

## Chapter 331, SALES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Auctions and auctioneers -- See Ch. 184.  
Collateral loan brokers -- See Ch. 275, Art. II.  
Secondhand dealers -- See Ch. 275, Art. III.  
Peddling and soliciting -- See Ch. 307.  
Use of rights-of-way -- See Ch. 327.

### ARTICLE I, Transient Retail Merchants [Adopted 6-21-1982 by Ord. No. 83-82 (Ch. 12, §§ 12-104 through 12-118, of the 1970 Code)]

#### § 331-1. Permit required. [Amended 12-1-1997 by Ord. No. 97-161]

No person shall conduct a transient retail business within the City of Binghamton until that person shall have obtained from the City Clerk a permit, in writing, to conduct such business.

#### § 331-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON -- Include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, partnership, society or any other organization.

RETAIL GOODS, WARES OR MERCHANDISE -- All goods, as defined in § 401(1) of the New York Personal Property Law, sold for other than a commercial or business use or for purpose of resale. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part thereof whether or not severable therefrom. Exempted from this definition are hand-crafted goods or objects of art sold by the artisan who made said items.

SALE AT RETAIL OF GOODS -- A sale of goods, the taking of orders for the sale of goods for future delivery, or the furnishing or rendering of services or an agreement to furnish or render services by a seller to a buyer for cash or credit.

SELLER -- A person who sells retail goods or takes orders for the sale of goods for future delivery or furnishes or renders or agrees to furnish or render services to a buyer.

TRANSIENT RETAIL BUSINESS -- One conducted in a store, hotel, motel, house, building or structure for the sale at retail of goods, wares or merchandise, excepting food products, and which is intended to be conducted for a temporary period of time and not permanently.

#### § 331-3. Term of permit; fee. [Amended 12-1-1997 by Ord. No. 97-161]

All permits issued under this article shall be valid for a period not to exceed six months from the opening of the transient retail business. The fee for such permits shall be in an amount as set from time to time by resolution of the City Council (See Exhibit J).

#### § 331-4. Presumption of transient status.

Pursuant to § 85-a of the General Municipal Law, if the place in which a business is conducted is rented or leased for a period of six months or less, such fact shall be presumptive evidence that the business carried on therein is a transient retail business.

#### § 331-5. Not-for-profit exemption.

Nothing in this article shall be held to apply to any activities sponsored by and held for the benefit of any bona fide fraternal, charitable or religious organization. The burden of proving entitlement to this exemption shall be upon the person making an application for a permit under this chapter.

**§ 331-6. Verified application to be filed prior to beginning business; contents of statement.  
[Amended 12-16-1985 by Ord. No. 164-85]**

No person shall conduct a transient retail business within the City until at least five business days shall have elapsed after the filing in the office of the City Clerk of an application verified by the person or persons who are to conduct such business containing the following information:

- A. The full name and address of such persons.
- B. New York State sales tax and certificate of authority identification.
- C. If a corporation makes the application, the state under the laws of which said corporation is organized.
- D. The exact location of the principal office and place of business of the applicant.
- E. The names and addresses of the officers of the business entity making said application.
- F. Applicant's social security number(s).
- G. The nature and location of the business engaged in by the applicant during the five years immediately preceding the filing of such statement.
- H. Satisfactory proof of compliance with all New York State and Broome County sales tax regulations.
- I. The exact location within the City of Binghamton where such transient retail business is to be conducted.
- J. The date on which such person intends to begin doing business within the City.
- K. The expected duration of the proposed sale.

**§ 331-7. Investigation.**

Upon the filing of the application required above, the City Clerk shall immediately send a copy of the application to the Detective Division of the Bureau of Police for investigation. Said Division shall report its findings, if any, to the City Clerk within two business days of the filing of said application.

**§ 331-8. Issuance of permit.**

- A. Upon receipt of the findings of the Police Bureau as required above, the City Clerk shall, except as set forth below, issue to the applicant a permit as required by this article, signed by the City Clerk or the Deputy City Clerk.
- B. Except as herein provided, no permit shall be refused except for a specific written reason and for the protection of the public safety, health, morals or general welfare.
- C. No permit shall be issued unless the applicant agrees to conform and comply with all terms and conditions of said permit as indicated in this article.
- D. All permits shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued.

**§ 331-9. Place of business.**

No person shall conduct a transient retail business within the City at any place other than that set forth on the permit issued by the office of the City Clerk pursuant to this article.

**§ 331-10. Expiration of approval.**

In the event that any person fails to begin conducting the transient retail business at the place as specified in the permit within 90 days after the issuance of said permit, such person shall not thereafter conduct any transient retail business within the City until five days shall have elapsed after the filing of a new application duly verified and containing the information, set forth above in § 331-6.

**§ 331-11. City's right of entry, access to information.**

The City Clerk, and such officers of the City designated by the Clerk for said purpose, shall have the power and authority to enter any store or building in which a transient retail business may be carried on at any time during business hours for the purpose of ascertaining the amount of stock of merchandise therein or sales made. At all times the City Clerk shall have access to the books of such businesses that relate to the transient operation in the City of Binghamton.

**§ 331-12. Revocation of permit.**

For the purposes of this article, the provisions of Chapter 307, Peddling and Soliciting, Article II, Policies and Procedures, § 307-14, Revocation of license, of this Code shall govern the revocation of any permit issued for the conduct of a transient retail business.

**§ 331-13. Violation constitutes misdemeanor. [Amended 12-1-1997 by Ord. No. 97-161]**

In addition to the civil penalties set forth in § 1-4 of this Code, and pursuant to the specific statutory authority conferred upon the City of Binghamton by § 85-a of the General Municipal Law, any person who conducts a transient retail business without first obtaining a permit hereunder shall be guilty of a misdemeanor.

**ARTICLE II, Going-Out-of-Business Sales [Adopted 2-2-1987 by Ord. No. 12-87 (Ch. 12, § 12-5, of the 1970 Code)]**

**§ 331-14. Statutory provisions.**

Going-out-of-business, closing out and similar sales held within the City will be regulated as provided in Article 29-F of the General Business Law.