



ORDINANCE NO. 1029

AN ORDINANCE REPEALING ORDINANCE NO 709; AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; DEFINING MOBILE VENDOR, TEMPORARY VENDOR, AND SEASONAL VENDOR; ESTABLISHING DESIGN REVIEW PROCESSES AND STANDARDS FOR TEMPORARY AND SEASONAL VENDOR USES; REGULATING BUSINESSES BY REQUIRING A BUSINESS REGISTRATION OR LICENSE FOR THE OPERATION OF BUSINESSES WITHIN THE CITY OF REXBURG, IDAHO; AND PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND FOR SEVERABILITY; AND PROVIDING WHEN SAID ORDINANCE SHALL TAKE EFFECT.

WHEREAS, the City of Rexburg's Commercial Design Standards and Guidelines do not currently clearly apply to the premises of a new business when no building permit is applied for, and

WHEREAS, temporary businesses and associated temporary structures, vehicles or trailers may negatively impact pedestrian and vehicular safety, and a zoning district's intended character and appearance, and

WHEREAS, such impacts are likely to increase with the length of time temporary uses and temporary structures are present, with extremely mobile businesses of resultantly low concern, and

WHEREAS, a distinction has been observed between businesses operating on a temporary basis of around fourteen days – around events such as July 4th – and businesses operating on a seasonal basis – usually within four or six months centered on the Summer season,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG:

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6.01.010 Scope

1. The provisions of this chapter apply to all business licenses or registrations of the city, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply.
2. The purpose of this chapter is to provide one document covering all license or registration fees and investigation fees or processing fees connected with the issuance or renewal of licenses or registrations for any business license or registration by the city. The fees referenced in this chapter shall apply in place of any earlier provision in any other ordinance. The fees and charges for businesses or operations not listed in this chapter shall be as stated in the specific ordinances or parts of ordinances relating to those businesses or operations. The City Council shall modify or update the city fees by resolution as needed.
3. A further purpose of this Chapter is to protect the health, safety, and welfare of the City of Rexburg and its residents. This ordinance is not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature.

6.01.020 License or Registration required

Registration is required for all businesses, including professional services. No fees shall be charged unless they are delineated on the City’s master fee list. It shall be unlawful for any vendor, solicitor, or temporary merchant, as the same are herein defined, to engage in such business or to employ another in such business within the corporate limits of the City without first obtaining a license or registration from the City Clerk's Office in compliance with the provisions of this Chapter. All vendors, solicitors, or temporary merchants must meet all applicable city, state, and federal law and licensing requirements including District Seven Health Department Regulations and Requirements, before a registration or license is issued. The applicant must continually maintain a City issued license or registration.

6.01.030 Exceptions

The provisions of this Chapter shall not apply to:

1. Any sales under court order;
2. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to, or solicit orders for future delivery, from local retailers, local businesses, local governments, local schools, or local wholesale firms;
3. The sale of farm or garden products by the person producing the same;
4. The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;

5. The occasional sale of admission by local school students to a function of their school; or fund raising sales by local service clubs or groups such as Elks, Kiwanis, Lions, Boy or Girl Scouts;
6. Any political group seeking funds or membership;
7. Garage, yard, or similar sales by individuals at their residence or place of business not exceeding two (2) separate sales in one (1) calendar year, 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 at another garage sale;
8. Any organization exempt from taxation as provided by 26 U.S.C. 501 and meeting all the requirements for the exemptions provided by U.S.C. 503;
9. Any activity conducted pursuant to a Special Events Permit.

