

**LEGISLATIVE HISTORY**

Introduced by: City Manager  
Date: January 28, 2020  
Public Hearing: February 11, 2020  
Action: Adopted  
Vote: Unanimous

Yes:	No:
Berberich	
Best	
Carrington	
L. Combs	
S. Combs	
DeVries	
Valerius	

CITY OF PALMER, ALASKA

**Ordinance No. 20-001**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Section 5.28 Relating to Itinerant Vendors**

WHEREAS, the City of Palmer, Alaska ("City") is a home rule city and, under Section 11 of Article X of the Alaska Constitution, may exercise all legislative power not prohibited by law or the Charter of the City, and the City has determined that the matter set forth in this ordinance is not prohibited by law or the Charter; and

WHEREAS, after one season of implementation, clarification for special event and special event sponsors is necessary to consistently administer Title 5.28 for compliance with land use regulation, licensing requirements and health and safety as well as to standardize processes associated with revocation and suspension of permits.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code Chapter 5.28.010 is hereby added to read as follows (new language is underlined and deleted language is stricken):

**5.28.010 Special Event.**

"Special Event" means activities or any kind of public celebration or event designated by the city manager such as Colony Days, Alaska State Fair parade, Friday Flings, events as street fairs, and large public gatherings as may be organized by a special event organizer ~~the Palmer Economic Development Authority, Palmer Chamber of Commerce or the Palmer Museum of History and Art,~~ a city department, or similar organizations and officially authorized by the city manager.

Section 4. Palmer Municipal Code Chapter 5.28.010 is hereby added to read as follows (new language is underlined, and deleted language is stricken):

**5.28.010 (E) Special Event Organizer.**

"Special Event Organizer" means any individual, business, organization, or other entity that is hosting, organizing, holding or sponsoring a special event that affects the standard and ordinary use of public property, streets, right-of way, or if on private property, will nevertheless affect, interfere with the standard, ordinary and normal use of public property.

Section 5. Palmer Municipal Code Chapter 5.28.015 is hereby amended (new language is underlined, and deleted language is stricken):

**5.28.015 Purpose**

D. Promote compliance with relevant building, land use regulatory requirements, licensing and permit requirements, fire, health and safety codes.

Section 6. Palmer Municipal Code Chapter 5.28.035(A)(B) is hereby amended (new language is underlined, and deleted language is stricken):

**5.28.035 Exemptions**

A. An itinerant vendor solely located at the Alaska State Fairgrounds, or a recognized Special Event are exempt from provisions of this chapter, however the itinerant vendor must obtain an Alaska State Fair or special Event Business license as applicable and remit sales tax due to the City of Palmer finance department.

B. An itinerant vendor that meets the criteria of the chapter for a special event as authorized by the city manager and has obtained a Special Event Business license, or an annual City of Palmer business license and remit sales tax due to the City of Palmer finance department.

Section 7. Palmer Municipal Code Chapter 5.28.050 is hereby amended (new language is underlined, and deleted language is stricken):

**5.28.050 Permit – Suspension or revocation permit.**

~~The director of community development may revoke an itinerant vendor permit for any of the reasons listed in 5.28.110~~

A. The city manager, or designee, may suspend or revoke an itinerant vendor permit if a permittee is in violation of any requirement of this chapter, code, or any regulation.

B. The city manager, or designee, may suspend the permit of a vendor who is delinquent in the remittance of sales tax or sales tax returns under Chapter PMC 3.16, Sales Tax.

C. A suspension issued under this section shall be effective immediately upon the giving of written notice of suspension for failure to remit and pay city sales taxes to the city.

D. A permit suspended under this section shall be lifted upon the permittee's compliance with the city sales tax requirements, including remittance and payment of all delinquent sales taxes, sales tax returns, interest and penalties.

Section 8. Palmer Municipal Code Chapter 5.28.160 is hereby added (new language is underlined, and deleted language is stricken):

**5.28.160 Permit – Suspension or revocation – Notice**

A. The city manager, or designee, may not suspend or revoke an itinerant vendor permit without first providing the vendor at least 15 days' written notice of the intent to suspend or revoke the itinerant vendor permit and an opportunity for a hearing on the suspension or revocation.

B. The notice required under this section shall be as follows:

1. Notice of the proposed revocation or suspension shall be made in writing and mailed via certified mail, return receipt requested, to the last known address of the permittee.

2. Notice of the proposed revocation or suspension shall contain the name and address of the permittee, the name of the itinerant vendor for which the permit was issued, and describe the reason for the revocation or suspension with citation to the relevant code provision, if applicable, and the name, address and telephone number of the city representative to contact concerning the proposed revocation or suspension.

3. The notice of suspension or revocation shall also contain a statement advising permittee of their right to request a hearing to challenge the proposed suspension or revocation pursuant to subsections (C) and (D) of this section.

C. The permittee has a right to a hearing on the proposed revocation or suspension by requesting a hearing in writing to the city representative identified in the notice of suspension or revocation not more than 30 days after the date of the notice of proposed revocation or suspension. Within 10 days of receipt of a written request for a hearing, the city manager, or designee, shall schedule a hearing on the proposed suspension or revocation pursuant to PMC 5.28.170.

