

Chapter 61 – Temporary Merchant Businesses

1. Definitions.

The following definitions shall apply to this Chapter:

- Applicant means a person that submits an application for a Temporary Merchant Business License.
- Christmas Tree Sales means the retail sale of real Christmas trees.
- Lot means a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of Chapter 39. A lot may or may not be specifically designated as such on public records.
- Mobile windshield repair means a temporary outdoor use involving the injection, curing and polishing of specially formulated resins into a damaged area of an automobile windshield.
- Person means any individual, firm partnership, limited liability company, or corporation.
- Sidewalk Sales means a promotional sales event conducted on the sidewalk or other hard surface along the front or side of the particular establishment in which such business is normally conducted.
- Temporary means a business that operates for ninety (90) days or less.
- Temporary Indoor Use means a person that engages in selling goods and wares or providing a service from any lot or premises indoors on a temporary basis.
- Temporary Outdoor Use means a person that engages in selling goods and wares or providing a service from any lot or premises outdoors on a temporary basis, not including sidewalk sales or Christmas tree sales.

2. License Required.

No person shall operate a Temporary Merchant Business in the City of Troy without first obtaining a license pursuant to the provisions of this Chapter. The following shall be considered Temporary Merchant Businesses:

- a. Temporary Indoor Uses;
- b. Temporary Outdoor Uses;
- c. Sidewalk Sales;
- d. Christmas Tree Sales.

3. Application for Temporary Merchant Business License.

- a. An applicant shall submit to the Clerk's Office a fully completed application, on a form furnished by the City Clerk.
- b. The Application, at a minimum shall include the following information:
 - i. The full and complete name and current address of the applicant(s).
 1. If the applicant is a partnership, the name and address of each partner shall be listed, and a copy of any partnership agreement shall be attached to the application.
 2. If the applicant is a privately held corporation, the name and address of each corporate officer, member of the board of directors, and stockholder shall be listed, and a copy of the articles of incorporation shall be attached to the application.
 3. If the applicant is a publicly held corporation, the name and address of each corporate officer, member of the board of directors and stockholder who owns ten (10) percent or more of the corporate stock shall be listed on the application.
 4. If the applicant is a limited liability company, the name and address of each member, manager, or person with a membership interest shall be listed, and the articles of organization shall be attached to the application.
 - ii. The complete name, permanent address, and telephone number of the proposed licensed business.
 - iii. A written statement as to the applicant's experience in operating similar businesses in Troy or other communities.
 - iv. A concise statement as to the individual applicant's past employment or business practice including identification of other communities where the proposed licensed was operated.
 - v. Information related to the business's operation, which includes the following:
 1. Requested length of license;
 2. Proposed use;
 3. The days and hours of operation.
 - vi. Any other information pertinent to the applicant and the proposed business operation.

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- c. The applicant shall also attach a sketch plan, drawn to scale, which shows the following information:
 - i. The parcel boundaries of the property where the proposed business will be located.
 - ii. The footprint and dimensions of all existing and proposed buildings and structures on the subject property.
 - iii. All curb cuts, drive aisles, and parking spaces on the property.
 - iv. The exact location of the proposed Temporary Merchant Business, including the exact location of any and all of the following: signage, sales, display or service areas, staff and customer parking areas, required restroom facility, and other activities associated with the proposed Temporary Merchant Business.

4. Licensing.

Temporary Merchant Business Licenses shall also comply with the provisions of Chapter 59 of this Code.

5. License Fees.

The fee for a Temporary Merchant Business License application is listed in Chapter 60 of this Code.

6. Application Review and Investigation.

- a. After the City Clerk has received a completed Temporary Merchant Business application, said application shall be forwarded to the following City Departments for review and investigation:
 - i. Police;
 - ii. Fire;
 - iii. Building Inspection;
 - iv. Planning Department;
 - v. Risk Management;
 - vi. Any additional City Department that the City Manager or his/her designee deems necessary.
- b. During regular business hours or at another mutually agreeable time, City representatives shall be granted access onto the property to complete the necessary application investigation.

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- c. The City Clerk shall be responsible for determining whether the application meets the standards for approval of this ordinance.

