

Article 5 DOOR TO DOOR SALESMEN

06-05-01: DEFINITION:

PEDDLER OR VENDOR: Any person traveling by foot, motor vehicle 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 exposing the same or any services for sale or making sales and delivering articles to purchasers, or gathering information by survey, or other means, with the intent that such information will or may be used for subsequent contact with the consumer concerning the sale of any goods, wares, merchandise, food or farm products or provisions, or any services. This article shall not apply to those persons who leave fliers, pamphlets or handbills advertising goods or services and inviting contact from the intended consumer, but who do not make direct contact with the potential consumer. (Ord. 2880, 8-1-2011)

06-05-03: LICENSES REQUIRED:

It shall be unlawful for any "peddler" or "vendor" as the same are herein defined, or for any "temporary use" or "transient merchant" as defined in section 10-02-13 of this code, to engage in such business within the corporate limits of the city without having first been issued a license by the city clerk's office. (Ord. 2749, 8-18-2008)

06-05-05: EXCEPTIONS:

The provisions of this article do not apply to:

- (1) Any sale under court order;

- (2) An auction sale;

- (3) Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to or solicit orders for future delivery from local retailers, businesses, governments, schools or wholesale firms; (Ord. 2206, 10-6-1997)
- (4) The sale of farm or garden products under "farm stand" as defined in section 10-03-11 of this code; (Ord. 2749, 8-18-2008)
- (5) The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
- (6) Contribution solicitation where the person being solicited to contribute personally knows the identity of the person soliciting the contribution, the name of the group or organization he represents and the nature of the services performed or offered by the group or organization;
- (7) The sale of admission by local school students to a function of their school or fundraising or community events sponsored by local service clubs such as Elks, Kiwanis, Boy or Girl Scouts, etc.;
- (8) Any political group seeking funds or membership;
- (9) Any solicitation of information for a telephone book or a city directory by a company representative;
- (10) A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale;
- (11) A sale of goods, wares, merchandise and personal property of any nature whatsoever for resale to or by a business establishment at a fixed location where goods or services are offered or exhibited for sale;

- (12) Any sales that are within the provisions provided within the home occupation permit;
(Ord. 2206, 10-6-1997)
- (13) Any activity protected against regulation by any provision of the United States constitution or Idaho constitution. (Ord. 2777, 11-17-2008)

06-05-07: LICENSE APPLICATION:

- (1) Application for a license to be issued under the provisions of this article shall be made to the city clerk and shall state:
- A. The name and address of the applicant and all persons associated with him or her in his or her business.
 - B. The type of business for which the license is desired.
 - C. A general description of the thing or things to be sold.
- (2) Applicant will need to show proof of a state of Idaho resale number.
- (3) Each applicant must file with his application one recent passport sized photograph of himself, a copy of which shall be included on the license when issued, the original being retained with the application filed with the city clerk. Each licensee shall at all times have his license with him and shall exhibit the same upon request. (Ord. 2850, 12-6-2010, eff. 1-1-2011)
- (4) To determine the suitability of prospective applicants for a license under this article, pursuant to Idaho Code section 67-3008 and to congressional enactment Public Law 92-544, each applicant shall request from the Idaho state police, bureau of criminal identification, a fingerprint based national background check, understanding that said fingerprints will be submitted to the federal bureau of investigation, and directing that the results be sent directly to the city clerk of the city of Caldwell. The city clerk is authorized to receive said criminal history information for the purpose of evaluating the applicant's fitness for licensing under this article. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited. Provided, however, that any applicant who is under the age of eighteen (18) at the time of application, shall not be required to request said fingerprint based national background

check, but, rather, shall be subjected to a locally administered background check to be conducted by the city clerk in conjunction with the chief of police. (Ord. 3003, 6-1-2015)

- (5) If a vehicle will be used by the applicant in relation to any of the activities covered by this article, either directly or indirectly, and including simply in transportation to and from an area where the applicant will be traveling on foot, then satisfactory proof of registration and current insurance on said vehicle must be shown at the time of application. Where multiple applicants will be sharing a single vehicle, such fact should be stated on the application, and at least one of the applicants must produce the required documentation at the time of application.
- (6) If the sale or advertising of the applicant's goods is made from a motor vehicle, then the applicant must submit an official Idaho driver's license record, obtainable from the Idaho transportation department, and issued within thirty (30) days prior to the city clerk's receipt of the application. (Ord. 2850, 12-6-2010, eff. 1-1-2011)

06-05-08: LOCATION RESTRICTIONS:

No licensee shall have any right to any fixed, regular, or established location in a public street or right of way, nor shall he 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. No business activity shall be carried on in any area of the city by any licensee where such business activity is prohibited by the city zoning code. No licensee shall be permitted to conduct his business or trade in or on any city park, building or adjacent grounds. (Ord. 2253, 10-19-1998)

06-05-09: PREREQUISITE FOR PEDDLING FOOD:

When the applicant proposes to peddle any food or product for human consumption, certification by the Southwest health district is required prior to issuance of a license. (Ord. 2206, 10-6-1997)

06-05-10: INVESTIGATION OF APPLICANT:

(1) Upon receipt of application, or application 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 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 within five (5) working days. Where an application for renewal of a license is involved and the application is completed and submitted prior to the expiration of the previous license, and where the city clerk has received no complaints or allegations of any violation of this chapter or other laws by the applicant, the clerk may approve the renewal application administratively once, without referral of the application to the chief of police and without the submittal of an additional fingerprint based national background check. Any subsequent application for renewal shall be treated in all respects as a new application, with referral of the application to the chief of police and must be accompanied by a newly issued fingerprint based national background check. (Ord. 2850, 12-6-2010, eff. 1-1-2011)

(2) No person shall be issued a license when that person:

- A. Would not be of sufficient age to be considered lawfully employable under title 44, chapter 13 of the Idaho Code, or other applicable state or federal laws; (Ord. 3003, 6-1-2015)
- B. Is required to register as a sex offender, pursuant to the sexual offender registration notification and community right-to-know act, Idaho Code section 18-8301 et seq., and/or the juvenile sex offender registration notification and community right-to-know act, Idaho Code section 18-8401 et seq.;
- C. Has ever been convicted of or pled guilty to any violent felony offense, including, but not limited to, aggravated assault, aggravated battery, robbery, homicide, aggravated arson, kidnapping, stalking, rape or any felony of a sexual nature; (Ord. 2880, 8-1-2011)
- D. Has been, within ten (10) years prior to the date of making application for such license, arrested for, charged with, convicted of, paid any fines, been placed on probation, received a deferred sentence, received a withheld judgment, completed any sentence of confinement, or suffered the forfeiture of a bond for any felony, or for any misdemeanor which, if committed in the state of Idaho, would have constituted a felony;
- E. Has been, within five (5) years prior to the date of making application for such license, arrested for, charged with, convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, completed any sentence of confinement, or suffered the forfeiture of a bond for any misdemeanor, involving:
 - 1. The use of force against the persons or property of another;
 - 2. The threat of force against the persons or property of another;

3. Theft or larceny;
 4. The use, possession or sale of illicit drugs; (Ord. 2850, 12-6-2010, eff. 1-1-2011)
 5. Possession of a concealed weapon;
 6. Illicit sexual, lewd or obscene activity or materials, including, but not limited to, violations of Idaho Code sections 18-919, 18-1515, 18-4103 through 4105, or 18-4116;
 7. Stalking, telephone harassment, or violations of protection orders or do not contact orders; or
 8. Contributing to the delinquency of a minor.
- F. Has, at the time of such application an outstanding warrant;
- G. Has had a similar license revoked by the city or any other city of this state or of the United States within the preceding five (5) years. (Ord. 2880, 8-1-2011)
- H. Has violated this article, or any similar ordinance in the city or any other city of this state or of the United States, within the preceding five (5) years, by acting as a "peddler" or "vendor" without first obtaining the requisite license.
- I. If a person fails to qualify for a license for the sole reason that they have been arrested for or charged with a felony or enumerated misdemeanor under subsection (2)D or (2) E of this section, and the person can provide proof to the satisfaction of the police chief that such arrest did not result in charges or any charges filed were dismissed or resulted in acquittal, the city shall issue a license if the person otherwise qualifies. (Ord. 2915, 9-17-2012)

06-05-11: LICENSE FEE; LICENSE SHALL BE CARRIED:

- (1) A per person license fee shall be paid in an amount established by resolution of the city council, valid for twelve (12) months. The fee for an application for renewal of a license shall be as set forth by resolution of the city council.
- (2) Every person licensed under this section shall have with him or her while engaged in such business the license received by him or her from the city clerk and shall produce the same at the request of any city official or at the request of any individual within the city of Caldwell to whom he or she is exhibiting his or her goods or selling or attempting to sell same. The license shall be exhibited in a conspicuous place if the licensee is using a vehicle. (Ord. 2850, 12-6-2010, eff. 1-1-2011)

06-05-13: UNLAWFUL CONDUCT:

No licensee shall:

- (1) Misrepresent the purpose of solicitation;
- (2) Misrepresent affiliation of those engaged in the solicitation;
- (3) Continue efforts to solicit from a person once that person informed the solicitor that he does not wish to give anything or to buy anything from that solicitor;
- (4) Represent the issuance of any license under this article as an endorsement or recommendation of the solicitation;
- (5) Enter upon any premises when the same is posted with a sign stating "No Peddlers Allowed" or "No Solicitation Allowed" or other words to such effect;
- (6) Knowingly make any false statement on an application for a license. (Ord. 2206, 10-6-1997)

06-05-15: REVOCATION OF LICENSE:

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

- (1) Fraud, misrepresentation or false statements contained in the application for license;
- (2) Fraud or misrepresentation or false statement made in the course of conducting the business or trade;

- (3) Any other violation of this article;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting business 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. (Ord. 2206, 10-6-1997)

06-05-17: TEMPORARY USE AND TRANSIENT MERCHANT LICENSES:

- (1) License Required: Any person or persons using, leasing or purchasing a properly zoned site or parcel in the city to sell, trade, offer for sale or trade, or display for the purpose of sale, trade, or giveaway any goods and/or services as a "temporary use" or "transient merchant" as defined in section 10-02-13 of this code, shall be required to have a license issued by the city clerk after a temporary use/transient merchant license application is approved through the requirements listed in section 10-02-13 of this code.
- (2) License Fee: License fees shall be established by resolution of the Caldwell city council along with application fees and inspection fees from any applicable city department involved in the approval process. (Ord. 2749, 8-18-2008)