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ORDINANCE NO. 4313

TITLE: AN ORDINANCE DEFINING, REGULATING, AND LICENSING TRANSIENT MERCHANTS, ITINERANT MERCHANTS, AND ITINERANT VENDORS AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1: License Required.

It shall be unlawful for a transient merchant, itinerant merchant, or itinerant vendor, as defined in Section 2 of this ordinance, to engage in such business within the City of Albany, Oregon, without first obtaining a license, therefore, in compliance with provisions of this ordinance.

SECTION 2: Definitions.

For the purpose of this ordinance, a transient merchant, itinerant merchant, or itinerant vendor is defined as any person, firm, or corporation, whether it is the 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 said City, and who, in furtherance of such purpose hires, leases, uses, or occupies any building structure, parking lot, vacant lot, motor vehicle, tent, street, or alley for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this ordinance 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.

EXCEPTIONS: The provisions of this ordinance requiring application for license shall not apply to one selling products of the farm or orchard actually produced by the seller; nonprofit organizations where the proceeds of the sale do not inure to the direct benefit of an individual member of the organization; or sales where a contract has been signed by the City and the applicant providing that the proceeds received by the applicant from such business, occupation, or trade will be used to improve a part of the City's public park system.

Notice of Claimed Exemption.

A person or organization claiming an exemption from the provisions of this licensing ordinance shall, prior to engaging in a temporary business, give notice of the proposed sale to the City Recorder of the City of Albany or, in his absence or in the event the City Recorder's Office shall be closed, then to the Albany Police Department at its headquarters. Notice shall state the location of the proposed sale and the basis of the claimed exemption.

SECTION 3: Application.

Applicants for license under this ordinance, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant,

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if an individual; by all partners of a partnership; and by the President, if a corporation; with the City Recorder, showing:

a. The name or names of the person or persons 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 of Albany; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of 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 same is incorporated;

b. The fingerprints of the person or persons having the management or supervision of the applicant's business or, in lieu thereof, at least three (3) letters of recommendation from property owners in the City of Albany, Linn County, Oregon, certifying as to the applicant's good character and business responsibility;

c. The place or places in the City of Albany where it is proposed to carry on the applicant's business and the length of time during which it is proposed that said business shall be conducted;

d. The place or places, other than the permanent place of business of the applicant, where applicant, within the six (6) months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

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

f. 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 Recorder, copies of all said advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto. Signs permitted under this ordinance shall be limited to 1 temporary (A-frame or standard) maximum 24 square feet each side, plus one banner or other painted sign attached to merchant's or vendor's vehicle or equipment, maximum 100 square feet per each street frontage. All signs shall be located on private property. Attachment to power poles, light standards, existing sign poles, or other similar locations is prohibited;

g. Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor, or violation of any municipal ordinance, the nature of such offense and the punishment assessed therefore;

h. Credentials from the person, firm, or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and

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i. Such other reasonable information as to the identity or character or the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the City Recorder may deem proper to fulfill the purpose of this ordinance in protection of the public.

SECTION 4: Investigation and Issuance.

Upon receipt of such application, the City Recorder shall cause such investigation of such person or persons' business responsibility as is deemed necessary for 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 such investigation, the character and business reputation appear to be satisfactory, the City Recorder shall so certify, in writing. Upon payment by the applicant of a license fee of \$100.00, a license shall be issued by the City Recorder. The City Recorder shall keep a full record in his office of all licenses issued. This license shall contain the name of the licensee, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of said license, the place where said business may be carried on under said license, and the name or names of the person or persons authorized to carry on the same.

SECTION 5: Bond.

Before any license, as provided by this ordinance, shall be issued for the engaging in a transient or itinerant business, as defined by Section 2 of this ordinance of the City of Albany, such applicant shall file with the City Recorder a bond running to the City of Albany in the sum of ONE THOUSAND DOLLARS (\$1,000.00) executed by the applicant, as principal, and a corporate surety or two (2) individual sureties upon which service of process may be made in the State of Oregon; said bond to be conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the City of Albany, the statutes of the State of Oregon, regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant.

SECTION 6: Exhibition of License.

The license issued under this ordinance shall be posted conspicuously in the place of business named therein.

SECTION 7: Transfer.

No license shall be transferred without written consent of the City Recorder, as evidenced by an endorsement on the face of the license showing to whom the license was transferred and the date of transfer.

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SECTION 8: Revocation of License.

The license issued pursuant to this ordinance may be revoked by the City Council, after notice and hearing, for any of the following causes:

1. Any fraud, misrepresentation, or false statement contained in the application for license;
2. Any fraud, misrepresentation, or false statement in connection with the selling of goods, wares, or merchandise;
3. Any violation of this ordinance;
4. Conducting the business license issued under this ordinance in an unlawful manner and in such manner as to constitute a breach of the peace.

Notice of hearing for revocation of the license 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, postage prepaid, to the licensee, at his last known address, at least five (5) days prior to the date set for hearing.

SECTION 9: Expiration of License.

All licenses issued under the provisions of this ordinance shall expire twenty (20) days after the date of issuance thereof unless a prior date is fixed again.

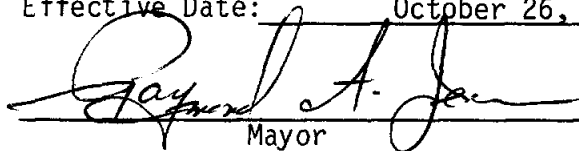
SECTION 10. Penalty.

Any person, firm, or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment.

Passed by the Council: September 26, 1979

Approved by the Mayor: September 26, 1979

Effective Date: October 26, 1979



Mayor

(Council President acting as Mayor)

ATTEST:



City Recorder