

CHAPTER 12
ITINERANT MERCHANTS & MOBILE FOOD VENDORS

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4-12-1: **PURPOSES:** This Chapter has three purposes: (1) to protect the citizens from fraud, crime and unfair, deceptive or dishonest business practices by persons temporarily engaged in the business of selling goods, wares, merchandise and services within the City; (2) to protect the residents of the City from unwanted intrusions on the privacy of their homes; and (3) to protect the health, safety, aesthetics and general welfare of the City and its residents.

4-12-2: **GARAGE SALE DEFINED:** As used in this Chapter, a "garage sale" is a sale of new or used personal property, not more than three (3) consecutive days in duration and conducted not more frequently than once every six (6) months at the same location. (Ord. 3332, 09-10-20)

4-12-3: ITINERANT MERCHANT DEFINED: As used in this Chapter, an "itinerant merchant" is any person who sells or offers to sell any goods, wares, merchandise or services from any stand, vehicle, trailer, tent, rack or other shelter or structure not permanently affixed to real property or any person who sells or offers to sell any goods, wares, merchandise or services from any motel room, office, building, warehouse, shopping mall or other location with an intent to remain at that location for less than ninety (90) days. Execution or adoption of any lease agreement or other contract for the use of such location for a term of ninety (90) days or less, or with the ability to terminate or lease within such time period, shall be prima facie evidence of such intent.

4-12-4: MOBILE FOOD VENDOR DEFINED: As used in this Chapter, a "mobile food vendor" is a person who sells at retail food or beverages, to the public from any vehicle.

4-12-5: VEHICLE DEFINED: As used in this Chapter, "vehicle" shall have the same meaning as under Chapter 1, Title 49 of the Idaho Code.

4-12-6: ITINERANT MERCHANTS LICENSE REQUIRED: No person shall engage in the business of an itinerant merchant without first obtaining an itinerant merchants license from the City.

4-12-7: EXCEPTIONS: The itinerant merchant licensing and bonding requirements of this Chapter shall not apply to the following:

- (A) Sales conducted pursuant to court order;
- (B) The sale of Christmas trees;
- (C) Garage sales;
- (D) The sale of goods, wares, merchandise or services by any student group or religious, philanthropic or charitable organization exempt from taxation under 26 U.S.C. Section 501 and which has a local charter or sponsor located in the City;
- (E) The sale of any goods, wares, merchandise or services by any person or organization appropriately licensed under any other provision of the City Code; or
- (F) The sale of goods, wares or merchandise to a business establishment that intends to offer those items for resale.
- (G) The sale of fresh fruits, vegetables, and agricultural products. (Ord. 3202, 7-30-18)

4-12-8: LICENSE FEE: At the time of making application, applicants for an itinerant merchant's license shall pay to the Clerk a license fee in an amount set from time to time by Resolution of the Council, plus a background investigation fee as provided in this Chapter. The

license fee and the background investigation fee shall be not be refunded if the license is denied. (Ord. 2964, 8-14-14; Ord. 3282, 11-26-19)

4-12-9: LICENSE APPLICATIONS: Applications for an itinerant merchants license shall be in writing on a form furnished by the City and shall be filed with the Clerk. Applications shall contain the following information:

(A) The name, physical description and address of the applicant, and if the applicant is a corporation, or partnership, association or other business entity, then also the names and residential addresses of all persons owning ten percent (10%) or more of the shares or assets of the entity;

(B) The names and residential addresses of all persons who will sell or offer for sale any goods, wares, merchandise or services;

(C) A brief description of the nature of the business and the goods or services to be sold;

(D) The address of the principal place of business of the applicant;

(E) The inclusive dates and times of day for which the license is desired;

(F) A description and license or registration numbers of each motor vehicle that will be used in connection with making sales, and the names of all persons who will be driving such motor vehicles, their driver's license numbers and the names of the states by which the licenses were issued;

(G) A statement of whether any business-related permit or license held by the applicant or any of the applicant's agents or employees has been revoked within the past five (5) years by any jurisdiction, and if so, where, when and why the revocation occurred;

(H) The applicant's social security or taxpayer identification number and state sales tax number;

(I) A statement of whether the applicant has been convicted of any crime other than a minor traffic violation, and if so, the nature, place and date of each such offense;

(J) A two inch by two inch (2" x 2") photograph of the applicant, or if a corporation, partnership, association or other organization, a similar photograph of the person submitting the application;

(K) A statement of all locations in the City where the goods, wares, merchandise or services will be sold;

(L) The names and addresses of the manufacturers or other persons or organizations supplying the goods to be sold or offered for sale. (Ord. 3365, 1-14-21)

4-12-10: INVESTIGATION FEE: At the time of filing an application for an itinerant merchant's license, applicants shall pay an investigation fee in an amount set from time to time by Resolution of the Council, for the following:

- (A) applicants who reside or have a principal place of business in Bonneville County;
- (B) applicants who reside or have a principal place of business outside Bonneville County, but within the State of Idaho; and
- (C) applicants who reside or have a principal place of business outside the State of Idaho.

