

# Chapter 4

## PEDDLERS, VENDORS AND SOLICITORS

### 4-4-1: PURPOSE:

The purpose of this chapter shall be to protect the health, safety and/or welfare of residents of the city and to protect its citizens from crime by means of regulation of vendors, peddlers and/or solicitors. (2003 Code § 5-04-01)

### 4-4-2: JURISDICTION:

The following provisions shall apply to peddlers, vendors and/or solicitors operating or doing business within the incorporated areas of the city. The provisions of this chapter are not intended to prohibit or hamper speech that is protected by the first amendment of the U.S. constitution, but merely to regulate specific activities of a commercial nature. (2003 Code § 5-04-02)

### 4-4-3: DEFINITIONS:

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

**PEDDLER OR VENDOR:** Any person traveling by foot, motor vehicle, bicycle or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, food or farm products or provisions, offering and/or exposing the same for sale, making sales, or delivering articles to purchasers.

**SOLICITOR:** Any person traveling either by foot, motor vehicle, bicycle or any other type of conveyance, from place to place, from house to house, from street to street, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished immediately or performed in the future, whether he or she is collecting advance payments on such sales or not. (2003 Code § 5-04-03)

### 4-4-4: LICENSE REQUIRED; EXCEPTIONS:

A. License Required: It shall be unlawful to act as a vendor, peddler or solicitor, or to employ another in such business within the meaning and application of this chapter, without first securing a license to do so from the city clerk.

## B. Exceptions:

1. A person invited to the premises or place by the occupant or owner of the premises or place.
2. Any sales under a court order.
3. The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper.
4. The occasional sale of admission by local school students to a function of their school or in support of a school program or fund raising sales by local service clubs or groups such as Soroptimists, Elks, Kiwanis, Rotary, Lions, Boy or Girl Scouts.
5. Garage, yard or similar sales by individuals at their residence or place of business, not exceeding three (3) separate sales in one calendar year, and not to exceed three (3) days each, which sales shall not include business inventory or items that have been purchased for the purpose of resale from another garage sale.
6. Any political group or candidate seeking funds, membership or support.
7. A bona fide auction sale. (2003 Code § 5-04-04)

## 4-4-5: APPLICATION FOR LICENSE:

Any person desiring a license to engage as a vendor, peddler or solicitor within the city shall make application therefor to the city clerk on a form to be provided, which shall state the following information, but which shall not necessarily be limited to the following information:

- A. Name and address of the applicant. If the applicant is an association, company or corporation, then it shall state its name along with the names and descriptions of those who will be soliciting in the city.
- B. Address, both headquarters and local.
- C. A brief description of the nature of the business and the goods to be sold and in the case of farm or garden products, whether produced or grown by the applicant.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship between the employer and the applicant.
- E. The proposed method of operation, length of time for which the right to do business is desired and if a motor vehicle is to be used, a description of the same, together with license number and other means

of identification.

F. Whether a permit or license issued to the applicant has been revoked during the last five (5) years, and if so, where and when.

G. A statement as to whether the applicant, or any partner or any officer or director has:

1. Forfeited bail;
2. Been arrested;
3. Been convicted;
4. Been fined;
5. Been jailed; or
6. Been placed on probation for any violation of the law.

H. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

I. When the applicant proposes to sell any prepared food product for human consumption, a certification from the Central district health department and/or any other applicable license required shall be required prior to the issuance of this license.

J. An agent upon whom service of process may be made in the state of Idaho. (2003 Code § 5-04-05)

#### **4-4-6: INVESTIGATION OF APPLICANT:**

A. Upon receipt of application, or application for renewal, the city clerk shall refer the application to the chief of police, who shall cause an investigation to determine the validity and completeness of the information presented on the application. The chief of police shall endorse upon the application the findings of the investigation and return it to the city clerk.

B. If the applicant or his employer has been convicted of any crime involving moral turpitude within the past five (5) years, or if the applicant has made a false statement on the application, it shall be denied.

C. Two (2) photographs of the applicant that are two inch by two inch (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishable manner.

D. Any applicant, or employee of an applicant, shall be required to have their fingerprints taken as a part of the investigation. (2003 Code § 5-04-06)

#### **4-4-7: BOND REQUIREMENT:**

Before any license as provided herein shall be issued for engaging in the business of "peddler", "vendor" or "solicitor" as defined in this chapter, the following must occur:

A. Individuals: Every applicant plying his trade as an individual, shall file with the city clerk a surety bond, a cashier's check, or a letter of credit from a bank in the amount of one thousand dollars (\$1,000.00), running to the city.

