

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2013-20

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL REPEALING CHAPTER 6.04 TRANSIENT VENDORS

WHEREAS, under Title 6, Business Licenses and Regulations, Chapter 6.04 Transient Vendors was adopted in 1977 at a time when it was determined there was a need to address transient or itinerant vendors, because the frequent practice was being practiced in such a manner as to cause annoyance and harm to the public, the individual citizen, and a property in the city;

WHEREAS, the requirement for applying for a City business license and for collecting and remitting sales tax is regulated under DMC Title 4, Revenue and Finance, Chapters 4.16 and 4.20 and deals with transients under the regular business licensing and it is not necessary to have a separate Chapter 6.04;

BE IT ENACTED BY THE VOTERS OF THE CITY OF DILLINGHAM:

Section 1. Classification. This is a code ordinance.

Section 2. Repeal of Chapter 6.04. Chapter 6.04, Transient Vendors, of the Dillingham Municipal Code is hereby repealed in its entirety as follows:

Sections:

- ~~6.04.010 Purpose.~~
- ~~6.04.020 Definitions.~~
- ~~6.04.030 Solicitation of sales without invitation prohibited.~~
- ~~6.04.040 Charitable solicitations—Permits required.~~
- ~~6.04.050 License Application fee.~~
- ~~6.04.060 License Approval or disapproval.~~
- ~~6.04.070 Penalties.~~

~~6.04.010 Purpose.~~

~~The city council finds that the peddling and hawking of magazine subscriptions, goods, wares and merchandise; the sale of the same by transient or itinerant vendors; and the solicitation of funds or subscriptions for religious, charitable, fraternal, eleemosynary and other organizations or purposes; are businesses effected with a public interest requiring regulation and surveillance by the city. Such occupations are frequently practiced in such a manner as to cause annoyance and harm to the public, the individual citizen, and property in the city. It is the purpose of the city council to protect and preserve the lives, the health, the safety and the well being of the people of the city against these and other harms and wrongs by providing for the registration, licensing and surveillance of these businesses and the practitioners of these businesses within the city. (Ord. 77-11 § 2 (part), 1977.)~~

~~6.04.020 Definitions.~~

~~For the purpose of this chapter, the following terms shall be given the following meanings:~~

~~A. "Activity" means a business, trade, occupation or avocation.~~

~~B. "License" means a temporary nonassignable personal privilege granted by the city in the exercise of its power to protect and preserve the lives, the health, the safety and the well-being of the people of the city as conferred by AS 29.15.190.~~

~~C. "License fee" means a fee, the amount of which has been computed to satisfy the costs of issuing the license and investigations, inspections, policing and enforcement of the regulations pertaining to a particular activity required to be licensed, which the applicant for a license shall pay as a condition precedent to obtaining the same.~~

~~D. "Transient vendor" means any person, firm or corporation, their principals and agents, engaged in a temporary or transient business of vending or selling magazine subscriptions, goods, wares, merchandise or other articles of commerce in the city, and who, in furtherance of such activity, hires, leases, uses or occupies any building, structure, motor vehicle, tent, hotel room, lodginghouse, apartment, shop, street, alley, or other place within the city, for the sale of such magazine subscriptions, goods, wares, or merchandise, either privately or at public auction. A person who peddles or hawks such subscriptions, goods, wares or merchandise within the city is a transient vendor under this chapter. This definition shall not be construed to include any commercial traveler who, while occupying a temporary location, takes orders in the usual course of business for bona fide sales of goods by sample for future delivery. Temporary associations with any local dealer, trader, merchant, or auctioneer, or the conduct of a transient business in connection with, as part of, or in the name of any local dealer, trader, merchant, or auctioneer, shall be included within the meaning of this definition. (Ord. 77-11 § 2 (part), 1977.)~~

~~6.04.030 Solicitation of sales without invitation prohibited.~~

~~No transient vendor of magazine subscriptions, goods, wares, or merchandise shall go in or upon private residences in the city for the purpose of soliciting orders for the sale of magazines, goods, wares, or merchandise, or for the purpose of disposing of or peddling or hawking the same, not having been requested or invited to do so by the owner or owners, occupant or occupants, of said private residences. (Ord. 77-11 § 2 (part), 1977.)~~

