

CITY OF VALDEZ, ALASKA
ORDINANCE NO. 23-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AMENDING CHAPTER 5.24 OF THE VALDEZ MUNICIPAL CODE TITLED PEDDLERS, SOLICITORS AND ITINERANT VENDORS.

WHEREAS, mobile food businesses have become increasingly prevalent and popular in Valdez; and

WHEREAS, modernizing provisions in the Valdez Municipal Code relating to itinerant vendors will provide clarity on licensing standards for both mobile and stationary vendors; and

WHEREAS, the proposed revisions to Chapter 5.24 aim to balance the city's desire to support economic opportunity with its obligation to protect public health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA that the following amendments are made to Chapter 5.08 of the Valdez Municipal Code:

Section 1. Chapter 5.24 of the Valdez Municipal Code is hereby amended to read as follows:

Chapter 5.24

~~PEDDLERS, SOLICITORS AND ITINERANT~~, MOBILE AND STATIONARY VENDORS

Sections:

- 5.24.010 Definitions.
- 5.24.020 License—Required.
- 5.24.030 License—Application—Fees—Publication.
- ~~5.24.040 License—Bond~~
- 5.24.050 Qualifications.
- 5.24.055 Inspection Required
- 5.24.060 License—~~Insurance~~- Issuance.
- 5.24.070 License—Suspension or revocation.
- 5.24.073 Stationary Vendor Standards
- 5.24.075 Mobile Vendor Standards
- 5.24.080 Exceptions.
- 5.24.090 Soliciting in residential areas.
- 5.24.100 Solicitations prohibited by posting of “No Solicitation” or “No Trespassing” sign.
- 5.24.110 Violation – Penalty.

5.24.010 Definitions.

As used in this chapter:

~~“Charitable organization” means an organization, not for pecuniary profit, which is operated for the relief of poverty, distress or other conditions of public concern in the city.~~

~~“Civic organization” means any local organization, any branch or lodge or chapter of a national or state organization which is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose.~~

~~“Educational organization” means an organization, not for pecuniary profit, whose primary purpose is educational in nature.~~

~~“Local sponsor” means a business registered with the city or a local nonprofit organization.~~

“Community event or celebration” means an event lasting 7 or fewer days, that is of civic, political, public, or educational nature, including fairs, festivals, or other public gathering sponsored by the city or a community organization as defined in this chapter.

“Community organization” means any nonprofit community organization, fraternal, benevolent, educational, philanthropic, or service organization, employee organization, any person who solicits or obtains contributions solicited from the public for charitable purposes, and any person who holds any assets for charitable purposes.

~~“Peddling or hawking, i Itinerant vendors, and persons engaged in a temporary or transient business of any type” means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, whose conducts such a business by means other than a structure permanently affixed to real property, or by traveling from place to place or customer to customer for the purpose of conducting business with customers located within the city. satisfies at least one of the following criteria:~~

- ~~1.—The business is contemplated to be operated for a period of one hundred eighty or fewer consecutive days;~~
- ~~2.—The business is conducted on a door-to-door, street corner sales, or similar basis; or~~
- ~~3.—The business has no fixed location or office within the city, or is located out-of-doors or in quarters that are temporary or easily movable, such as a temporary leased area or space, hotel room, motor vehicle, temporary or seasonal use structure, wagon or tent.~~

The person, firm or corporation being so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of temporarily associating with any local resident or merchant, or by conducting the business in connection with, as a part of, or in the name of any resident or merchant.

~~“Political organization” means an organization, not for pecuniary profit, whose purpose is the election of candidates to public office, or securing the passage or defeat of legislation.~~

~~“Religious organization” means an organization so qualified pursuant to Section 501(c)(3) of the United States Internal Revenue Code. (Ord. 09-04 (part); Ord. 07-04 § 1: prior code § 17-5.2(g))~~

“Mobile vendor” means an itinerant vendor who conducts business from a vehicle or other conveyance while traveling on public streets, sidewalks, alleys, or other public ways of the city.

“Stationary vendor” means an itinerant vendor who conducts business: (1) from a vehicle or other conveyance upon privately or publicly owned property, but not while travelling on a public street, sidewalk, alley or public way of the city, or (2) by means other than a structure permanently affixed to real property.