B. Business: Every business, firm, company, individual or corporation, which has two (2) or more employees or agents acting in the capacity of vendor, solicitor or peddler, shall file with the city clerk a surety bond, cashier's check or letter of credit from a bank in the amount of one thousand dollars (\$1,000.00), running to the city for each employee or agent. The surety bond must be made by an agent upon which service of process may be made in the state.

C. Claim Against: Action on the surety bond or cashier's check may be brought directly by any person damaged by a licensee's violation of any provisions of this chapter.

D. Return Of Surety: After expiration of a license, the city clerk shall, upon application of the licensee, return the bond, cashier's check or letter of credit ninety (90) days after receipt of application for return, unless the city clerk has been notified of the prudence of any claim or cause of action by any person upon the bond, cashier's check or letter of credit. (2003 Code § 5-04-07)

#### **4-4-8: FEES FOR LICENSE:**

License fees charged for administration and enforcement of this chapter shall be as established by resolution of the city council. (2003 Code § 5-04-08; amd. 2012 Code)

#### **4-4-9: ISSUANCE OR DENIAL AND EXHIBITION OF LICENSE:**

- A. Approved: The city clerk shall notify the applicant when his license request is approved, and shall issue a license.
- B. Denied: The city clerk shall notify the applicant if his license is denied, the reasons therefor, and advise him of his rights to appeal to the city council.
- C. Exhibited: The license shall be exhibited in a conspicuous place on the motor vehicle or other mode of transportation if the licensee is using a motor vehicle or other mode of transportation. Otherwise, the license must be kept on the person and exhibited at any time upon request. (2003 Code § 5-04-09)

#### **4-4-10: RESTRICTIONS:**

- A. No Fixed Location; Congested Area: No licensee shall have any right to any fixed, regular or established location in a public street, sidewalk or right of way, nor shall the licensee be permitted to conduct his business in any congested area where his operations might impede or inconvenience the public. The judgment of a police officer is deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced.
- B. Certain Areas Prohibited:
  - 1. No business activity shall be carried on in any area of the city by any licensee where such business is prohibited by the city zoning ordinance. No licensee shall be permitted to conduct his business or trade in or on any city park, city building or adjacent grounds.
  - 2. Vendor carts and motor vehicles are prohibited within fifteen feet (15') of a fire hydrant, fire escape, bus stop or loading zone.
- C. Private Property: Business activity as regulated by this chapter shall only be conducted on private property with written approval of the property owner.
- D. Hours Of Operation: Vendors, peddlers or solicitors shall be allowed to engage in their licensed business only between nine o'clock (9:00) A.M. and one-half ( $\frac{1}{2}$ ) hour after sunset. All vending stands, carts or vehicles must be removed from public property during nonvending hours. The city council may make an exception to the usual hours of operation if a special event permit is sought.
- E. Removal Of Trash: All trash or debris accumulating within twenty feet (20') of any vending stand shall be collected by the vendor, peddler or solicitor and deposited in trash containers. All vendors or

peddlers selling food or beverages must provide trash receptacles adjacent to or as a part of their stands. (2003 Code § 5-04-10)

#### **4-4-11: UNLAWFUL CONDUCT:**

No licensee hereunder shall:

- A. Mislead Customer: Misrepresent the purpose of, or affiliation of those engaged in the solicitation, peddling or vending.
  
- B. Harass: Continue efforts to solicit or peddle to an individual once that individual informs the solicitor or peddler that they do not wish to give or purchase anything from that solicitor, peddler, or vendor.
  
- C. Claim Endorsement: Represent the issuance of any license under this chapter as an endorsement or recommendation of solicitation.
  
- D. Trespass: Enter upon any premises when the same is posted with a sign stating "No Peddlers Allowed", or "No Solicitation Allowed", or "No Vendors Allowed", or other words to such effect.
  
- E. False Statements: Knowingly make any false statement on an application for a license. (2003 Code § 5-04-11)

#### **4-4-12: REVOCATION OF LICENSE:**

The city council has the power to revoke any license granted in accordance with this chapter for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for license.
  
- B. Fraud, misrepresentation or false statement made in the course of conducting the business or trade. (2003 Code § 5-04-12)

#### **4-4-13: PENALTY:**

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor, subject to penalty as provided in [title 1, chapter 4](#) of this code. Additionally, any applicant for a license having signed under oath upon penalty of perjury may be prosecuted under the laws of the state pertaining to perjury if any portion of the application is found to be untrue or if the applicant has been found to have violated the Idaho consumer protection act. (2003 Code § 5-04-13; amd. 2012 Code)