

CHAPTER 5

ITINERANT VENDORS

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3-5-1: DEFINITIONS:

As used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

CONSUMER: One who uses and by using destroys the value of the article purchased.

ITINERANT VENDOR: Any person, firm, association, partnership or corporation employed or engaged in the business of retailing to consumers by going from consumer to consumer, either on the streets or to places of residence or employment, and there soliciting, selling or offering to sell or exhibiting for sale (by sample, by catalog, or otherwise) or taking orders for future delivery of any goods, wares or merchandise or for services to be performed in the future. (1975 Code § 3-5-1; amd. 2015 Code)

3-5-2: SCOPE OF CHAPTER:

This chapter shall in no way affect any person, firm, association, partnership or corporation with a commercial designation who or which maintains a permanent place of business in the city. (1975 Code § 3-5-2)

3-5-3: LICENSE REQUIRED; FEE:

For the purpose of defraying the expenses of regulation under this chapter, every itinerant vendor desiring to do business in the city shall, before commencing such business, pay to the city finance officer the sum as set by resolution for a license to conduct such business for a period of ninety (90) days from the date such license is issued. (1975 Code § 3-5-3; amd. 2015 Code)

3-5-4: NONTRANSFERABILITY OF LICENSE:

The license issued under this chapter shall be nontransferable and shall have printed across the face thereof in bold letters, "NONTRANSFERABLE". (1975 Code § 3-5-4)

3-5-5: APPLICATION FOR LICENSE:

A. Form: Every itinerant vendor desiring to do business in the city shall, before commencing such business, file with the city finance officer, on a form to be provided by the city finance officer, an application, in writing, subscribed and sworn to by such applicant before an officer in this state authorized to take oaths.

B. Required Information: The application shall set forth:

1. Name of applicant.
2. Applicant's permanent residence address and phone number.
3. Address and phone number of applicant's local headquarters, if any.
4. Address of applicant's temporary living quarters, including motel/hotel accommodations, while conducting business in the city.
5. City or county in this state or other state from which applicant last received a license as an itinerant vendor.
6. Whether applicant is acting as a principal, agent or employee.
7. If applicant is acting as an agent or employee, the name, permanent address and phone number of his principal or employer.
8. Brief descriptive list of articles to be offered for sale or services to be performed.
9. Whether payments or deposits of money are collected when orders are taken or in advance of final delivery.

C. Acting As Agent: If the applicant is acting as an agent, the principal's acknowledgment of such agency must accompany and be made a part of the application.

D. License Fee: At the time of filing the application, such itinerant vendor must submit therewith the license fee as provided for in section 3-5-3 of this chapter. (1975 Code §3-5-5)

3-5-6: BOND REQUIREMENTS:

A. Bond Required: Every application made by an itinerant vendor taking orders for future delivery and collecting advance payments, deposits or guarantees thereon under the terms of section 3-5-1 through 3-5-5 of this chapter shall be accompanied by a bond in the penal sum per Montana Code Annotated title 7, chapter 21 paid to the city finance officer.

B. Form Of Bond; Cash In Lieu: The bond shall be executed by a surety company licensed to do business in this state. In lieu of a bond meeting the requirements of this section, the application may be accompanied by a cash bond of equal amounts. (1975 Code § 3-5-6; amd. 2015 Code)

C. Approval Of Bond: The bond shall be approved by said city finance officer and conditioned upon making of final delivery of the goods ordered or the services to be rendered in accordance with the terms of such order or failing therein, that the money advanced by his customers be refunded.

D. Term Of Bond: Such bond shall remain in full force and effect for a period of six (6) months after the expiration of any such license and shall be held to assure only business transacted under the authority of the license issued pursuant to the application which such bond accompanied. (1975 Code § 3-5-6)

3-5-7: RIGHT OF AGGRIEVED PURCHASER:

Any person aggrieved by the action or misrepresentation of any such itinerant vendor shall have a right of action on the bond for the recovery of his money advanced or damages and costs. (1975 Code § 3-5-7)

3-5-8: PROCESSING OF APPLICATION; ISSUANCE OF LICENSE:

A. Issuance; Term: Upon filing of the application prescribed in section 3-5-5 of this chapter or the filing of such application and the bond prescribed in section 3-5-6 of this chapter, in proper form, and upon the payment to the city finance officer of the sum provided for in section 3-5-3 of this chapter, the city finance officer shall issue and deliver to the applicant a license to carry on the business described in such application in the city for a period of ninety (90) days from the date of such license. (1975 Code § 3-5-8; amd. 2015 Code)

B. Endorsement: The city finance officer shall endorse upon each application the date of issuance of the license and shall immediately file such application with the office of the city finance officer and shall keep an appropriate index thereof which shall show the date filed, the name of the applicant, and an appropriate reference to the file number by which said application may be found. (1975 Code § 3-5-8)

3-5-9: LICENSE DISPLAYED UPON DEMAND:

A. Display Required: Every such itinerant vendor doing business under the provisions of this chapter must, upon demand of any person, exhibit his license and permit the same to then and there be read by the person making such demand. (1975 Code § 3-5-9)

B. Refusal Or Failure To Display: Any such itinerant vendor who shall wilfully refuse or fail to exhibit his license as provided in subsection A of this section is guilty of a misdemeanor and shall be fined as provided in section 1-4-2 of this code for each offense. (1975 Code § 3-5-9; amd. 2015 Code)

3-5-10: FAILURE TO COMPLY WITH LICENSING REQUIREMENTS:

Every "itinerant vendor" as herein defined doing business without first obtaining a license as required by this chapter is guilty of a misdemeanor and shall be punished accordingly. (1975 Code § 3-5-10)