5.24.020 License—Required.

~~A. All persons who engage in or carry on any business of peddling or hawking, all itinerant vendors, and all persons engaged in a temporary or transient business that does not involve door-to-door residential solicitation shall first obtain a nontransferable license to do so from the city. It is unlawful for any person to engage in or carry on any such business without first having obtained such license and having complied with the provisions of this chapter. It is unlawful for an itinerant vendor to engage in business within the city of Valdez except when licensed as a stationary or mobile vendor as defined in VMC 5.24.010, in compliance with the provisions of this chapter. A separate license shall be required for each location of any stationary vendor and for each vehicle or other conveyance engaged by a mobile vendor.~~

~~B.— No license shall be issued for a mobile ice cream vendor or operator where the applicant is a convicted sex offender of this or any other state or country as the result of a crime committed against a person under eighteen years of age. Further, no person who is a convicted sex offender of this or any other state or country as a result of a crime committed against a person under eighteen years of age shall operate upon the streets, alleys, and roadways a vehicle used, or that appears to be used, for the retail sale of frozen desserts whether engaged in the sale of such items at the time or not.~~

B. A license must be renewed annually. The license must be amended if the information originally furnished by the vendor has changed during the term of the license. A license must be terminated if the mobile or stationary vendor ceases operation. The vendor shall immediately notify the planning department of any change in information originally furnished to the city or upon the cessation of operations during the term of the license. Licenses issued under this chapter will expire on December 31st of each year.

(Ord. 09-04 (part): prior code § 17-5.2(a))

5.24.030 License—Application—Fees—Publication.

A. Application for a mobile vendor or stationary vendor license under this chapter shall be made in writing and filed with the city at least ~~seven~~ ten days prior to the proposed commencement of business on forms provided by the planning department. The application shall contain include:

1. The name, ~~and residence~~ address and telephone number of the applicant;
- ~~2.—~~ The applicant’s work history for the past five years;
- ~~3.~~ 2. A list of all felony ~~and misdemeanor~~ convictions by the applicant in the past five years;
- ~~4.~~ 3. The type of business in which the applicant desires to engage;
- ~~5.~~ 4. The length of time for which the license is desired, up to a maximum of three hundred sixty-five ~~one hundred eighty~~ days;

~~6. 5. The names, kinds and description of articles, commodities or services provided; which are desired to be peddled, hawked, vended or sold;~~

~~7. 6. The names and addresses of the principals, and agents, if any, of the applicants; and~~

~~8. 7. The particular buildings, structures or other places or locations in the city where such business is to be conducted including a site plan or route and a description of operations and equipment to be used; and~~

8. Proposed hours of operation.

B. Additionally, a mobile vendor application under this chapter shall require:

1. A copy of the driver's license of the applicant.

2. The license number, description, identification number, registration, and proof of insurance for all vehicles or conveyances from which the applicant proposes to conduct business.

~~A separate license application is required for every person who owns or operates a mobile ice cream vendor vehicle. In addition to the requirements of subsection A of this section, an application for a mobile ice cream vendor owner's or operator's license must include:~~

~~1. A statement as to whether the applicant is a convicted sex offender in this or any other state or country; and~~

~~2. A photocopy of the driver's license of the applicant.~~

C. The license fee for any person applying for a license under this article shall be established by resolution of the city council, and the required license fee shall accompany the application, or be deposited with the city clerk planning department before the license is issued. (Ord. 09-04 (part); Ord. 07-04 § 2: prior code § 17-5.2(b))

~~5.24.040 License Bond.~~

~~Before any license is issued, the applicant shall deposit with the city clerk the amount of five hundred dollars in cash, cashier's check, or a bond in the sum of five hundred dollars, executed by the applicant and a surety company authorized to do business in the state. This bond will be refunded upon the satisfactory termination of the applicant's itinerant business if the applicant has properly cleaned the area used for the itinerant business. The city is not liable for the payment of interest on a cash deposit. (Ord. 09-04 (part); prior code § 17-5.2(c))~~

5.24. 040050 Qualifications.

