

ORDINANCE NO. 1041

AN ORDINANCE AMENDING THE SALES AND USE TAX
ORDINANCE OF THE CITY OF GOLDEN AND ESTABLISHING
REQUIREMENTS FOR TRANSIENT/TEMPORARY VENDORS WITHIN
THE CITY OF GOLDEN AND PROVIDING A PENALTY FOR
VIOLATION THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN,
COLORADO:

Section 1. The Golden Revised Ordinances of 1965 are hereby
amended by the addition of Chapter 3.11 as follows:

Sections:

- 3.11.010 Definition
- 3.11.020 License required
- 3.11.030 Application
- 3.11.040 Investigation and Issuance
- 3.11.050 Tax Deposit
- 3.11.060 Licenses to be Displayed
- 3.11.070 Licenses Nontransferable
- 3.11.080 Duty of Police
- 3.11.090 Finance Director Shall Maintain Records
- 3.11.100 Revocation of License
- 3.11.110 Appeal
- 3.11.120 Expiration of License

3.11.010 Definition.

For the purposes of this Chapter "Transient/Temporary Sales" means any person, whether as owner or agent, consignee or employee, who engages in a temporary business of selling and delivering goods within said City, and who, in furtherance of such purpose, leases, uses or occupies any room, building, tent, structure, street, alley or other place within the city, for the exhibition and sale of such goods. For the purposes of this title "transient" shall be synonymous with "temporary" and shall be defined as a limited, impermanent business existing within the city for a period of less than 72 hours.

3.11.020 License Required.

(a) It shall be unlawful for any person to engage in transient/temporary sales within the city limits of Golden without first having obtained a retail sales/use tax license as provided herein. Subject to the requirements of this chapter, such license shall be issued at no charge.

(b) A person so engaged shall not be relieved from complying with the provisions of this title merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.

(c) Any non-profit organization or corporation based within the City and making retail sales within the City shall be exempt from the provisions of this Chapter, however such organization shall apply for a Retail Sales and Use Tax license, issued at no charge, and shall collect and file tax due in accordance with the provisions of this title. Such non-profit organization based within the City may sponsor transient vendors who shall be deemed exempt from the provisions of this chapter as long as the underlying sales are infrequently conducted and the sponsoring non-profit organization collects and files tax due in accordance with the provisions of this title.

3.11.030 Application. An applicant for a license under this chapter must file with the Finance Department a sworn application in writing (in duplicate) on a form to be furnished by the Finance Director, which shall give the following information:

- (1) Name and description of the applicant.
- (2) Address (legal and local).
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) The length of time for which the right to do business is desired.
- (5) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
- (6) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal law, the nature of the offence and the punishment or penalty assessed therefore.
- (7) A brief statement of the nature and character of the advertising, or otherwise, shall be attached to said application as exhibits thereto.

(8) Credentials from the person for which the applicant proposes to do business, where the applicant is the agent or employee or another person or business entity, evidence, authorizing the applicant to act as such representative.

(9) Such other reasonable information as to the identity or character of the applicants and person or persons managing or supervising applicants business in the protection of public good.

3.11.040 Investigation and Issuance.

(a) Upon receipt of such application, the original shall be referred to the Director of Public Works to ensure compliance with Chapter 4.88 "Vendors in Public Rights of Way" and any other pertinent requirements.

(b) Upon approval of the application by the Director of Public Works the application shall be forwarded to the Department of Community Development to ensure compliance with zoning and possible structural codes.

(c) Once the application has been approved by the Director of Public Works and Community Development Department it shall be referred to the Police Department who shall cause such investigation of the applicant and the applicant's business to be made as deemed necessary for the protection of the public good.

(d) If as a result of such review or investigation, the character or business responsibility of the applicant or business he represents is found to be unsatisfactory, or in the event that any misrepresentation or omission of any requested information is made by the applicant in the application, the Finance Director, may endorse on such application his disapproval and his reasons for the same, and notify the applicant that his application is disapproved and that no license shall be issued for the reason stated.

(e) If as a result of such review or investigation, the character and business responsibility of the applicant or business he represents are found to be satisfactory, the Finance Director may authorize the issuance of said license.

Upon posting the tax deposit as required by this Chapter by the applicant, the Finance Department shall issue the required Sales/Use Tax License as required. Such license shall contain the signature of the Finance Director and shall show the name, address of said licensee, the kind of license issued, the

amount of the tax deposit, the date of issuance and the length of time the same shall be operative. The Finance Director shall keep a permanent record of all licenses issued.

(f) Issuance of a license under this chapter does not in any way relieve a transient or temporary vendor from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

(g) Compliance with the requirements of this chapter in no way exempts licensees from compliance with other applicable laws of the City of Golden or State of Colorado.

3.11.050 Tax Deposit.

Before any license, as provided by this chapter, shall be issued to an applicant, each applicant shall pay to the Finance Director a \$250.00 cash or certified fund tax deposit which can be applied toward any retail sales/use tax due on sales made within the city limits.

Tax returns reflecting actual tax due must be completed within the ten (10) days from the final date of sale. In no event shall the vendor be relieved of his obligation to remit sales/use tax due under this chapter. The vendor may apply the deposit toward any tax owed. Providing the signed return is not received by the Tax Office within ten (10) day period, the vendor therefore waives the right to apply the deposit and the deposit becomes NONREFUNDABLE.

3.11.060 Licenses to be Displayed. The Finance Department shall issue to each licensee a sales and use tax license(s) which shall be in the possession of the licensee any time such licensee is engaged in the business for which he is licensed.

3.11.070 License Nontransferable. Every individual who engages in transient temporary sales shall be required to make an individual application, and secure a license which license shall be issued in the individual's name.

Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which individual name of the representative shall appear on the application and license. No license shall be transferable or used by any other person. No representative of the same firm, association or corporation shall use the same license.

3.11.080 Duty of Police. It shall be the duty of any police officer of the city to require any person required to have a license, as provided in this chapter, to produce his license and to enforce the provisions of this chapter against any person found to be violating same.

3.11.090 Finance Director Shall Maintain Records. The Chief of Police shall report to the Finance Director all violations of this Chapter and shall maintain a record for each license issued and record the reports of violation therein.

3.11.100 Revocation of License.

(a) Finance Director shall have the power, at any time, upon violation by any holder of a license as provided for in this Chapter, of any of the regulations lawfully prescribed, or for violation of any of the provisions of the Code of the City or the Colorado State Statutes, to suspend or revoke any such license after ten (10) days notice and a hearing before the City Manager.

(b) Continued operation/use of the license after revocation shall constitute a violation of this Chapter.

3.11.110 Appeal. Any person aggrieved by the action of the Finance Director in the denial of an application for license as provided in this Chapter, or in decisions with reference to the revocation of a license as provided, shall have the right to appeal to the City Manager. Such appeal shall be taken by filing with the City Manager, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The City Manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be sent to the applicant by certified mail or personal service. The decision and order of the City Manager on such appeal shall be final and conclusive.

3.11.120 Expiration of License. All licenses issued under the provisions of this Chapter shall expire on the date specified in the license and no license shall be valid for more than 72 hours from date of issuance.

Section 2. Violations - Penalty. The penalty for violation of any of the provisions of this ordinance shall be as provided by Section 3.08.010 of the Golden Revised Ordinances of 1965.

Section 3. Any ordinances or portions of ordinances in conflict herewith are hereby repealed.

Introduced, read and ordered published this 14th day of April, 1988.

Adopted, approved and ordered published this 28th day of April, 1988.

Marvin L. Kay
Mayor

ATTEST:

Sharon L. Bennetts
City Clerk

Approved as to form:

Russell J. Sindt
City Attorney

I, Sharon L. Bennetts, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular meeting of the City Council of said city, held on the 14th day of April, 1988 and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held and on the 28th day of April, 1988, the said proposed ordinance was read on second reading and passed by the City Council and ordered published in the aforesaid newspaper as the law directs.

Witness my hand and official seal of the City of Golden, Colorado, this 29th day of April, 1988.

(SEAL)

Attest: _____
Sharon L. Bennetts, City Clerk
of the City of Golden, Colorado