

## CHAPTER 6

### TRANSIENT RETAIL MERCHANTS

SECTION:

**3-6-1: Definitions**

**3-6-2: Applicability Of Term Transient Retail Merchant**

**3-6-3: Scope Of Chapter**

**3-6-4: License Required; Fee**

**3-6-5: Nontransferability Of License**

**3-6-6: Application For License**

**3-6-7: Bond Requirements**

**3-6-8: Right Of Aggrieved Purchaser**

**3-6-9: Processing Of Application; Issuance Of License**

**3-6-10: License Displayed In Place Of Business**

**3-6-11: Failure To Comply With Licensing Requirements**

**3-6-1: DEFINITIONS:**

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

**TEMPORARY PREMISES:** Any hotel, rooming house, storeroom, building or part of any building, tent, vacant lot, freight station, railroad car, automobile, truck, trailer or trailer house, or public or quasi-public place, temporarily occupied for such business as defined in this section.

**TRANSIENT RETAIL MERCHANT:** Every person, firm or corporation acting for himself or itself or representing any other person, firm or corporation who or which brings into temporary premises a stock of goods, wares, articles of merchandise, notions, or other articles of trade and who or which solicits, sells, offers to sell, or exhibits for sale such stock of goods, wares, articles of merchandise, notions, or other articles of trade at retail. (1975 Code § 3-6-1)

**3-6-2: APPLICABILITY OF TERM TRANSIENT RETAIL MERCHANT:**

The definition of transient retail merchant shall continue to apply until such person, firm or corporation shall be continuously engaged at such particular place in the city for a period of one year. (1975 Code § 3-6-2)

**3-6-3: SCOPE OF CHAPTER:**

This chapter shall in no way affect any person with a commercial designation who or which maintains a permanent place of business in the city, local fundraising activities by civic or other nonprofit organizations or private, occasional garage or estate sales of used or secondhand property. (1975 Code § 3-6-3)

**3-6-4: LICENSE REQUIRED; FEE:**

For the purpose of defraying the expenses of regulation under this chapter, every transient retail merchant 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 each week or fraction thereof, to be paid in advance to the city finance officer. (1975 Code § 3-6-4; amd. 2015 Code)

**3-6-5: NONTRANSFERABILITY OF LICENSE:**

The license issued under this chapter shall be nontransferable and shall have printed across the face thereof in bold letters, the words, "NOT TRANSFERABLE". (1975 Code § 3-6-5)

**3-6-6: APPLICATION FOR LICENSE:**

A. Form: Every transient retail merchant 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 a transient retail merchant.
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.
10. The time of his arrival in the city.
11. The number of weeks for which license is requested.

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 transient retail merchant must submit therewith the license fee provided for in section 3-6-4 of this chapter. (1975 Code §3-6-6)

### **3-6-7: BOND REQUIREMENTS:**

A. Bond Required: Every application made by a transient retail merchant taking orders for future delivery and collecting advance payments, deposits or guarantees thereof shall be accompanied by a bond per Montana Code Annotated title 7, chapter 21 paid to the city finance officer.

B. Form Of Bond:

1. The bond shall be executed by a surety company licensed to do business in this state. (1975 Code §3-6-7; amd. 2015 Code)
2. In lieu of a bond meeting the requirement of this section, the bond may be a cash bond of equal amount.

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 in accordance with the terms of such order or failing therein, that the money advanced 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.

E. Bond In Lieu Of License Fee: In lieu of the license fee provided for in section 3-6-4 of this chapter, every transient retail merchant who files with the application required in section 3-6-6 of this chapter an affidavit indicating bona fide intention to become a permanent merchant and continue in business for a period longer than one year shall, upon filing and approval of the bond provided for in this section, receive from the city finance officer a license permitting the conduct of such business for one year. Such bond in lieu of license fee shall be conditioned upon the performance of the intention to become a permanent merchant and continue in business for a period longer than one year and to ensure the payment of license fees for the period such business is actually conducted if not in fact a bona fide permanent business. The bond shall be further conditioned upon the delivery of goods ordered or sold in accordance with the terms of such order or sale. (1975 Code § 3-6-7)

### **3-6-8: RIGHT OF AGGRIEVED PURCHASER:**

Any person aggrieved by the action or misrepresentation of any such transient retail merchant shall have a right of action on the bond provided for in section 3-6-7 of this chapter for the recovery of his money advanced or damages and costs. (1975 Code §3-6-8)

### **3-6-9: PROCESSING OF APPLICATION; ISSUANCE OF LICENSE:**

A. Filing Of Application:

1. Upon filing of the application prescribed in section 3-6-6 of this chapter or the filing of said application and the bond prescribed in section 3-6-7 of this chapter, in proper form, and the payment of the fee provided for in section 3-6-4 of this chapter, the city finance officer shall issue and deliver to the applicant, in the city, a license to carry on the business described in such application in the city for the period for which such license is requested.

2. Upon filing of the application prescribed in section 3-6-6 of this chapter and the bond in lieu of license prescribed in section 3-6-7 of this chapter, and the payment of the fee provided for in section 3-6-4 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 one year from the date of such license. (1975 Code § 3-6-9; amd. 2015 Code)

B. Endorsement: The city finance officer shall endorse upon each application the date of issuance of the license and the duration thereof and shall immediately file such application in the office of the city finance officer. The city finance officer 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 § 3-6-9)

### **3-6-10: LICENSE DISPLAYED IN PLACE OF BUSINESS:**

A. Posting Required: Every transient retail merchant doing business under the provisions of this chapter shall at all times keep said license conspicuously posted in said place of business. (1975 Code § 3-6-10)

B. Failure To Post: Any such transient retail merchant who shall fail to post and keep posted 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 § 3-6-10; amd. 2015 Code)

### **3-6-11: FAILURE TO COMPLY WITH LICENSING REQUIREMENTS:**

Every "transient retail merchant" 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 § 3-6-11)