Applicants shall, at the time of the application and during the conduct of the business:

A. Comply with the applicable provisions of the Alaska Statute Chapters 17 (Food and Drugs) and 18 (Health and Safety);

B. Comply with the provisions of the zoning, building, plumbing, electrical, and fire codes, ~~trailer court ordinances~~ and other applicable ordinances of the city;

~~C. Hold a valid business license from the state of Alaska;~~

~~D. C. Submit with the application a signed, notarized statement of permission from any property owner on whose land the applicant intends to locate his nonpermanent place of business; and~~

~~E. D.~~ Comply with the city of Valdez business registration requirements. (Ord. 09-04 (part): prior code § 17-5.2(d))

5.24.050 Inspection Required

A. For each mobile or stationary vendor who engages in the sale of food products the City Building Inspector will inspect the premises, vehicle or conveyance annually for compliance with the following:

1. Potable and gray water tanks present;
2. Portable Fire Extinguishers present and current tag (minimum of one 2A-40 BC);
3. Grease hoods with fire suppression system and current tag;
4. Hot and cold running water at all sinks;
5. Propane tanks and connections secure; and
6. Trash cans present (minimum of one 30-gallon garbage can).

B. In addition to the above items, structures used by stationary vendor must meet requirements outlined in VMC Title 15 and VMC Title 17 and be inspected by the City Building Inspector annually.

C. No license shall be issued if the requirements of this section are not satisfied.

5.24.060 License—~~Insurance.~~ Issuance.

~~Licenses provided for in this chapter may be issued by the city manager or his designee. Upon proper application, the city~~ planning department shall issue the license unless it finds that the operations of the business may be ~~contrary or~~ detrimental to the public interest, health, safety or welfare or the applicant for a mobile vendor license under this chapter is registered as a sex offender or child kidnapper with the Alaska Department of Public Safety. (Ord. 09-04 (part): prior code § 17-5.2(e))

5.24.070 License—Suspension or revocation.

A license granted under this chapter may be suspended or revoked if the applicant made any material false statements in the application, violates the requirements of any provision of this section, makes a fraudulent misrepresentation or statement, or commits a fraudulent act in connection with the operation of the business. (Ord. 09-04 (part): prior code § 17-5.2(f))

5.24.080 Stationary Vendor Standards

All stationary vendors licensed under this chapter shall conform to the following standards:

- A. Stationary vendor shall adhere to all zoning requirements established in VMC Title 17;
- B. Licensed stationary vendor sites shall be cleaned of all debris, trash and litter at the conclusion of daily business activities.
- C. All merchandise, goods, wares or food shall only be displayed or offered for sale from the vendor's licensed conveyance or stand;

5.24.075 Mobile Vendor Standards

All mobile vendors licensed under this chapter shall conform to the following standards:

A. Geographical Restrictions. No mobile vendor shall sell or vend from his or her vehicle or conveyance:

1. Within 400 feet of any school grounds during the hours of regular school session, classes, or school-related events except when authorized by the school;

2. Within 50 feet of the entrance to any business establishment that sells products similar to those sold by the vendor as a main featured item, during business hours of the primary business, except with permission from the primary business establishment;

3. Within any public park or property of the city except as authorized in writing by the city manager or their designee.

These restrictions of mobile vendors shall not apply to a community event or celebration as defined in this chapter.

B. No mobile vendor shall conduct business in violation of the traffic and sidewalk ordinances of the city as now in effect or hereafter amended.

C. No customer shall be served on the street side of a mobile vendor's vehicle or conveyance. All service must be on the curb side when the mobile vendor's vehicle or conveyance is on or abutting a public street.

D. No mobile vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place.

E. No mobile vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard.

F. At the conclusion of business activities at a given location the mobile vendor shall clean all the public way surrounding his or her vehicle of all debris, trash and litter generated by the vendor's business activities.

G. Mobile vendor shall adhere to noise restrictions outlined in VMC 8.20.060.

5.24.~~100~~080 Exceptions.

The provisions of this chapter do not apply to:

A. A fundraising activity by a community organization ~~charitable, religious, civic, or educational organization, or other nonprofit organization, which has been operating within the city for a period of at least one year, and which is conducting a fund-raising activity related to its organizational purpose;~~

B. Fund-raising activities of a political organization;

C. Charter boat and aircraft operations;

D. The sale of seafood by a fisherman;

- E. The sale of farm products by the grower;
- F. The sale of personal goods or wares at activities such as garage sales or flea markets;
- G. The sale of arts or crafts by the person who created the goods;
- H. A community event or celebration as defined in this chapter ~~Trade shows which have a local sponsor or are sanctioned by the Valdez Convention and Visitors Bureau or the Valdez Civic Center;~~
- I. The sale of Christmas trees during Christmas season; provided, that the business owner registers the business with the city and obtains written permission from the property owner where the sale is to occur;
- J. Orders taken and contracts entered into, in the ordinary course of business, by authorized agents of firms and corporations having permanent places of business outside the city; provided, that such orders and contracts are not sought through door-to-door, street corner, mass telephone, or similar solicitations;
- K. Casual sales of personal property not done in the ordinary course of business; and
- L. Any business conducted wholly within a private residence.;

M. A minor who is selling liquid refreshments or homemade items on a temporary basis in a manner akin to a lemonade stand providing that the activity is exempted by the State Department of Environmental Conservation under 18 AAC 31.012.

