

DATE: November 24, 2008

TO: City Council

FROM: Mark F. Miller, Planning Director

SUBJECT: Temporary Merchant Business Ordinance (Item E-06)

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While preparing for the City Council meeting, an inconsistency in the Temporary Merchant Business Ordinance was discovered. Section 3(b)(i)(3) states that 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.

Section 8(a)(iv) states that no license shall be issued to 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.

This inconsistency was addressed by changing the requirement in Section 8(a)(iv) to ten (10) percent, to make this provision consistent with Section 3.b.i.3.

A copy of the amended text is attached.

- 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- i. An applicant whose previous Temporary Merchant Business License was revoked by the City of Troy for cause.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.
 - iv. A corporation if any officer, manager or director or a stock owner or stockholders owning more than ~~five (5)~~ ten (10) 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 in 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.