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ORDINANCE NO. 6.09

DC8924676

AN ORDINANCE LICENSING TRANSIENT  
MERCHANTS WITHIN THE  
TOWN OF LARKSPUR, COLORADO

WHEREAS, the Town Council of the Town of Larkspur, Colorado has determined that the regulation of transient merchants within the Town limits would promote the health, safety, and general welfare of the present and future residents of the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR, COLORADO, as follows:

Section 1: Regulation of Transient Merchants.

1.1 Definitions. When used in this Ordinance, the following terms have the following meanings:

1.1.1 Transient Merchant includes any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the Town or not, who engages in a temporary business of selling and delivering food, services, goods, wares, property and merchandise within said Town, and who, in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, public room, in hotels, lodging houses, apartments, shops or any street, alley or other place within the Town for the exhibition and sale of such food, services, goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged is not relieved from complying with the provisions of this Ordinance 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, trader, merchant or auctioneer.

1.2 General Provisions.

1.2.1 Exemptions. The terms of this ordinance do not include the following:

A. Sellers or deliverers of newspapers. A newspaper is a publication primarily devoted to the presentation of news of a local, regional, national or worldwide interest as distinguished from publications which primarily feature advertising and/or the presentation of ideology or editorial comment.

B. Sales required by law or court order.

1.2.2 Violation records. The Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

1.2.3 Use of Streets--Generally. No licensee under this ordinance shall have any right to conduct his business in any public street, rights-of-way or other public property of the Town of Larkspur, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such public and quasi public places.

1.2.4 Obstructing traffic after request to move. It shall be unlawful for any licensee or permit holder under this ordinance to conduct his business in such a manner as

to hinder or obstruct the free passage of pedestrian or vehicular traffic.

1.3 License.

1.3.1 License Required. It shall be unlawful for any transient merchant to engage in any such business or activity within the Town without first obtaining a license therefor in compliance with the provisions of this ordinance. No license shall be issued to any transient merchant who has not paid all sales, use, or admissions taxes owing to the Town.

1.3.2 Application--Contents. Applicants for a license under this ordinance shall file with the Town Clerk a sworn application, in writing, on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and physical description of applicant.
- (2) Complete permanent home and local address of the applicant, and the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the food, services or goods to be sold.
- (4) Names and permanent addresses of all persons to be registered as agents or employees of the transient merchant who will be authorized to sell food, services or goods pursuant to this license.
- (5) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (6) The length of time for which the right to do business is desired.
- (7) Evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
- (8) The last cities or towns, not to exceed three (3), where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities.

1.3.3 Investigation. Upon receipt of an application for a license under this ordinance, it shall be referred to the Town Clerk, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good, and shall endorse the application in the manner prescribed in this ordinance within seventy-two (72) hours after it has been filed by the applicant with the Town Clerk.

1.3.4 Disapproval. If as a result of the investigation required in this ordinance, the applicant's character or business responsibility is found to be unsatisfactory, the Town Clerk shall endorse on such application his disapproval and his reasons for the same, and return the said application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.

1.3.5 Approval; Issuance. If as a result of the investigation required in this ordinance, the character and business responsibility of the applicant are found to be satisfactory, the Town Clerk shall endorse on the application his approval and shall, upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the Town Clerk and shall show the name and address of said licensee, the amount of fee paid, the date of issuance and the length of time the same shall be operative.

1.3.6 License Fee. Every applicant for a license under the provisions of this ordinance shall pay the following fee upon the issuance of the license:

Thirty Dollars (\$30.00) for a calendar year license.

1.3.7 A separate license shall be required for each location for any merchant operating in more than one location within the Town. Each transient merchant must secure an individual license. No license shall be used at any time by any person other than the one to whom it is issued, and those persons who have been registered as agents or employees of the transient merchant to whom the license is issued.

1.3.8 Record. The Town Clerk shall keep a permanent record of all licenses issued under this ordinance.

1.3.9 Religious and charitable organizations. Any person desiring to solicit donations of money or property or desiring to sell or distribute literature or merchandise in any public or quasi public place, for charitable or religious purposes, shall be exempt from the provisions of this ordinance.

