

ORDINANCE NO. 1825

(An ordinance repealing Chapter 5.04 of the Hood River Municipal Code – Dance Licenses –
and amending Chapter 5.07 - Transient Merchants and Special Events)

The City of Hood River ordains as follows:

Chapter 5.04.010 through .060 of the Hood River Municipal Code [Dance License] is hereby repealed.

Chapter 5.07 is hereby amended as follows:

CHAPTER 5.07

TRANSIENT MERCHANTS AND SPECIAL EVENTS

- 5.07.010 Title.
- 5.07.020 Purpose and Scope.
- 5.07.030 Definitions.
- 5.07.040 License -- Required -- Fees.
- 5.07.050 License -- Application – Standards and Limitations.
- 5.08.060 Application Process -- Issuance -- Inspections -- Appeal.
- 5.07.070 Display of License.
- 5.07.080 Removal of Structures.
- 5.07.090 Penalty -- Hold Harmless and Indemnification.
- 5.07.100 Severability.

5.07.010 Title. The provisions of this chapter are intended to authorize and regulate transient vending on all property within the City of Hood River except property owned or leased by the city. To that purpose, there is added to the Hood River Municipal Code Chapter 5.07 entitled "Transient Merchants," and those sections and subsections set forth below.

5.07.020 Purpose and Scope.

A. This ordinance provides reasonable and necessary regulations for the licensing of transient merchants and special events in order to:

1. Protect the public health and safety;
2. Maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public;

3. Prevent interference with the peaceful enjoyment of the areas near places where the transient vending activity or special event is occurring; and

4. Preserve, protect and enhance the economic, scenic, historic and aesthetic values and objectives of the city.

B. The regulations of this code are not intended to permit any violation of the provisions of any other law or regulation.

C. These regulations shall not apply to activities on city-owned property.

D. These regulations shall not apply to garage sales, yard sales, rummage sales or swap meets conducted on private property, provided that the sale is not conducted over a period in excess of 4 consecutive days or more often than 3 times per calendar year.

E. These regulations shall not apply to sales conducted by municipal, government, religious, charitable, educational or other similar organizations, provided that the sale is conducted on premises owned or leased by the applicant for the regular conduct of its business or affairs.

F. These regulations shall not apply to temporary or seasonal uses within permanent structures, except for those activities within permanent structures subject to regulation as a special event.

G. Regulation of special events shall not apply to private parties or to events taking place within a permanent structure having a current on-premise license from the Oregon Liquor Control Commission.

H. Exemption of a use from the provisions of this chapter shall not exempt the use from other applicable provisions of this Code.

5.07.030 **Definitions.** The following definitions shall apply to this chapter:

“Dance” includes a dance which is open to the public, or for which admission is charged directly or indirectly.

"Person" includes the singular and plural and any individual, firm, corporation, association, club, copartnership or society or any other organization.

“Special event” includes any activity which is likely to attract at any one time an assembly of persons, conducted for a specified period at one or more locations within the City under the auspices of and subject to the supervision and direction of a single person, including but not limited

to festivals, fairs, shows, exhibitions, auctions, city or regional celebrations, athletic events, and public dances.

"Transient merchant" includes any person who offers food, beverages, produce, merchandise, a service, or other thing of value for sale within the city on a temporary or seasonal basis. The following classes of transient merchants are hereby established:

1. Class 1: A transient merchant requiring ~~the use of~~ **direct connection to City-operated** utilities for the preparation or storage of that which is being offered for sale. "Utilities" includes ~~electricity, natural gas, propane or other power source,~~ water, storm sewer or sanitary sewer, ~~whether or not any such utilities are provided by the city.~~ A license to a Class 1 transient merchant is issued for a single period per calendar year, not to exceed 180 consecutive days, with no renewals or extensions.
2. Class 2: A transient merchant not requiring ~~the use of~~ **direct connection to City-operated** utilities for the preparation or storage of that which is being offered for sale. A license to a Class 2 transient merchant is issued for a period of 30 consecutive days, with a maximum of 5 renewals per calendar year (maximum 180 days).

5.07.040 License -- Required -- Fee. No person shall engage in business as a transient merchant or conduct a special event within the corporate limits of the city without first obtaining a license as provided in this chapter. The applicable license fee shall be set by resolution of the city council. The fee shall be payable in full at the time of submission of an application and shall be non-refundable. **No license shall be assignable or transferable or shall authorize the applicant to conduct any other type of business or special event.**

5.07.050 License -- Application – Standards and Limitations. An applicant for a license under this chapter must file an application in writing, on a form to be furnished by the city recorder. The application will be reviewed to determine compliance with the following standards and limitations:

A. Application for Transient Merchant License.

1. The proposed use must meet the definition of "transient merchant" and be subject to classification as set out in Section 5.07.030. Any use not meeting the definition of "transient merchant" or subject to classification shall be deemed to be a use subject to review under chapter 17.03.050.

2. Transient merchants shall **not be permitted in the R-1, R-2 or R-3 zones** ~~be permitted only on property zoned general commercial (C-2)~~. Written permission of the property owner for the proposed use shall be required. No encroachment upon city rights-of-way shall be permitted.

