant, if an individual, by all partners, if a partnership, and by the president, if a corporation, with the Homer Police Department, on a form to be furnished by the Homer Police Department, which shall give the following information:
a. Name and description of the applicant (applicant must produce valid identification with photo affixed thereon);
b. Address, both legal and local;
c. A brief description of the nature of the business and the goods to be sold and in the case of products of farm or

orchard, whether produced or grown by the applicant;
d. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
e. The length of time for which the right to do business is desired;
f. If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
g. A photograph of the applicant, taken within sixty days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner;
h. The fingerprints of the applicant and the names of at least two reliable property owners of the City, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names and references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore; and a criminal history background check supplied by the State of Alaska within the preceding thirty days;
j. A copy of the applicant's business license and his certificate of registration for collection of Kenai Peninsula borough sales tax, and when applicable a health certificate, letter of approval or other appropriate notification from state authorities for a food vending business;
k. At the time of filing the application, a fee of ten dollars shall be paid to cover the cost of processing the application.
l. Waiver of objection to criminal history check. By the act of filing, applicant waives all claims he may have arising under any act or principle of common law protecting individual privacy, and consents to an investigation from any source or sources as to criminal history. (Ord.01-20, §1, 2001; Ord 92-21 (part), 1992; Ord. 89-9(A) §1(part), 1989; Ord. 86-21 §2, 1986; Ord. 83-2 §1(part), 1983).

8.08.040 Referral--Fees. a. Upon receipt of the application described in Section 8.08.030, the original shall be referred to the Chief of Police or designee who shall cause an investigation of the applicant's business responsibility and moral character to be made. The application shall be approved or denied by the Chief of Police or designee within forty-eight hours of its receipt.
b. The Chief of Police shall find that an application's background is unsatisfactory if:
1. The applicant has been convicted of a felony within the three-year period immediately preceding the date of his application;
2. The applicant has been convicted of a misdemeanor or violation of a municipal ordinance involving a monetary consideration within the same three-year period;
3. The applicant does not have proper business license, certificate of registration for collection of sales tax or health certificate when applicable.
c. If, as a result of such investigation, the applicant's character of business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and shall notify the applicant that his application is disapproved and that no permit and license will be issued.
d. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or designee shall endorse on the application his approval. The Homer Police Department shall, upon payment of the prescribed fee, deliver to the applicant his license. Such license shall contain the signature and seal of the Chief of Police or designee and shall show the name, address and photograph of the licensee, the class of license issued and the kinds of goods to be sold thereunder, the amount of fee paid, the operative, as well as the license number and other identifying description of any vehicle used in the business. The Homer Police Department shall keep a permanent record of all licenses issued.
e. For each license issued hereunder, the fee shall be $330.00 for a 60-day license. For each assistant or sublicense associated with the principal license the fee shall be ten dollars each. (Ord. 10-51(A), 2011; Ord.01-20, §1, 2001; Ord 92-21 (part), 1992; Ord. 89-9(A) §1(part), 1989; Ord. 86-21 §3, 1986; Ord. 83-2 §1(part), 1983).

8.08.050 License--Revocation. Licenses issued under the provisions of this chapter may be revoked by the Chief of Police subject to appeal under Section 8.08.120 for any of the following causes:
a. Fraud, misrepresentation or false statement contained in the application for license;
b. Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler;
c. Any violation of this chapter;
d. Conviction of any crime or misdemeanor involving moral turpitude;
e. Conducting business hereunder 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. (Ord.01-20, §1, 2001; Ord 89-9(A) §1(part), 1989; Ord. 83-2 §1(part), 1983).

8.08.060 License--Expiration. All licenses issued under the provisions of this chapter shall expire sixty days following date of issue. Land uses for which a temporary license is issued must cease upon expiration of the permit, including the immediate removal of any temporary structure. (Ord 89-9(A) §1(part), 1989; Ord. 84-36 3, 1984; Ord. 83-2 §1(part), 1983).

8.08.070 License--Nontransferable. No license issued under the provision of this chapter shall be used at any time by any person other than the one to whom it was issued. (Ord. 83-2 §1(part), 1983)

8.08.080 Exhibition of license. Persons licensed under this chapter shall display their licenses as follows:
a. All door to door vendors and person soliciting or conducting business other than at a fixed business location shall physically wear their permit in plain view attached to their lapel, external jacket, or shirt, at all times while engaged in any business-related public contact.
b. All-other persons shall openly display their license at the front counter (or primary area of public contact) of their business.
c. All licensees shall produce their license for physical examination at the request of any citizen or peace officer authorized to enforce this chapter. (Ord.01-20, §1, 2001; Ord. 89-9(A) §1(part), 1989; Ord. 88-4 §1, 1988.)

8.08.100 Use of streets and other public places. No licensee shall have exclusive right to any location in the public streets, nor shall anyone be permitted to operate in any congested area, to include areas designated as public parking, campgrounds, parks or open spaces or where his operation might impede or inconvenience public. For the purpose of this chapter, the judgement peace officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord 90-19(A) §1, 19902; Ord. 89-9(A) §1(part), 1989; Ord. 84-12 §1, 1984; Ord. 83-2 §1(part), 1983).

8.08.110 Report of convictions for chapter violations. The Homer Police Department shall maintain a record of each license issued and record the reports of violations therein. (Ord.01-20, §1, 2001; Ord 92-21 (part), 1992; Ord. 89-9(A) §1(part), 1989; Ord. 83-2 §1(part), 1983).

8.08.120 Appeals from action of Chief of Police . Any person aggrieved by the action of the Chief of Police in the denial of an application for a permit or license as provided in Section 8.08.040, or in the decisions with reference to the revocation of license as provided in Section 8.08.050, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Council, within fourteen days after the action of the Director of Public Safety, a written statement setting forth fully the grounds for appeal. The City Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the appellant postage prepaid at his last known address at least five days prior to the date set for the hearing. The decision and order of the City Council on such appeal shall be final and conclusive. (Ord.01-20, §1, 2001; Ord 89-9(A) §1(part), 1989; Ord. 83-2 §1(part), 1983).

8.08.140 State laws applicable. Notwithstanding any provisions of this chapter, any peddler operating under any license issued by the City pursuant to this chapter shall not be exempted from any and all licenses, permits, laws, or ordinances as required by the State of Alaska and the Kenai Peninsula Borough. (Ord. 89-9(A) §1(part), 1989; Ord. 83-2 §1(part), 1983).

8.08.145 Nonapplicability of chapter. The provisions of this chapter shall not apply to a person who solicits funds for any purpose or disseminates information in connection with an authorized activity of a charitable, religious, political or civic organization of which that person is a member, adherent or representative provided that such activity is carried out in an orderly manner and in no way disturbs the peace or creates a public or private nuisance. (Ord. 89-9(A) §1(part), 1989; Ord. 83-15 §1, 1983).

8.08.150 Violation--Penalty. The violation of any provision contained in this chapter shall be punished under Section 1.16.010. (Ord. 89-9(A) §1(part), 1989; Ord. 83-2 §1(part), 1983).

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