N. Activities exempted by the State Department of Environmental Conservation under 18 AAC 31.012. Ord. 09-04 (part): prior code § 17-5.2(h))

5.24.110090 Soliciting in residential areas.

A. No solicitor, peddler, hawker, itinerant ~~merchant~~ vendor, transient vendor of merchandise or other person shall enter or remain upon any residential premises in the city, not having been requested or invited by the occupant(s) thereof, for the purpose of contacting said occupants to solicit the immediate or future purchase or sale of goods, services or any other thing of value. Pursuant to Section 5.24.100, unless a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance(s) to such residence, the provisions of this section shall not apply to:

1. Charitable, religious or political solicitations;
2. The solicitation of newspaper or magazine subscriptions;
3. Public utilities and other persons authorized by law to do business within the city that are engaged in the business of providing fuel supply service for residential heating purposes, or the generation, transmission or distribution of electric energy and power; the furnishing of telephone or other communications; the distribution of natural gas under a franchise granted by the city; or the furnishing of community sewer or water services.

B. Attempt to Obtain Invitation Prohibited. No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement. (Ord. 09-04 (part): prior code § 17-8)

5.24.100 Solicitations prohibited by posting of “No Solicitation” or “No Trespassing” sign.

No person shall enter or remain upon any public or private premises in the city, not having been requested or invited by the occupant(s) thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, services or any other thing of value, or to solicit a gift or donation, when a “No Solicitation” or “No Trespassing” sign is posted at or near the entrance(s) to such premises. This provision shall apply to all solicitations, including, without limitation, those that are charitable, religious or political in nature. (Ord. 09-04 (part): prior code § 17-9)

5.24.110 Violation – Penalty.

The penalty for violations of this chapter shall be as reflected in the fine schedule set forth in this section. Court appearance is optional upon citation for a violation of those sections of this chapter that appear in the fine schedule set out in Section 1.08.030 and as reflected in the fine schedule set forth in this section.

| <u>CODE SECTION</u> | <u>OFFENSE DESCRIPTION</u> | <u>COURT APPEARANCE</u> | <u>PENALTY/ FINE</u> |
|---------------------|---|-------------------------|----------------------|
| <u>5.24.020</u> | <u>License—Required —first offense</u> | <u>Optional</u> | <u>\$100.00</u> |
| <u>5.24.020</u> | <u>License—Required —second offense</u> | <u>Optional</u> | <u>\$250.00</u> |
| <u>5.24.020</u> | <u>License—Required —third and subsequent</u> | <u>Optional</u> | <u>\$500.00</u> |
| <u>5.24.080</u> | <u>Stationary Vendor Standards—first offense</u> | <u>Optional</u> | <u>\$100.00</u> |
| <u>5.24.080</u> | <u>Stationary Vendor Standards—second offense</u> | <u>Optional</u> | <u>\$250.00</u> |
| <u>5.24.080</u> | <u>Stationary Vendor Standards—third and subsequent</u> | <u>Optional</u> | <u>\$500.00</u> |
| <u>5.24.090</u> | <u>Mobile Vendor Standard—first offense</u> | <u>Optional</u> | <u>\$100.00</u> |
| <u>5.24.090</u> | <u>Mobile Vendor Standard—second offense</u> | <u>Optional</u> | <u>\$250.00</u> |
| <u>5.24.090</u> | <u>Mobile Vendor Standard—third and subsequent</u> | <u>Optional</u> | <u>\$500.00</u> |

Section 2. This ordinance shall take effect immediately upon adoption by the Valdez City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA, this _____ day of _____, 2023.

CITY OF VALDEZ, ALASKA

Sharon Scheidt, Mayor

ATTEST:

Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

Jake Staser, City Attorney
Brena, Bell, & Clarkson, P.C

First Reading:
Second Reading:
Adoption:
Ayes:
Noes:
Absent:
Abstain: