

07/17/12
12A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING
CHAPTERS 5.04 AND 5.08 RELATING TO BUSINESS
LICENSES AND REGULATIONS

WHEREAS, the California Legislature is empowered by the California Constitution to authorize local governments to impose taxes for local purposes; and

WHEREAS, Government Code section 37101 specifically empowers cities to license, for revenue and regulation, every kind of lawful business transacted in the city; and

WHEREAS, the City Council of the City of San Clemente ("City Council") previously added Chapters 5.04 and 5.08 to the City of San Clemente Municipal Code ("Municipal Code") to permit the City to license lawful business transacted in the City; and

WHEREAS, the City Council desires to amend and revise existing portions of Chapters 5.04 and 5.08 of the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 5.04.010 "Definitions." is hereby amended with the following definition that is to be placed into the Municipal Code in the proper alphabetical order:

The term "Itinerant vendor" is hereby amended to read as follows: "Itinerant vendor" means any person or individual, whether as principal or agent, who engages in a temporary or transient business in the City, selling goods, wares or merchandise, with the intention of conducting such business in the City for a period of not more than three consecutive (3) days, and who, for the purpose of carrying on such business, hires, leases or occupies any room, doorway, vacant lot, building or structure, for the exhibition or sale of goods, wares or merchandise, and the person so engaged shall not be relieved from the requirements of this chapter by reason of associated temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer."

SECTION 2. Subsection (A) of Section 5.04.100, "Suspension and revocation of license," is hereby amended to read in its entirety as follows:

- "A. Violation – Pre-Hearing Suspension. When a violation occurs of any health, public safety or building codes, and the violation is deemed by the License Collector to be a danger or detriment to the public, the licensee's business license may be suspended by the License Collector until a hearing can be conducted.

Any request for a hearing by a Licensee shall be made, and any hearing shall be held, as provided under Section 1.20.080 of this Code.”

SECTION 3. Subsection (B) of Section 5.04.100, “Suspension and revocation of license,” is hereby amended to read in its entirety as follows:

1. “B. Other Revocation or Suspension of license. Upon an initial determination by the License Collector that any License is being used in contravention of this Code, any resolution or ordinance of the City or any law of the state, the License Collector shall fix a date for a hearing thereon, and shall cause written notice of the time and place of such hearing to be served on the person to whom such License has been issued, or any one of such persons in the event such License has been issued to more than one (1) person or the manager or agent of such person. Service of this notice shall be accomplished by either serving such person personally, or by depositing it in the United States Post Office at San Clemente, California, postage prepaid, certified or registered mail addressed to such person as it appears on the License.
2. Except as provided below, the hearing shall be held pursuant to Section 1.20.080 of this Code. If, upon such hearing, the hearing officer finds that such License is being used in contravention of this Code, or any resolution or ordinance of the City or any law of the state, or that the premises wherein any business described in this article is conducted, are not in good and sanitary condition, or have become dangerous to or adversely affect the public health, safety, welfare, morals or peace; or that the business of the person to whom such License was issued has been conducted in a disorderly or improper manner; or any person conducting such business in of an unfit character to conduct the same; or that the purpose for which the License has been issued is being abused to the detriment of the public; or that the License is being used for a purpose different from that for which it was issued, it may order such License suspended or revoked. Any person having his License suspended shall not engage in such business until all such objectionable conditions are fully remedied to the satisfaction of the Hearing Officer. The application of any person for a License, after having had a License revoked pursuant to the provisions of this section, shall not be considered for approval for one (1) year after the effective date the business stopped operating pursuant to the order of revocation, and must be reviewed by the City Council prior to issuance.

(Prior code § 8-16)”

SECTION 4. Subsection (A) of Section 5.08.040, “License taxes on flat rate basis” is hereby amended with the following license tax that is to be placed into the Municipal Code in the proper alphabetical order:

“A. Itinerant vendor (per vendor per day) \$10.00

SECTION 5. If any portion of this ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this ordinance are severable.

SECTION 6. This ordinance is exempt from compliance with the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

SECTION 7. The City Clerk shall certify that the passage of this ordinance and this ordinance shall take effect as provided by law.

APPROVED AND ADOPTED this ____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY