

## ORDINANCE NO. 464

### AN ORDINANCE AMENDING SISTERS MUNICIPAL CODE SECTION 5.24 CONCERNING TRANSIENT MERCHANTS

5.24.110 Definition. A Transient Merchant is a person or business who either carries goods, wares, or merchandise from area to area (or City to City), selling or offering the same for retail sale; or who offers goods, wares, merchandise or services from a apparatus temporarily located within the city, or from a temporary location, without making the business permanent and continuous in the City. (Ord 295, 1999.)

#### 5.24.115 License Required.

- (1) No person or other entity shall engage, conduct or participate in the business of a transient merchant in the City without first obtaining a Transient Merchant License, which shall be available during regular business hours.
- (2) The license fee for a transient merchant shall be set by Council resolution.
- (3) Licenses are limited to a three (3) consecutive day period, six (6) times per calendar year on the same property. Transient Merchants shall not locate on or within 100 feet of Cascade Avenue between Pine Street and Locust Street.
- (4) Application for a license shall be made to the City Manager in writing and shall contain the following information:
  - (a) The name, permanent address and telephone number of the person or entity to whom the license will be issued;
  - (b) The nature of the business to be conducted;
  - (c) The days for which the license is to be granted;
  - (d) The location where the business will be conducted and the written consent of the property owner.
  - (e) Copies of all required state and county certificates and licenses.
- (5) Upon receipt of the completed application and payment of the license fee the City Manager or designee shall issue the license, subject to any conditions necessary to protect the health, peace and safety of the residents of Sisters.
- (6) The permit shall not be granted if any of the following exist:
  - (a) Any false or misleading information is supplied in the application or any information requested is omitted from the application.
  - (b) The applicant has been convicted of a crime involving unlawful trade practices as defined by ORS 646.608, fraud or moral turpitude within the last five years.

- (c) The applicant has been the subject of an unreasonable number of consumer complaints in the last five years.
- (d) The applicant has been the subject of an unlawful trade practices suit or investigation under ORS Chapter 646 which resulted in civil penalties assessed against him or her.
- (e) The applicant's proposed actual business operation presents a danger to the public health, safety, morals or general welfare which cannot be alleviated through the imposition of a condition of operation.
- (f) The applicant is unable to provide proof of compliance with all relevant federal and state bonding and licensing requirements.
- (g) The applicant has failed to comply with any other applicable provision of this code relating to the proposed conduct of business.

5.24.120 Conditions of Permit. Conditions of operation that are necessary to protect the public health, safety, morals and general welfare may be imposed on a permit. A permit also shall be subject to the following conditions:

- (1) The permit shall be valid for the period indicated.
- (2) The permit is not transferable.
- (3) Conduct of the permittee's business operations shall conform with statements made in the application and with any special conditions of operation imposed on the permit. The permittee shall carry and conspicuously display the permit during all hours of business operation.
- (4) The permittee shall abide by all applicable city, state and federal laws, rules and regulations. (Ord 295, 1999.)

5.24.125 Criteria for Conduct of Business. All permitted transient merchants activities shall comply with the following criteria:

- (1) To ensure proper infrastructure exists for merchant activity, Transient Merchants shall locate on property with the following:
  - (a) Curb, gutter, sidewalks
  - (b) On street parking
  - (c) Active water, sewer, and electricity service
  - (d) On-site access to restrooms if there are more than 10 transient merchants on a single lot.
- (2) Americans with Disabilities Act (ADA) accessible pathway to dining and/or service area.
- (3) Compliance with Sisters/Camp Sherman Fire District codes and recommendations.

(4) All sales shall be conducted outside of the public right of way, including the sidewalks, and shall not cause the flow of pedestrian traffic to become obstructed.

(5) All signage and display of merchandise shall comply with the requirements of the Sisters City Code. A maximum of two (2) signs on the property are allowed, regardless of the number of Transient Merchants operating from that property. The Transient Merchant may not place signs on property other than that being used by the Transient Merchant.

(6) Any time the merchant is conducting business, it shall pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter resulting from its business that is deposited by any person within 25 feet of the merchant's location.

(7) No transient merchant shall make any loud or unreasonable noise of any kind by vocalizing or otherwise for the purpose of advertising or attracting attention to the merchant's wares. (Ord 295, 1999.)

5.24.130 Investigation of Complaints. On receiving four signed written complaints from four separate persons against a Transient Merchant, the City Manager or designee will call for a review of the licenses issued. The City Manager may revoke or suspend one or more licenses issued. (Ord 295, 1999.)

5.24.145 Revocation. The license issued may be revoked by the City Manager or designee at any time for violation of the Sisters City Code, providing false information on its application or for failure to comply with the terms or conditions of the license. Notice of the revocation shall be delivered to the merchant setting forth in writing the grounds for revocation. Upon receipt of the notice, the merchant shall immediately cease operation. There will be no refund of the license fee. (Ord 295, 1999.)

5.24.150 Violations. Violation of any of the provisions of this chapter is a Class A Infraction, and upon conviction may be fined not less than \$300 nor more than \$500 for each violation. The sale of each article by any transient merchant without a license shall be deemed a separate offense under this chapter and a separate violation of this section. (Ord 295, 1999; amended by Ord 338, 2003.)

5.24.155 Appeal. Any transient merchant aggrieved by the denial or revocation of a license or any action taken under this chapter shall have the right to appeal to the Sisters City Council. Such appeal shall be made by filing a written statement with the City Manager within 5 days of the action complained of, setting forth the grounds for appeal. The Council shall set a time and place for hearing within thirty days of receipt of the statement. Written notice of

the hearing shall be sent to the appellant at the address provided on the application. (Ord 295, 1999.)

PASSED by the Common Council of the City of Sisters this 19th day of November 2015 and APPROVED by the Mayor of the City of Sisters.



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Chris Frye, Mayor

ATTEST:



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Kathy Nelson, City Recorder