3. Each license shall be issued for a single fixed location, and no transient merchant shall change location except upon a permitted license renewal; **provided, however, that the Waterfront shall be considered one location for purposes of this section, and movement within the Waterfront shall be subject to regulation by the Port of Hood River.**

4. No ~~Class 1~~ transient merchant **who is a food vendor** shall be permitted to provide tables or seating for the use of patrons. **A table for condiments will be permitted.**

B. Application for Special Event License

1. The proposed use must meet the definition of “special event.”

2. A special event license is issued to the sponsor of the special event, ~~with a fee based on a sliding scale depending on the number of merchants participating in the special event.~~

3. The license shall be limited to the duration of the special event, not to exceed 15 days.

4. The application ~~must be submitted no less than~~ **may be denied if not submitted** 30 days prior to the first day of the special event.

5. **The Chief of Police shall have discretion to set general policy for security for special events and to determine the specific security requirements for an individual special event.**

6. **The Fire Marshal shall have discretion to set general policy for fire safety inspections and to require a fire safety inspection for any individual transient merchant or special event, and to charge a fee to be set by council resolution.**

7. **The Building Official shall have discretion to require a structural inspection for any temporary structure, and to charge a fee to be set by council resolution.**

C. All applications under this chapter shall also comply with the following:

1. No person shall be deemed to be exempt from the application of this chapter by reason of that person having conducted business within the City prior to the effective date of this ordinance.

2. Applicants must comply with all applicable state and local laws, including but not limited to regulations and standards imposed or enforced by the Hood River County Sanitarian and the Hood River Municipal Code.

3. All waste shall be disposed of in compliance with all city, county and state standards, and may not be poured into storm sewers or onto the ground. Adequate trash receptacles must be provided.

4. No use will be permitted: within the required landscape or setback area of the property; which blocks vision at street intersections; which blocks a crosswalk or otherwise impedes the flow of pedestrian traffic; which blocks entrances or exits from buildings; which blocks a driveway or otherwise impedes the flow of vehicular traffic; within 10 feet of any disabled parking space or access ramp; within 50 feet of any entrance or driveway to a health care facility with an emergency or urgent care facility, school, or police or fire station; within any service drive of a parking lot; or in a location which conflicts with any fire or safety code regulations.

5. In determining whether to grant or deny a license, or in setting any conditions upon the granting of a license, the city shall consider: the need to maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public; **criminal history of the applicant; any history of problems with an applicant or event previously held; suitability of the premises for the type of activity applied for;** and compliance with all applicable local and state laws, ordinances and regulations, and the standards set forth in this section.

5.07.060 Application Process -- Issuance -- Inspections -- Appeal.

A. Application Process. Upon receipt of a completed application and fee, the city recorder shall refer the application to the appropriate city departments for review and, if applicable, to the County Sanitarian.

B. Issuance. The city recorder shall issue a license if the city recorder finds that the application has been approved by the appropriate departments, or can meet approval through appropriate conditions.

C. Inspections. The conditions applicable to a license may include the right of the city or the County Sanitarian to a post-licensing inspection of the licensee's business premises to insure

compliance with appropriate structural, mechanical, fire, health and/or safety regulations or concerns. Inspections may also be conducted from time to time during the course of the license period, as deemed necessary by the city or the county sanitarian. If the licensee fails, within a reasonable time, to remedy any non-complying practice or defective condition identified as a result of any inspection, the licensee's license shall be revoked, without refund.

D. Appeal. Any person whose application for a license has been denied, whose license has been issued subject to conditions, who disagrees with the transient merchant class assigned to the application, or whose license has been subsequently revoked, may appeal the decision to the city council; provided, however, that no business shall be conducted during the pendency of the appeal. The fee for an appeal shall be set by council resolution.

5.07.070 **Display of License.** The licensee shall display the license, together with any conditions, at all times on the business premises, in a location visible to customers.

5.07.080 **Removal of Structures.** Any structures, carts, vending units, tents, tables or other appurtenances used by the licensee may not be located or relocated on the property until commencement of the license term, and shall be removed from the property promptly upon expiration of the license term.

5.07.090 **Penalty -- Hold Harmless and Indemnification.** Any person who violates or causes a violation of any provision of this chapter shall be subject to punishment as prescribed in Chapter 1.12 of the Hood River Municipal code. Upon any violation the City Manager, or a designee of the City Manager, may order the licensed activity to cease, and upon receipt of written notice, the activity shall immediately cease. Any such persons and licensees shall indemnify and hold the city and its officers, agents and employees harmless from and against all claims for injury, loss or damage arising out of or in any way related to the operation of licensee's business. This agreement to indemnify or defend shall survive termination or revocation of licensee's license.

5.07.100 **Severability.** Invalidity of a section or part of a section of this chapter shall not affect the validity of the remaining sections or parts of sections.


Read for the first time: March 11, 2002.

Read for the second time and passed: March 25, 2002, to become effective in thirty (30) days.



Paul G. Cummings, Mayor

ATTEST:



Anita R. Smith, City Recorder