1.3.10 Appeals to Town Council. Any person aggrieved by the action of the Town Clerk in the denial of a permit or license as provided in this ordinance, may appeal to the Town Council. Such appeal shall be taken by filing with the Town Council, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The Town Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant by regular mail at the address shown on his application, or such other address as has been given by applicant in his written statement of appeal. Notice shall be mailed not less than seven (7) days, or hand delivered not less than three (3) days, prior to the hearing date.

1.3.11 Prohibited conduct. The following acts are prohibited by transient merchants within the Town limits. No person shall:

(1) Vend between 9:00 p.m. and 9:00 a.m. of the following day;

(2) 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 and has previously obtained all required licenses from the State Department of Health;

(3) Leave any location without first picking up, removing and disposing of all trash and refuse remaining from sales made by him;

(4) No transient merchant shall conduct his business in such a way as to restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.

1.3.12 Compliance with Town Ordinances. Every transient merchant conducting business within the Town limits of the Town of Larkspur shall comply with all provisions of every other Town Ordinance and regulation, including but not limited to, set-back, sign, and use provisions of the Larkspur Zoning Ordinance.

1.3.13 Exhibition. Licensees under this ordinance are required to prominently exhibit their certificate of license at their places of business.

1.3.14 Revocation. Licenses issued under the provisions of this ordinance may be revoked by the Town Council after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or incorrect statement contained in application for license.

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as a transient merchant, itinerant merchant or itinerant vendor.

(3) Any violation of this Ordinance or any other Town Ordinance.

(4) Conviction of any crime or misdemeanor.

(5) Failure to exhibit a license as required by Section 1.3.13 hereof.

(6) Conducting the business of transient merchant in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

The Town Council shall set a time and place for hearing on revocations, and notice of such hearing shall be mailed to the licensee by regular mail at the address shown on his application not less than seven (7) days prior to the hearing; or by hand delivering the same to the licensee; or by hand delivering a copy of the hearing notice at the local business premises of the applicant, to some member of his family over the age of 18 years; or by hand delivering same to one of those persons who have been registered as an agent or employee of the licensee, as shown on the application. Any notice of hearing which is hand delivered shall be delivered not less than three (3) days prior to the hearing.

1.3.15 Reapplication. No licensee whose license has been revoked shall make further application until at least one year has elapsed since the last previous revocation.

1.3.16 Expiration. All annual licenses under the provisions of this ordinance shall expire at midnight on the thirty-first day of December in the year when issued.

1.3.17 Waiver of Fees. The Town Clerk is authorized to waive all fees required by this ordinance when the applicant for a license is a non-profit, charitable organization whose

membership includes residents of the Town, provided that the applicant has otherwise complied with the requirements of this ordinance.

1.4 Penalties.

1.4.1 Any person, corporation, partnership or business entity of any type, who shall violate any of the provisions of this Ordinance shall, severally, for each and every such violation and non-compliance, respectively, and for each and every day of a continuing violation, be subject to punishment by a fine of not more than \$300.00, or by imprisonment of not more than ninety (90) days, or both.

1.4.2 The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day a violation exists shall constitute a separate offense.

1.4.3 The application of the above penalty shall not be held to prevent the Town Council from taking action it may deem appropriate in a court of competent jurisdiction to obtain an injunction against or an abatement of a continuing violation, or to revoke a license in accordance with Section 1.3.14 hereof.

Introduced as an ordinance at a regular meeting of the Town Council of the Town of Larkspur, Colorado, on the 11th day of October, 1989, and passed by a vote of 6 for and 0 against, and ordered published.

Spide Smith  
Mayor

ATTEST:

Cheryl Fitzgerald  
Town Clerk

Publication Date: October 31, 1989

I hereby certify that the within Ordinance No. 6.09 was published on the 31st day of October, 1989, in the Douglas County News-Press, the newspaper of general circulation published in the County of Douglas, State of Colorado; and I further certify that the within Ordinance No. 6.09 was posted on the bulletin board at the Town Hall of the Town of Larkspur from October 12, 1989 to October 18, 1989.

Cheryl Fitzgerald  
Town Clerk