ORDINANCE NO. 83-7

AN ORDINANCE TO CREATE THE DEFINITIONS, REGULATIONS AND LICENSING OF TRANSIENT MERCHANTS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WENDOVER, UTAH:

SECTION 1: LICENSE REQUIRED. It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor as defined herein to engage in such business within the City of Wendover without first obtaining a license therefore.

A license shall not be required for charitable, humanitarian, religious, educational, scientific or other non-profit organizations or community groups.

SECTION 2: DEFINITIONS.

(a) For the purpose of this Ordinance, a transient merchant, itinerant merchant or itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be 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.

(b) A temporary business is defined as any activity indicated in Paragraph (a) which is, or will be, operated any less than thirty (30) days.

SECTION 3: APPLICATION. Applicants for license under this Ordinance, whether a person, firm or corporation, shall file a written, sworn application signed by the applicant, if an individual, by at least one partner if a partnership, and by the president if a corporation, with the City Clerk, showing:

(a) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City of Wendover; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated;

(b) The place or places in the City of Wendover where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

(c) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City of Wendover;

(d) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Clerk, copies of all said advertising whether by handbills, circulars, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto;

(e) Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefore;

(f) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative;

(g) That the applicant has obtained a Tooele County Sales and Use Tax License; and

(h) Such other reasonable information as to the identity or character of the person or persons having the management or

supervision of applicant's business or the method or plan of doing such business as the City Clerk may deem proper to fulfill the purpose of this Ordinance in the protection of the public good.

SECTION 4: BOND. Before any license, as provided by this Chapter, shall be issued for engaging in a transient or itinerant business as defined in Section 2 of this Chapter in the City of Wendover, such applicant shall file with the City Clerk a bond running to the City of Wendover in the sum of $1,000.00, executed by the applicant, as principal, and one surety upon which service of process may be made in the State of Utah; conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of the City of Wendover and the statutes of the State of Utah, regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant.

SECTION 5: SERVICE OF PROCESS. Before any license shall be issued for engaging in business as an itinerant merchant, as herein defined, in the City of Wendover, such applicant shall file with the City Clerk an instrument nominating and appointing the City Clerk his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by Section 4 of this Ordinance, or for the performance of the conditions of said bond or for any breach thereof. Immediately upon service of process upon the City Clerk, as herein provided, the City Clerk shall send to the licensee at his last known address, by registered mail, a copy of said process.

SECTION 6: EXHIBITION OF LICENSE. The license issued under this Ordinance shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

SECTION 7: FEES.

(a) Licensees under this Ordinance shall pay to the City

Clerk a fee based upon the number of days such persons intend to do business in the City of Wendover.

(b) The minimum license fee shall be Fifty Dollars ($50.00), which will entitle the licensee to conduct business in the City of Wendover for two (2) days. A fee of Twenty-Five Dollars ($25.00) per day will be assessed for each additional day thereafter.

(c) Each license shall clearly state the number of days for which it will be valid and each license shall expire at 12:00 midnight on the last day for which it is issued.

SECTION 8: TRANSFER. Licenses are non-transferable

SECTION 9: LOUD NOISES AND SPEAKING DEVICES. No licensee under this Ordinance, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loudspeaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

SECTION 10: DUTY OF POLICE TO ENFORCE. It shall be the duty of the police officers of the City of Wendover to examine all places of business and persons in their respective territories subject to the provisions of this Ordinance, to determine if this Ordinance has been complied with and to enforce the provisions of this Ordinance against any person found to be violating the same.

SECTION 11: RECORDS. The City Clerk shall deposit the license number with the Chief of Police. The Chief of Police shall report to the City Clerk any complaints against any person licensed under the provisions of this Ordinance and any conviction for violation of this Ordinance. The City Clerk shall keep a record of all such licenses and of such complaints and violations.

SECTION 12: REVOCATION OF LICENSE.

(a) The permits and licenses issued pursuant to this Ordinance may be revoked by the Mayor of the City of Wendover, after notice and hearing, for any of the following causes:

(1) Any fraud, misrepresentation or false statement contained in the application for license;

(2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;

(3) Any violation of this Ordinance;

(4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or

(5) Conducting the business licensed under this Ordinance in an 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.

(b) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five (5) days prior to the date set for the hearing.

SECTION 13: PENALTY. Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a Class "B" Misdemeanor, punishable by a fine of $299.00 and/or six (6) months in jail.

SECTION 14: EFFECTIVE DATE. This Ordinance shall be effective thirty (3) days after the date of its passage and after having been posted in three (3) public places in the City of Wendover, Tooele County, Utah, for a period of not less than twenty (20) days.

PASSED AND ADOPTED by the City Council of the City of Wendover, Utah, this 10th day of May, 1983.

Hugh K. Nielson
MAYOR

ATTEST:

Margaret L. Wheeler
RECORDER

(S E A L)