D. Failure to request a hearing within 30 days of receipt of a notice of suspension or revocation constitutes a waiver of any further rights to appeal under this chapter and the decision of the city manager shall become final 30 days after the date of notice given pursuant to subsection (B) of this section.

Section 9. Palmer Municipal Code Chapter 5.28.050 is hereby added (new language is underlined, and deleted language is stricken):

**5.28.170 Permit – Suspension or revocation – Hearing.**

A. A hearing requested pursuant to PMC 5.28.160 shall be held before the city manager or designee. This hearing shall be recorded, conducted in an informal manner, and shall not be bound by the formal rules of evidence.

B. The purpose of the hearing shall be to determine whether good cause exists for suspending or revoking a permit issued under this chapter. Good cause exists when it is determined that the permittee is in violation of the requirements of this chapter or any other requirement of this code.

C. The permittee has the right to appear, present evidence, and examine and/or cross-examine witnesses for the purpose of establishing that permittee is not in violation of the requirements of

this chapter. The city manager, or designee, has the right to cross-examine any witnesses presented by the permittee.

D. Failure of the permittee to appear at the time set for a hearing requested under this section, except for good cause shown, shall result in a waiver of any further appeal rights and the decision of the city manager becomes final.

E. Within 10 days following the conclusion of the hearing, the city manager, or designee, shall issue a written decision whether to suspend or revoke the permit which contains written findings in support of the decision based upon the evidence presented at the hearing. A written decision to suspend or revoke an itinerant vendor permit issued pursuant to this chapter shall advise the permittee of their right to appeal the decision pursuant to PMC 5.28.180. A copy of the decision shall be provided to the permittee via certified mail, return receipt requested, and shall take effect immediately upon its issuance.

Section 10. Palmer Municipal Code Chapter 5.28.180 is hereby added (new language is underlined, and deleted language is stricken):

**5.28.180 Appeals to superior court.**

A. A permittee may appeal a decision made pursuant to PMC 5.28.170 not later than 30 days following the date of written notice of the decision from the city manager. Failure to appeal a decision made pursuant to PMC 5.28.170 within 30 days of the date of notice constitutes a waiver of his or her appeal rights and the city manager's decision becomes final.

B. Appeals from the written decision of the hearing officer shall be made to the superior court for the state of Alaska, in Palmer, Alaska. The hearing before the superior court shall be treated as an administrative appeal heard solely on the record and shall be governed by Part VI of the Alaska Court Rules of Appellate Procedure (Superior Court as an Appellate Court), as amended.

C. A permittee bringing an appeal under this section shall be responsible for the costs to prepare a transcript and record of the hearing conducted in accordance with PMC 5.28.170. Upon receipt of a notice of appeal, the city clerk shall estimate the cost of preparing the transcript of the hearing and compiling the record on appeal. The permittee shall deposit the estimated costs for preparation of the transcript and record with the city clerk in advance of preparation of the transcript and record. The city clerk shall refund any excess deposit or charge to the business owner for costs exceeding the deposit.

Section 11. Palmer Municipal Code Chapter 5.28.100 is hereby amended (new language is underlined, and deleted language is stricken):

**5.28.100 Required insurance.**

A. Before any permit is issued for an itinerant vendor that will operate on public property, the applicant shall furnish one or more policies or certificates of liability insurance issued by an insurance company authorized to do business in the state and reflecting the applicable coverage:

1. A vendor of food or beverages, ~~goods or services~~ shall have general liability including products liability insurance in the amount of \$1,000,000 combined single limit (CSL), bodily injury and property damage per occurrence and \$2,000,000 aggregate.

2. A vendor may be covered under an special event organizer's general liability including products liability insurance. An event sponsor, including recognized special events, are

responsible for providing the city of Palmer with an additional insured and waiver of subrogation endorsement that includes the sponsor and all itinerant vendor permit holders.

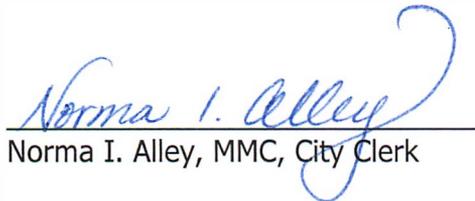
B. No policy of insurance offered pursuant to this section shall be acceptable unless it is issued by an insurance company authorized to do business in Alaska or by an insurance company rated "A" or "B" by A.M. Best and Co. In addition, the policy must be approved by the municipal risk manager or the city's insurance broker as to matters of form.

~~C. Every insurance policy shall contain a clause obligating the insurer to give the director of finance written notice no less than 30 days before the cancellation, expiration, nonrenewal, lapse or other termination or alteration of such insurance. A lapse, cancellation, expiration, nonrenewal or other termination or alteration of such insurance shall cause the license to which it pertains to be automatically suspended for so long as the insurance required by this section is not in place.~~

Section 12. Effective Date. Ordinance No. 20-001 shall take effect upon adoption by the City of Palmer City Council.

**Passed and approved** this 11<sup>th</sup> day of February, 2020.

  
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Edna B. DeVries, Mayor

  
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Norma I. Alley, MMC, City Clerk