

Title 8

BUSINESS REGULATION

Chapters:

- 8.10 Bill Posting and Handbills**
- 8.20 Sidewalk Vendors**
- 8.30 Transient Merchants**
- 8.40 City Liquor License Application Fees**

Chapter 8.10**BILL POSTING AND HANDBILLS**

Sections:

- 8.10.010 License required.
- 8.10.020 License fee – Exception.
- 8.10.030 Bond.

8.10.010 License required.

It shall be unlawful for any person to paint advertising signs, tack cards, tin or board signs, or post any posters or distribute circulars, dodgers, samples or other bills or devices used to advertise patent medicines, patent articles, tobacco, shows, sales or for any other purpose for which advertising signs or circulars are calculated to attract the attention of the public without first having obtained a license from the city to do so. (Code 1997 § 8-1-1).

8.10.020 License fee – Exception.

Any person who posts bills or distributes handbills shall pay a license fee to the city of \$10.00 per annum payable semiannually; provided, that it shall not be necessary for any resident, merchant or manufacturer to obtain a license for the purpose of distributing or posting his own advertisements on billboards owned or used by him for that purpose, or for distributing handbills for any charitable purpose; provided further, that it shall be unlawful for any person to distribute any posters or handbills upon any of the streets of the city. (Code 1997 § 8-1-2).

8.10.030 Bond.

No license for bill posting, distributing or advertising shall be issued until the applicant therefor shall have executed bond to the city, with two or more sureties, residents of the city, in the penal sum of \$100.00 conditioned that he will in all respects comply with the provisions and requirements of this chapter, such bond to be approved by the manager. (Code 1997 § 8-1-3).

Chapter 8.20**SIDEWALK VENDORS**

Sections:

- 8.20.010 Short title.
- 8.20.020 Findings and purpose.
- 8.20.030 Definitions.
- 8.20.040 Vending prohibited in certain locations.
- 8.20.050 Prohibited conduct.
- 8.20.060 Size requirements for vending stands.
- 8.20.070 Advertising.
- 8.20.080 Penalty.
- 8.20.090 Separability – Repealer – Effective date.

8.20.010 Short title.

This chapter shall be known and cited as the “sidewalk vendors ordinance of 1988.” (Code 1997 § 8-2-1).

8.20.020 Findings and purpose.

It is found and declared that:

- A. The primary purpose of the public sidewalks is for use by pedestrian traffic.
- B. Regulated vending on the public sidewalks promotes the public interest by contributing to an active pedestrian environment.
- C. Reasonable regulation of sidewalk vending is necessary to protect the public health, safety, and welfare.
- D. The regulations contained in this chapter do not prohibit pure speech by religious organizations which are commercial in nature. (Code 1997 § 8-2-2).

8.20.030 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. “Stand” means any table, showcase, bench, or rack used for displaying, storing, or transporting of articles offered for sale by a vendor.
- B. “Vendor” means any person engaged in the selling, or offering for sale, food, beverages, or merchandise on the public sidewalks from a stand or from his person. (Code 1997 § 8-2-3).

8.20.040 Vending prohibited in certain locations.

Vending on the sidewalks is prohibited, with the exception that it is permitted within the Central Business district and Commercial zones, as defined in GMC Title 15, subject to the restrictions contained in this chapter. (Code 1997 § 8-2-4).

8.20.050 Prohibited conduct.

No vendor shall:

- A. Vend on any sidewalk where vending is otherwise prohibited.
- B. Leave any stand unattended.

- C. Store, park, or leave any stand overnight on any sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
- D. Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patrons' use.
- E. Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made by him.
- F. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
- G. Solicit or conduct business with persons in motor vehicles.
- H. Vend without insurance coverage as specified herein: an insurance policy, issued by an insurance company permitted to do business in the state, protecting the vendor and the city from all claims for damages to property and bodily injury, including death, which may arise from the use of the sidewalk. Such insurance shall name as additional insured the city and shall provide that the policy shall not terminate or be cancelled prior to the expiration date without 30 days' advance written notice to the city.
- I. No vendor selling from a stand on the sidewalk shall:
 - 1. Vend at any location where the sidewalk is under 10 feet in width.
 - 2. Vend from or place a stand in a position other than immediately adjacent to the vendor's building.
 - 3. Place a stand in such a manner so as to constitute or create a dangerous condition, taking into consideration the grade, width, corner, traffic, and use of the sidewalk and all other attendant circumstances.
 - 4. Place a stand in such a manner as to impede emergency egress and ingress of a building or next to the curb or crosswalk at any intersection. (Code 1997 § 8-2-5).