~~6.04.040 Charitable solicitations—Permits required.~~

~~No person, religious, charitable, fraternal, or eleemosynary corporation or organization of any kind, their agents, representatives, or employees, shall solicit funds or secure subscriptions for the payment thereof within the city without first securing a permit to do so from the city manager. The applicant for a permit may be required to answer such questions as may be put to him by the manager, and if the manager determines that the organization is bona fide and that the proposed solicitation will not constitute a public nuisance, a permit shall be granted. The permit shall be issued by the manager, informing the law enforcement officers in the city that the proposed solicitation has been authorized. In the event that any person or organization deem themselves aggrieved by the determination of the manager, they may appeal the decision of the manager to the council. No fees shall be charged for any permit issued under the authority provided in this section. (Ord. 77-11 § 2 (part), 1977.)~~

~~6.04.050 License—Application fee.~~

~~In order to operate as a transient vendor within the city, it is necessary to obtain a Dillingham business license, to pay the appropriate fee and otherwise comply with Ch. 4.16 of this code in addition to the requirements imposed by this chapter. (Ord. 77-11 § 2 (part), 1977; Ord. 92-13 § 2 (part), 1992.)~~

~~6.04.060 License—Approval or disapproval.~~

~~Upon receipt of the application and the application fee, the city manager shall conduct such investigation and inquiry as shall enable him to determine the character and the financial and business responsibility of the applicant. The manager shall disapprove the application if he finds that the applicant has not demonstrated himself to be responsible or of good character, or that there is a good cause to believe that approval of the application would be detrimental to the public interest as herein expressed; otherwise the application shall be approved. In disapproving any application the manager shall specify his reasons therefor, in writing, upon the application. Any person deeming himself aggrieved by the decision of the manager may appeal from that decision to the council. (Ord. 77-11 § 2 (part), 1977.)~~

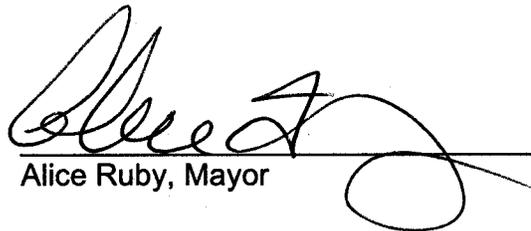
~~6.04.070 Penalties.~~

~~Violators of this chapter are subject to the penalties set forth in Section 4.16.060 plus any surcharge required to be imposed under AS 12.55.039. Each act of violation and every day upon which the violation shall occur constitutes a separate offense. (Ord. 77-11 § 2 (part); Ord. 92-13 § 2 (part), 1992; Ord. 99-04 § 10, 1999.)~~

Section 3. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on
Nov. 7, 2013.

SEAL:



Alice Ruby, Mayor

ATTEST:



Janice Williams
Janice Williams, City Clerk

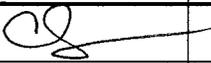
Subject: An Ordinance of the Dillingham Municipal Code repealing Chapter 6.04, Transient Vendors

Agenda of: **November 7, 2013**

Council Action:

Manager: Recommend approval.

City Manager: Rose Loera
Rose Loera

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade		
X	City Clerk / Janice Williams		

Fiscal Note: Yes _____ No X Funds Available: Yes _____ No _____

Other Attachment(s): None

Summary Statement.

This item was added to the Code Review Committee's task list following a recommendation from the Committee during their review of Title 4, business licensing regulations and sales tax, which resulted in several ordinances being adopted by the Council in June of 2013.

The Code Review Committee felt this chapter, located behind Title 6, Business Licensing and Regulations, was no longer necessary because licensing for transient vendors was covered in Title 4.

The Code Review Committee is recommending to the Council that this ordinance be adopted which would repeal Chapter 6.04, Transient Vendors.

This ordinance was advertised in the October 31 edition of the Bristol Bay Times to meet the mandatory requirement that a public hearing of a proposed ordinance will follow publication by at least five days.