

Chapter 4.16

TRANSIENT MERCHANTS

Sections:

- 4.16.010 Definition.
- 4.16.020 License required.
- 4.16.030 Exemptions.
- 4.16.040 Application.
- 4.16.050 Review of application.
- 4.16.060 Insurance.
- 4.16.070 License fee.
- 4.16.080 Issuance of license—Length of term.
- 4.16.090 License to be displayed.
- 4.16.100 Regulation.
- 4.16.110 Suspension or revocation of license.
- 4.16.120 Right to file appeal following suspension or revocation.
- 4.16.130 Temporary association or partnership.
- 4.16.990 Penalty.

4.16.010 Definition.

"Transient merchant" means any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in a temporary or transient business of selling and delivering or purchasing goods, wares, food, merchandise or services within the city of Lafayette and who, in furtherance of such business, leases, uses or occupies any structure, motor vehicle, trailer, tent, lot, cart, street, alley, sidewalk or any other such place, public or private, within the city for the exhibition and sale of such goods, wares or merchandise or who provides a service to the community. (Ord. 2013-17, § 1, 8-5-13)

4.16.020 License required.

It shall be unlawful for any transient merchant to engage in the business of a transient merchant

within the city of Lafayette without having an unrevoked license from the city of Lafayette to do so, valid and in effect at that time. (Ord. 2013-17, § 1, 8-5-13)

4.16.030 Exemptions.

License requirements under this chapter shall not apply to:

- A. Any person selling or offering for sale goods, wares, merchandise, food, services or subscriptions in conjunction with a charitable or other civic non-profit club or organization having an office or chapter in Tippecanoe County or that regularly holds meetings in Tippecanoe County;
- B. A garage sale on the premises of a homeowner in which the items offered for sale are primarily items belonging to the homeowner; or
- C. Transient merchants engaged in sales, or offers to sell, during any city of Lafayette endorsed event including but not limited to: Farmers Market; Mosey Down Main Street; Taste of Tippecanoe; Uptown Jazz and Blues Festival and Dancing in the Streets.

(Ord. 2013-17, § 1, 8-5-13)

4.16.040 Application.

Applications for licenses by transient merchants shall be made to the City Controller and must contain the following information:

- A. The name, residence, post office box of the person, firm, limited liability company, or corporation making the application, and if a firm, limited liability company or corporation, the name and address of the members of the firm or limited liability company or officers of the corporation, as the case may be;
- B. If the applicant is a corporation or limited liability company then there shall be stated on the application form the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than

the state of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the state of Indiana;

- C. A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact business and the location of such proposed place of business;
- D. The name, address and telephone number of the contact person who shall be available for a period of time not less than sixty (60) days following the last date of business who will respond to consumer complaints;
- E. The applicant's Indiana State Retailer License Number;
- F. If the applicant will be using, handling, selling or distributing food a copy of the Tippecanoe County Health Department permit must be attached to the application;
- G. If the application provides for the use of a building, room, shop, booth, cart or private real estate, the applicant must file written permission from the property owner for the use of the real estate;
- H. A brief statement of the nature of the advertising proposed to be done for the business;
- I. A description of the types of merchandise intended to be sold, purchased or contracted for;
- J. If a vehicle is to be used, a description of the vehicle, together with the license plate number or other means of identification;
- K. A list of applicant's felony and/or misdemeanor convictions including the date of conviction and the city and state of all such convictions, if any;
- L. Any such information the Controller, or his designee, deems necessary; and
- M. Verification that all of the information provided is truthful.

Any transient merchant that will use peddlers or solicitors must provide proof that each peddler or solicitor has obtained the appropriate license pursuant to Chapter 4.09 — Peddlers and Solicitors. (Ord. 2013-17, § 1, 8-5-13)

4.16.050 Review of application.

The Police Department shall conduct a review of each applicant and make a recommendation to the City Controller as to whether the license should be granted. The following will constitute valid reasons for disapproval of a license. Tangible evidence that the applicant, owner or operator:

- A. Has been convicted of a crime of moral turpitude;
- B. Has made willful misstatements on the application;
- C. Has committed prior violations of statutes or ordinances pertaining to transient merchants, peddlers, solicitors, and the like;
- D. Has committed prior fraudulent acts; or
- E. Has record of multiple breaches of solicited contracts.

(Ord. 2013-17, § 1, 8-5-13)

4.16.060 Insurance.

Each applicant for a license shall provide a certificate of liability insurance to the City Controller insuring the applicant, and naming the city of Lafayette, as co-insured, against the following liabilities and in the following amounts relative to such retail activity:

- A. Personal injury: One hundred thousand dollars (\$100,000.00) per occurrence and three hundred thousand dollars (\$300,000.00) in the aggregate; and
- B. Property damage: Twenty-five thousand dollars (\$25,000.00) per occurrence and fifty thousand dollars (\$50,000.00) in the aggregate.

(Ord. 2013-17, § 1, 8-5-13)

4.16.070 License fee.

The license fee for a transient merchant license shall be two hundred dollars (\$200.00). (Ord. 2013-17, § 1, 8-5-13)

4.16.080 Issuance of license—Length of term.

After consideration of the application and all information and data obtained relative thereto, the City Controller shall issue the license to the applicant if he/she determines that the applicant has the qualifications and meets the requirements of this chapter and all other applicable laws, ordinances and policies; if not, the application shall be denied and the applicant shall not engage in or carry out any business as transient merchant. A license issued by the Controller expires one hundred eighty (180) days after issuance. (Ord. 2013-17, § 1, 8-5-13)

4.16.090 License to be displayed.

Anyone issued a license pursuant to this chapter must prominently display the license issued by the City Controller and shall exhibit the same whenever he/she is requested to do so by any police officer or potential customer. Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license. (Ord. 2013-17, § 1, 8-5-13)

4.16.100 Regulation.

It shall be a violation for anyone licensed under this chapter to:

- A. Impede the flow of pedestrian, vehicular traffic or obstruct or hinder the view of pedestrians or motorists on any street, alley, sidewalk or right of way;
- B. Generate litter that is not promptly removed by the transient merchant;
- C. Use a device to amplify sound to attempt to sell or attract the attention to the goods, wares, merchandise, food, services or subscriptions;
- D. Sell or attempt to sell goods, wares, merchandise, food, services or subscriptions to a person(s) in or on any motorized vehicle;
- E. Act in an unlawful or disorderly manner; or

- F. Engage in any other activity that poses a threat to the public health, safety or general welfare.

(Ord. 2013-17, § 1, 8-5-13)

4.16.110 Suspension or revocation of license.

Licenses issued under this chapter may be suspended or revoked by the City Controller for any of the following reasons:

- A. Fraudulently obtaining the license by giving false information on any substantial matter in the application for the license;
- B. Any violation of the provisions of this chapter;
- C. The applicant has engaged in any fraudulent acts;
- D. The applicant has been convicted of any crime or infraction involving moral turpitude; or
- E. Conducting the business in any unlawful manner as to constitute a breach of the peace or to be a menace to the health, safety or general welfare of the people of Lafayette.

(Ord. 2013-17, § 1, 8-5-13)

4.16.120 Right to file appeal following suspension or revocation.

Any license having been denied or revoked under this chapter may be appealed to the Board of Public Works and Safety. Such appeal shall be taken by filing with the City Clerk a written statement of the ground for appeal within seven days after notice of denial or revocation.

The Board of Works and Safety shall set the time and place for hearing such appeal and notice of the time and place shall be given at least seven days prior to the date set for the hearing. (Ord. 2013-17, § 1, 8-5-13)

4.16.130 Temporary association or partnership.

A temporary association or partnership with a person excluded from the definition of a transient merchant under Section 4.16.010 does not relieve

a transient merchant from complying with this chapter. (Ord. 2013-17, § 1, 8-5-13)

4.16.990 Penalty.

Whoever violates any provision of this chapter for which no penalty is otherwise provided, shall be fined not more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed on each day that a violation occurs or continues. (Ord. 2013-17, § 1, 8-5-13)