In the event an applicant makes application for an itinerant merchants license within sixty (60) days after the expiration of their such license for the preceding year, and no complaints have been made against such applicant within the term of such prior license and such prior license has not been revoked or suspended, no investigation fee shall be charged at the time of application. (Ord. 2964, 8-14-14)

4-12-11: INVESTIGATION OF APPLICANT AND ISSUANCE OF LICENSE:

- (A) On receipt of the application and the license and investigation fees, the Clerk shall forward the itinerant merchant's license application to the Chief of Police, who shall make an investigation to verify the information in the application. The Chief of Police shall report their findings to the Clerk as soon as reasonably possible, but no later than thirty (30) days after the application is filed with the Clerk.
- (B) On receipt of the report of the Chief of Police, the Clerk shall approve or deny the application.
- (C) The Clerk shall approve issuance of a license unless the applicant or any officer, agent or employee of an applicant has:
 - (1) Been convicted of any felony or crime of moral turpitude, in any jurisdiction, within five (5) years prior to the date of the application;
 - (2) Made a false statement on the application;
 - (3) Had any business-related permit or license revoked by any jurisdiction within five (5) years prior to the date of the application.
- (D) If the Clerk denies the application, the applicant may appeal the decision to the Council.
- (E) Licenses issued under this Chapter shall show the name and address of the licensee and the dates of issuance and expiration of the license. (Ord. 3282, 11-26-19)

4-12-12: **BONDING REQUIREMENT:** Before any itinerant merchant’s license is issued, the applicant shall file with the Clerk a surety bond in favor of the City or a cashier's check in an amount set from time to time by Resolution of the Council. The bond shall be in a form approved by the City Attorney, be executed by the applicant as principal and be issued by a surety licensed to engage in business in the State of Idaho. The bond shall be issued for a term coterminous with the term of the license. If the Council determines that the licensee has made a false statement on the license application, or if the licensee or any employee or agent of the licensee engages in any fraudulent, deceptive or unlawful business practice in connection with the conduct of the licensee's business or otherwise violates the provisions of this Chapter, then the Council may order the entire amount of the surety bond or cash bond forfeited. The Council may also order that the proceeds from the bond be paid over to any person damaged by the actions of the licensee. After the expiration of the license, the Clerk, upon request of the licensee, shall return the surety bond or cash bond within six (6) months after the request for return, unless the Clerk has been notified of the pendency of any claim or cause of action against the bond, in which case, the Clerk shall return the bond within thirty (30) days after the final resolution of the claim or cause of action. (Ord. 2964, 8-14-14; Ord. 3365, 1-14-21)

4-12-13: **TERM OF ITINERANT MERCHANT’S LICENSE:** The term of an itinerant merchant’s license shall expire one (1) year from the date that the license is issued. (Ord. 3282, 11-26-19)

4-12-14: **UNLAWFUL CONDUCT:** No itinerant merchant shall do any of the following:

(A) Engage in any fraudulent, deceptive or unlawful business practice;

(B) Make any materially false statement or representation concerning the nature, quality or durability of any goods, wares, merchandise or services sold or offered for sale, knowing the statement to be false; or

(C) Make any materially false or misleading statement on an application for a license under this Chapter.

4-12-15: **DISPLAY OF LICENSE:** The itinerant merchant’s license required by this Chapter shall be exhibited at all times in a place conspicuous to the public at all locations where any goods, wares, merchandise or services are sold or offered for sale.

4-12-16: **LICENSE NONTRANSFERABLE:** Licensees shall not allow their license to be used by any person other than their agents or employees for any purpose. Itinerant merchant’s licenses shall be nontransferable and non-assignable.

4-12-17: **GROUND FOR REVOCATION OF LICENSE:** The City Council may revoke an itinerant merchant’s license for any of the following reasons:

(A) The licensee or any of licensee's agents or employees engages in any fraudulent, deceptive or unlawful business practice in connection with licensee's business;

- (B) False statements on the license application;
- (C) The licensee or any of licensee's agents or employees violates any provision of this Chapter;
- (D) Revocation by any jurisdiction of any other business related license or permit held by licensee;
- (E) The licensee is convicted in any jurisdiction of any felony or crime of moral turpitude; or
- (F) Cancellation or termination of the bond required by this Chapter prior to the expiration of the license;
- (G) Failure to comply with the provisions of this Chapter.

4-12-18: **MOBILE FOOD VENDOR LICENSE:** No person shall engage in the business of a mobile food vendor without first obtaining a mobile food vendor license from the City.

4-12-19: **LICENSE APPLICATIONS:** Applications for mobile food vendor licenses shall be made at the office of the Clerk on a form furnished by the City. The application shall state the applicant's full name and residential address, the business name under which the applicant will be operating and the address of the applicant's principal place of business, a brief description of the food to be sold, the applicant's social security number or taxpayer identification number and a description and the license or registration numbers of each vehicle from which sales will be made. The application shall be accompanied by the mobile food vendor license fee in an amount set from time to time by Resolution of the Council. (Ord. 3282, 11-26-19)

4-12-20: **TERM OF MOBILE FOOD VENDOR LICENSE:** The term of a mobile food vendor's license shall expire one (1) year from the date that the license is issued. (Ord. 3282, 11-26-19)

4-12-21: **ISSUANCE OF LICENSE:** On receipt of a completed application for a mobile vendor license and payment of the license fee, the Clerk shall forward the application to the Chief of Police for review and recommendation for approval or denial. Within thirty (30) days from the date the application is filed with the Clerk, the Chief of Police shall forward the recommendation to the Clerk. The Clerk shall then approve or deny the application. If the Clerk denies the application, the applicant may appeal the decision to the Council. If the application is denied, the license fee shall not be refunded to the applicant. (Ord. 2964, 8-14-14; Ord. 3282, 11-26-19)

4-12-22: **LICENSE FEE:** The fee for a mobile food vendor license shall be in an amount set from time to time by Resolution of the Council. (Ord. 3282, 11-26-19)

4-12-23: LOCATION RESTRICTIONS: Mobile vendors and itinerant merchants making sales from vehicles operated on the City's public streets shall stop their vehicles at curbside before making any sales. Mobile vendors shall not make sales from vehicles parked, stopped or standing on public sidewalks of the City. Sales shall not be made to persons who are on public streets, but may be made to persons on public sidewalks. (Ord. 3282, 11-26-19)

4-12-24: MOBILE FOOD VENDING IN PUBLIC PLACES:

- (A) Issuance of a mobile food vendor or itinerant merchant's license shall not entitle the licensee to conduct business on any street, sidewalk or other location within any park owned or maintained by the City.

No person shall conduct the business of a mobile food vendor within any park owned or maintained by the City except under a franchise contract approved by the City Council. (Ord. 3282, 11-26-19)

4-12-25: LOCATION TIME LIMITS: No mobile vendor or itinerant merchant shall make sales from any one location on a public street for more than two (2) consecutive hours. (Ord. 3282, 11-26-19)

4-12-26: SALES VEHICLE REGISTRATION: Any vehicle from which a mobile vendor or itinerant merchant makes sales shall be registered as required by State law. (Ord. 3282, 11-26-19)

4-12-27: SALES VEHICLE EQUIPMENT: Mobile vendors and itinerant merchants shall not operate, move, park, stop or stand any sales vehicle on the City streets unless the vehicle is equipped as required by State law. (Ord. 3282, 11-26-19)

4-12-28: TRAFFIC AND PARKING REGULATIONS: Mobile vendors and itinerant merchants shall comply with all State and City traffic and parking, stopping and standing laws, ordinances and regulations. (Ord. 3282, 11-26-19)

4-12-29: LITTER CONTROL: Any sales vehicles operated by a mobile food vendor shall be equipped with a suitable trash container readily accessible to the public, in which the vendor's customers may deposit any litter, trash or waste related to the vendor's sales. Prior to moving a sales vehicle from a sales location, a mobile food vendor shall pick up and remove all litter, trash and waste related to the vendor's sales within a one hundred foot (100') radius of the sales vehicle. (Ord. 3282, 11-26-19)

4-12-30: REVOCATION OF LICENSE: The City Council may revoke a mobile food vendor license if the licensee violates any provision of this Chapter. (Ord. 3282, 11-26-19)