

CHAPTER 8

ITINERANT MERCHANTS

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5-8-1: **LICENSE REQUIRED:** It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor as defined in this chapter to engage in such business within the city without first obtaining a license therefor in compliance with the provisions of this chapter. (1961 Code)

5-8-2: **DEFINITIONS:** For the purpose of this chapter a "transient merchant, itinerant merchant or vendor" is defined as any person, firm or corporation, whether as owner, agent, consignee, 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 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 chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or be conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (1961 Code)

5-8-3: **APPLICATION:** Applicants for license under this chapter, whether a person, firm or corporation, shall file a written sworn application signed by the applicant, if an individual, by all partners 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, 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 a 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 fingerprints of the person or persons having the management or supervision of applicant's business or in lieu thereof, at least three (3) letters of recommendation from reliable property owners in the county, certifying as to the applicant's good character and business responsibility, or other evidence which establishes to the satisfaction of the mayor the good character and business responsibility of such person or persons;
- C. The place or places in the city where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business will be conducted;
- D. The place or places, other than the permanent place of business of the applicant where applicant within the six (6) months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and

street address of any building or office in which such business was conducted;

- E. 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, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed;
- F. 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 clerk, copies of all said advertising whether by handbills, circular, newspaper advertising or otherwise, shall be attached to said application as exhibits thereto;
- G. 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 therefor;
- H. Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and
- I. 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 chapter in the protection of the public good. (1961 Code)

5-8-4: **INVESTIGATION AND ISSUANCE:** Upon receipt of such application the city clerk shall cause such investigation of such person's or persons' business responsibility or moral character to be made as he deems necessary to the protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the city clerk shall so certify in writing, and a license shall be issued by the city clerk. The city clerk shall keep a full record in his office of all licenses issued. Such license shall contain the number of the license, the date the same is issued, the nature of the

business authorized to be carried on, the amount of the license fee paid, the expiration date of said license, the place where said business may be carried on under said license, and the name or names of the person or persons authorized to carry on the same. (1961 Code)

5-8-5: **BOND:** Before any license, as provided by this chapter shall be issued for engaging in a transient or itinerant business as defined in this chapter in the city, such applicant shall file with the city clerk a bond running to the city in the sum of one thousand dollars (\$1,000.00) executed by the applicant, as principal, and two (2) sureties upon which service of process may be made in the state of Idaho; said bond to be approved by the city attorney, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the city and the statutes of the state of Idaho regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against said applicant for any violation of said laws or statutes, or any of them 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 or persons transacting such business with such applicant, whether said misrepresentations or deceptions were made or practices by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed, or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person. Such bond must be approved by the city attorney, both as to form and as to the responsibility of the sureties thereon. (1961 Code)

5-8-6: **SERVICE OF PROCESS:** Before any license as herein provided shall be issued for engaging in business as an itinerant merchant as herein defined in the city, such applicant shall file with the city clerk an instrument nominating and appointing the city clerk, or the person performing the duties of such position, 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 matter connected with or arising out of the business transacted under said license and the bond given as required by this chapter, or for the performance of the conditions of said bond or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the said license under this chapter, according to the law of this or any other state, and waiving all

claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service or 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. (1961 Code)

5-8-7: **EXHIBITION OF LICENSE:** The license issued under this chapter 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 in the city, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business. (1961 Code)

5-8-8: **FEES:** Licensees under this chapter shall pay a fee of twenty dollars (\$20.00) per day, payable in advance. (1961 Code)

5-8-9: **TRANSFER:** No license shall be transferred. (1961 Code)

5-8-10: **LOUD NOISES AND SPEAKING DEVICES:** No licensee under this chapter, nor anyone in his behalf shall shout, make an 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 in the said city or upon any premises in the said 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. (1961 Code)

5-8-11: **DUTY OF POLICE TO ENFORCE:** It shall be the duty of the police officers of the city to examine all places of business and persons in their respective territories subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating the same. (1961 Code)

5-8-12: **RECORDS:** The city clerk shall deposit the record of fingerprints of licensee, together with a 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 chapter

and any conviction for violation of this chapter, the city clerk shall keep a record of all such licenses and of such complaints and violations. (1961 Code)

5-8-13: REVOCATION OF LICENSE:

A. The permits and licenses issued pursuant to this chapter may be revoked by the mayor of the city after notice and hearing for any of the following reasons:

1. Any fraud, misrepresentation or false statement contained in the application for license;
2. Any fraud, misrepresentation or false statement contained in connection with the selling of goods, wares or merchandise;
3. Any violation of this chapter;
4. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
5. Conducting the business licensed under this chapter 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. (1961 Code)

5-8-14: APPEAL: Any person aggrieved by the decision of the city clerk in regard to the denial of application for license as provided for in this chapter or in connection with the revocation of a license as herein provided, shall have the right to appeal to the council of the city. Such appeal shall be taken by filing with the council within fourteen (14) days after notice of the decision by the city clerk has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal. The council shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in this chapter for notice of hearing on

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revocation. The order of this council on such appeal shall be final. (1961 Code)

5-8-15: **EXPIRATION OF LICENSE:** All licenses issued under the provisions of this chapter shall expire ninety (90) days after the date of issuance thereof unless a prior date is fixed therein. (1961 Code)

5-8-16: **HOURS OF DOOR TO DOOR SALE:** No person shall sell door to door or solicit for sale or petition between the hours of six o'clock (6:00) P.M. and eight o'clock (8:00) A.M. according to the standard of time recognized by the city. (Ord. 551, 3-9-2011)

City of Kellogg Itinerant Merchant Application

Name of Applicant: _____

Phone: _____ Dates: _____

Address of Applicant: _____

Event or Purpose of Application: _____

Date(s): _____ *a fee of twenty dollars (\$20.00) per day, payable in advance.*

Address or Location of Event: _____

Name or Person Responsible for Event: _____ Phone: _____

Signature of Applicant

Date