8.20.060 Size requirements for vending stands.

No stand shall exceed four feet in width and six feet in length and seven feet in height and no stand shall overlap onto the adjacent owner's property from the vendor's premises. (Code 1997 § 8-2-6).

8.20.070 Advertising.

No advertising, except in the posting of prices, shall be permitted on any stand except to identify the name of the product or the name of the vendor in accordance with the city sign code. (Code 1997 § 8-2-7).

8.20.080 Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$1,000 or by imprisonment for a period not to exceed 90 days, or by both fine and imprisonment. (Ord. 19-1997 § 7; Code 1997 § 8-2-8).

8.20.090 Separability – Repealer – Effective date.

- A. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

- B. This chapter shall supersede any other ordinance in conflict herewith.
- C. This chapter shall be in full force and effect from and after its passage. (Code 1997 § 8-2-9).

Chapter 8.30**TRANSIENT MERCHANTS**

Sections:

- 8.30.010 Definitions.
- 8.30.020 License required – Application.
- 8.30.030 Issuance of license.
- 8.30.040 Transferability of licenses.
- 8.30.050 Obstruction of traffic prohibited.
- 8.30.060 Local sponsor.
- 8.30.070 Revocation of license.
- 8.30.080 Appeals.
- 8.30.090 Penalties.

8.30.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless in conflict with the context or plain meaning:

- A. “Local sponsor” means a merchant who has paid city sales taxes without delinquency for the previous year with a permanent place of business within the city, a local government, or a Gunnison County nonprofit organization, civic organization or church.
- B. “Permanent place of business” means the permanent place of business where business is regularly kept open for the purpose of said business. Every business not conducted at a permanent place of business as defined herein, for the purpose of this chapter, is termed a “transient merchant,” whether the person conducting such transient business is or is not a resident of the county of Gunnison.
- C. “Transient merchant” means any person who travels within the city or has a temporary location for the conduct of his or her business, who engages in the business of selling tangible personal property, who does not have a permanent place of business in Gunnison County and who, in furtherance of said purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, trailer, tent, hotel, motel, or lodginghouse room, apartment, shop, street, alley, or other place within the city, for the exhibition or sale of such goods, wares, services, and merchandise.

A Gunnison County nonprofit organization, civic organization, or church which engages only in occasional sales or fundraising drives shall not be considered a transient merchant. A person participating in an event sponsored by a local government, a Gunnison County nonprofit organization, civic organization, or church which involves multiple vendors shall not be considered a transient merchant. A person engaged in the business of selling and delivering tangible personal property directly to residents of the city who usually employs a vehicle for such deliveries over a regularly established route and ordinarily sells from orders previously placed from such residents or regularly delivered on a schedule shall not be considered a transient merchant. (Ord. 11-1998 § 1; Code 1997 § 8-3-1).

8.30.020 License required – Application.

It shall be unlawful for any transient merchant to engage in any such business within the city without first obtaining a license from the city and a local sponsor in accordance with this chapter and as provided in GMC 8.30.060.

- A. A license application shall be filed with the city on forms furnished by the city, and shall provide the following information:
 - 1. The name and address of the applicant and each employee or agent thereof, who will engage in business within the city.

2. A description of the nature of this business and goods or services offered, and the locations within the city of Gunnison upon which business will be conducted.
 3. Written evidence of authorization to use location.
 4. Name and address of local sponsor (see GMC 8.30.060).
- B. Accompanying the application shall be a nonrefundable application fee in the amount of \$50.00.
- C. Accompanying the application shall be cash or a surety bond in the amount of \$1,000 conditioned upon:
1. Compliance with all ordinances, including but not limited to the land development code of the city and statutes of the state of Colorado, including payment of all city, county, and state taxes and fees; and
 2. Payment of any judgment rendered in favor of a resident of the city against the applicant or any of his/her agents or employees shall be submitted with the application. Such bond shall remain in effect for a minimum period of nine months beyond the expiration date of the transient merchant license issued to the applicant.
- Said bond shall be a corporate surety bond issued by a company licensed to do business in Colorado and approved by the city clerk.
- D. Also submitted with the application shall be a form appointing the city clerk as the true and lawful agent with full power and authority to acknowledge service of process for and on behalf of the applicant, and each of his/her agents or employees, upon a form to be provided by the city. If any process is served upon the city clerk, the city shall send a copy of such process to the applicant at the address listed on the application by registered or certified mail.
- E. Nothing in this chapter shall be deemed to apply to any person engaged in distribution of information in the exercise of such person's First Amendment rights under the United States Constitution. (Ord. 11-1998 § 1; Code 1997 § 8-3-2).

8.30.030 Issuance of license.

- A. Following receipt of a properly completed application accompanied by cash or a surety bond, appointment of agent for service of process, the application fee, a copy of current Colorado sales tax license, and a copy of current city sales tax license, the city shall issue the transient merchant's license for a term of 90 days.
- B. The license shall state the expiration date and describe the goods or services to be offered. The license shall contain a notice to customers that \$1,000 cash or surety bond has been filed with the city, conditioned on compliance with all city ordinances and state laws, and the payment of any judgment rendered against the applicant in favor of a resident of the city will be paid, and that the Gunnison city clerk is the licensee's agent for service of process.
- C. The applicant shall post a copy of the transient merchant license in a conspicuous place at his/her place of business and produce it upon request to any customer, any police officer, or other agent or employee of the city.
- D. For a business with more than one location, a separate transient merchant license is required for each place of business. (Ord. 11-1998 § 1; Code 1997 § 8-3-3).

8.30.040 Transferability of licenses.

No license issued under this chapter may be transferred or assigned, and no license is valid for any person other than the person named thereon. (Ord. 11-1998 § 1; Code 1997 § 8-3-4).

8.30.050 Obstruction of traffic prohibited.

It shall be unlawful for any licensee to conduct business at any location, private or public, in such a manner as to hinder or obstruct the free passage of pedestrian or vehicular traffic. It shall be unlawful for any licensee to transact business on city rights-of-way. (Ord. 11-1998 § 1; Code 1997 § 8-3-5).

8.30.060 Local sponsor.

A transient merchant is required to be sponsored by a local sponsor.

The local sponsor shall file, on forms provided by the city, an application with the city in which the local sponsor shall take responsibility for the business-related acts of the transient merchant, and each agent or employee thereof, and shall guarantee payment of all city, county, and state taxes due or judgment rendered against the transient merchant as a result of the business, and shall act as the transient merchant's agent for service of process and handling of warranty and customer complaints. The local sponsor shall also be liable for any zoning violations.

After approval of the sponsorship by the city, the transient merchant may conduct the business described thereon. The applicant and each agent or employee shall carry a copy of the approved letter and produce it upon request to any employee or agent of the city or any customer. A copy shall be posted in a conspicuous place at the transient merchant's place of business. (Ord. 11-1998 § 1; Code 1997 § 8-3-6).

8.30.070 Revocation of license.

- A. The license issued hereunder may be revoked by the city clerk following notice and hearing on account of any material misstatement contained in the application, any violation of this chapter, any violation of city ordinances, and regulations applicable to the business activity of the applicant.
- B. Notice of hearing shall be either served upon the applicant in accordance with the Colorado Municipal Court Rules of Procedure or mailed, postage prepaid, to the applicant at the address set forth in the application for license.
- C. No license shall be issued to any applicant, or agent or employee thereof, for whom a license has been revoked, until at least one year has elapsed since revocation. (Ord. 11-1998 § 1; Code 1997 § 8-3-7).

8.30.080 Appeals.

In the event any applicant believes that the requirements of this chapter constitute an undue burden upon interstate commerce, he/she may apply in writing to the city council, in which event a hearing shall be held before the council to consider the matter. The applicant may appear and present such evidence as he/she may desire at the hearing. Following the hearing, the council shall determine a license fee which is fair and reasonable and does not constitute a burden on interstate commerce. (Ord. 11-1998 § 1; Code 1997 § 8-3-8).

8.30.090 Penalties.

Any person convicted of a violation of this chapter shall be guilty of a misdemeanor. Upon conviction, the misdemeanor shall be punishable by a fine of up to \$1,000, or imprisonment for a period of 90 days, or both such fine and imprisonment for each offense. Each day that a violation continues to exist shall be considered a separate offense. (Ord. 11-1998 § 1; Code 1997 § 8-3-9).

Chapter 8.40**CITY LIQUOR LICENSE APPLICATION FEES**

Sections:

- 8.40.010 Application fees required.
 8.40.020 Review of application.
 8.40.030 Alcoholic beverage tastings license.