7. **Standards for Approval.**

Each Temporary Merchant Business shall meet all of the following Standards for Approval:

- a. The proposed use is permitted as a principal use within the underlying zoning district, as set forth in the City of Troy Zoning Ordinance, Chapter 39 of this Code. The only exceptions are the following:
 - i. Christmas tree sales within the B-1, B-2 and B-3 Zoning Districts as well as locations licensed before 1993.
 - ii. Mobile windshield repair within the B-2, B-3 and H-S Zoning Districts.
- b. The applicant has provided written evidence that he or she owns or leases the premises at which the applicant will operate, or the applicant has permission from the property owner to operate temporarily on the property. Any restrictions imposed by the property owner shall be clearly identified.
- c. The location of the proposed Temporary Merchant Business does not negatively impact public health, safety and welfare, including but not limited to traffic flow, pedestrian circulation, and off-street parking.
- d. Proposed signage complies with the provisions of Chapter 85 Signs.
- e. The applicant shall maintain insurance (demonstrated with a certificate of insurance), and shall name the City as an additional insured, for general liability insurance coverage in the amount of at least \$1,000,000.00. No cancellation or reduction in coverage may occur during the operation of the Temporary Merchant Business.
- f. The Temporary Merchant Business shall be located within 500 feet of a restroom that is accessible to employees and customers.

8. **Restrictions.**

- a. No license shall be issued to:
 - i. An applicant whose previous Temporary Merchant Business License was revoked by the City of Troy for cause.
 - ii. An applicant who does not satisfy the current ordinance requirements, even if previously granted a license.
 - iii. A co-partnership, unless all of the members of such co-partnership qualify to obtain a license.

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- iv. A corporation if any officer, manager or director or a stock owner or stockholders owning more than five (5) percent of the stock of such corporation would not be eligible to receive a license.
 - v. An applicant whose business is operated by a manager or agent, unless such manager or agent possesses qualifications similar to those required of the licensee.
 - vi. An applicant who has been convicted or found responsible for a violation of any federal, state, or local law involving moral turpitude, fraud, theft, violence, or controlled substances.
 - vii. An applicant who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued, or does not have permission to operate at the location.
 - viii. An applicant who is in default to the City.
- b. The license shall expire after ninety (90) consecutive days on one calendar year. Licenses shall be renewable once per calendar year. The total operational period per license shall not exceed one-hundred eighty (180) days per calendar year.
 - c. The hours of operation shall be limited to the hours between 9 a.m. and 9 p.m.
 - d. If the applicant operates a temporary outdoor use, the operation shall be broken down and removed entirely from the site every day. No overnight storage of any kind shall be allowed. This requirement shall not apply to approved Christmas Tree Sales or Sidewalk Sales.
 - e. Sidewalk Sales are permitted only within B-1, B-2 and B-3 Zoning Districts. Licenses for sidewalk sales shall not be issued more than once during any consecutive thirty (30) day period on any individual parcel or within any shopping center. Each permit shall be valid for not more than seventy-two (72) hours. The applicant shall certify to the City Clerk that he/she has notified all other commercial establishments within said shopping center at the time the application is submitted. Outdoor sales areas shall be designed in accordance with accessibility requirements of the Michigan Building Code. Outdoor sales areas shall occur and shall occupy that portion of the sidewalk that is immediately adjacent to the front of the business establishment. Displays shall not extend beyond said sidewalk either into a drive or parking lot or laterally beyond the limits of the establishment to which a license has been issued.

9. Display of License.

A Temporary Merchant Business License issued pursuant to this Chapter's provisions shall be displayed in a prominent location visible to customers or clients at all times.

10. Bond Required.

No license shall be issued until the applicant deposits a five hundred dollar (\$500.00) bond for each lot where the business will be operated. Each bond shall be retained by the Clerk's Office for a period of not less than ten (10) days after the date of expiration of the license. Said bond shall then be returned to the applicant upon its release being approved by the Building Inspector certifying in writing that the licensed premises to which said bond was applicable is cleared of all left-over equipment, vehicles and debris. This clean up shall occur within ten (10) days or City shall cause such clean up to be completed, and shall charge costs back to the applicant. The bond shall be used first to recoup these costs and additional amounts required shall be collected in any manner allowed by law. In the event that any licensee fails to clear the premises, the Building Inspector may cause the premises to be cleared and the cost thereof shall be deducted from the bond and the balance, if any, shall be returned to the licensee.

11. Revocation and Suspension of License.

The City Manager, or his or her designee, may immediately revoke or suspend a Temporary Merchant Business License if the applicant violates any of this Ordinance's provisions, or for other good cause. The procedure for the suspension and revocation of the license shall be governed by the provisions of Chapter 59 of this Code.

12. Violations and Penalties.

- a. A violation of any section of this Chapter is a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy.
- b. Each day that a violation continues is a separate Municipal Civil Infraction violation. Sanctions for each violation of said sections shall include a fine of not more than \$500.00, costs, damages and injunctive orders as authorized by Chapter 100.

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