8.40.010 Application fees required.

Each application for a license, or other action filed with the city of Gunnison pursuant to the Colorado Beer Code and Colorado Liquor Code shall be accompanied by an application fee, payable to the city of Gunnison, in addition to any fees due to the state of Colorado, in accordance with the following schedule:

Liquor License Application Fees**License Fees**

New license application	\$500.00
Annual renewal application	50.00
Hotel and restaurant (+/- optional premises)	75.00
Retail liquor store (malt, vinous and spirituous)	22.50
Drugstore	22.50
Beer and wine (malt and vinous)	48.75
Tavern license (malt, vinous and spirituous)	75.00
Club license (malt, vinous and spirituous)	41.25
3.2 percent beer	3.75
Arts	41.25
Bed and breakfast	25.00
Brew pub	75.00
Optional premises	75.00
Concurrent review	500.00
Racetrack	75.00
Mini bar permit	325.00
Alcoholic beverage tastings license	0.00

Other Fees

Transfer of ownership	\$500.00
Manager registration	75.00
Special events permit (liquor)	25.00
Special events permit (3.2 percent beer)	10.00
Change of location	500.00
Corporation/LLCO change (per person) (may be charged for background check investigation by local or state – not both)	100.00
Late renewal application	500.00
Change of trade name/corporate name	0.00
Modification of premises	0.00

Liquor License Application Fees (Continued)

Expansion (add optional premises – each permit)	0.00
Duplicate license	0.00
Temporary permit	100.00

(Ord. 15-2006 § 1; Ord. 3-1999 § 2; Code 1997 § 8-4-1).

8.40.020 Review of application.

The city clerk of the city of Gunnison is hereby specifically delegated the authority to review and approve the following types of procedures pursuant to the Colorado Liquor Code and Colorado Beer Code:

- A. The renewal of an existing license;
- B. The granting of a special events permit;
- C. The registration of a manager;
- D. Changes in corporate structure;
- E. Transfers of ownership;
- F. Granting of a temporary permit;
- G. Changes of trade name or corporate name; and
- H. Alcoholic beverage tastings license.

Upon receipt of an application for any of the foregoing procedures by the city clerk, the city clerk may request from the police department and/or any other city department that may have information concerning the information, a report concerning the matter applied for in the application. It shall be the affirmative duty of the police department to notify the city clerk of any violations that involve establishments holding a liquor or beer license.

If upon review of the application the city clerk determines that the application is complete and that there is no matter raised by the application or any report obtained in connection therewith that should be referred to the city council for decision, the city clerk may administratively approve the application. Whenever, in the sole determination of the city clerk, an application should be referred to the city council for decision, she shall make such referral, in which case the decision shall be made by the city council. (Ord. 15-2006 § 2; Ord. 3-1999 § 1).

8.40.030 Alcoholic beverage tastings license.

- A. Tastings may be conducted by retail liquor store or liquor-licensed drugstore licensee in accordance with this section and pursuant to Section 12-47-301, C.R.S., as the term “tastings” is defined in said Section 12-47-301, C.R.S.
- B. A retail liquor store or liquor-licensed drugstore licensee may conduct tastings only pursuant to a valid alcoholic beverage tastings license.
- C. A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings shall submit an application to the city of Gunnison on forms supplied by the city of Gunnison.

- D. If the applicant demonstrates that it is able to conduct the tastings without violating the provisions of this section or Section 12-47-301(10), C.R.S., the city clerk shall issue such license.
- E. An alcoholic beverage tastings license shall be valid for one year and shall run concurrently with the retail liquor store or liquor-licensed drugstore license of the holder of the alcohol beverage tastings license; provided, however, that the first alcoholic beverage tastings license issued to a retail liquor store or liquor-licensed drugstore licensee shall be valid only until the expiration of the then-current retail liquor store or liquor-licensed drugstore license.
- F. Tastings conducted by the holder of an alcoholic beverage tastings license shall be subject to all the limitations and requirements set forth in Section 12-47-301(10), C.R.S., as amended from time to time, and in addition thereto shall be subject to the following limitations:
1. A written notice to the city clerk of the city of Gunnison must be provided at least 72 hours before a licensee is allowed to conduct a tasting. The notice shall include the name of the liquor-licensed premises, the person who is submitting the notice, the name of the person conducting the tasting, and shall indicate the date and time the tasting is to take place.
 2. Upon the request of any peace officer or liquor enforcement officer, the holder of an alcoholic beverage tastings license shall provide proof the tastings are to be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Department of Revenue of the state of Colorado and who is either the retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of such licensee.
 3. Licensee shall keep a written record on the licensed premises for each tasting held by that licensee containing the date and time of the tasting and the name of the server. Such written record shall be available upon request for inspection by any peace officer, the city of Gunnison, or Liquor Enforcement Division Officer. (Ord. 15-2006 § 3).