6.01.040 Definitions

As used in this chapter and in any ordinance regulating business or requiring a license or registration for the operation of a business, the following terms shall have the following meanings, except where the context clearly indicates that a different meaning is intended and except where an ordinance concerning a particular business contains a specific provision to the contrary:

1. **Adult:** means any person eighteen years of age or older.
2. **Approved:** means complying with all applicable state laws and city ordinances. The word "approved" does not give any city officer or employee discretion to fail to approve any item or method, except for failure to comply with applicable city ordinances and state laws.
3. **Business District:**
 - a) Commercial Business District
 - b) Community Business Center
 - c) General Business District
 - d) Neighborhood Business District
 - e) Regional Business District
4. **Child:** means any person under the age of eighteen years, provided that provisions relating to sale of liquor may refer to persons under the age of twenty-one years, and other ordinances may refer to persons of younger ages.
5. **City:** means the city of Rexburg, Idaho.
6. **City Officer:** When duties and responsibilities are given to any city officer such as the City Clerk or the Chief of Police, the duties may be performed by the named officer or any city officer or employee under that officer's supervision, if that city officer or employee has been assigned by his superior to perform the duties in question. Duties concerning drafting regulations, drafting forms or making recommendations to the governing body of the city are not to be delegated. Duties concerning administrative appeals are not to be delegated.
7. **Clerk:** means the City Clerk. The licensing or registration officer of the City of Rexburg.
8. **Dangerous:** means not safe. See "safe."
9. **Design Standards:** All buildings and temporary structures are subject to, and shall comply with all of the City building standards. Other building styles and designs can be used to comply, so long as they are consistent with the applicable Development Code Standards. An architectural feature may be used to comply with more than one standard.

10. **License or registration appeal:** means an appeal in accordance with city ordinances relating to license or registration appeals.
11. **License or registration year:** means the period for which business licenses or registrations are issued. In the absence of a specific provision to the contrary relating to a particular business, the license or registration year is from January 1st to December 31st of the following year.
12. **Minor or minor child:** has the same meaning as child. See "child."
13. **Mobile Vending Cart:** A movable push cart that is operated by a vendor standing on the sidewalk and does not remain at the same location for more than two hours
14. **Mobile Vending Trailer:** A mobile trailer operated by a vendor standing on or within the frame of the trailer and must submit a site plan if intended for seasonal vending.
15. **Mobile Vending Vehicle:** A motorized vehicle operated by a vendor standing on or within the frame of the vehicle, which vehicle is capable of moving under its own power.
16. **Mobile Vendor:** A business exhibiting goods or services from a vehicle, trailer, on foot or in a similar mobile manner for not more than one (1) hour in twenty-four (24) hours on any one site, or which is operating during an approved public event on property owned or leased by a governmental entity, with approval of the event organizer.
17. **Mobile Structure:** A structure capable of moving or of being moved readily or relatively easy from place to place or changing quickly from one state or condition to another; tending to travel and relocate frequently.
18. **Parking:** As defined in the Rexburg Development Code.
19. **Person:** means an individual or a corporation, firm, partnership, association or business entity.
20. **Public Safety Officer:** Is defined as a city licensing officer, fire fighter, police officer, and meter monitor.
21. **Safe:** means having no defect in design, materials, workmanship, method of installation or method of normal use which creates a hazard to any person or property.
22. **Sidewalk:** That portion of the public right of way which is between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians in public places of the City of Rexburg.
23. **Sidewalk Vending:** The peddling, vending, selling, displaying, or offering for sale any item of tangible personal property or other thing of value from a mobile vending cart by a vendor to persons on the public right of way including sidewalks.
24. **Solicitor:** Is defined as an individual, including an employee or agent of a group of individuals, partnership, or corporation, whether a resident of the City or not, who is taking or attempting to take, whether in person or by telephone, orders for sale of food, beverages, goods, merchandise or services to be furnished or performed in the future, whether he is collecting advance payments on such sales or not. Such definitions shall include any person who, for himself, or for another person hires, leases, uses or occupies any building, structure, or motor vehicle within the city for the sole purpose of exhibiting samples and taking orders for future delivery.
25. **Special Event:** The temporary use, with a valid permit, of public property, including

streets, beaches, parks, community centers and waterways, for the purpose of conducting certain short-term events such as art shows, music concerts, fund-raising events, sidewalk sales, amusement attractions, circuses, carnivals, rodeos, swap meets, sporting events, including, but not limited to, organized float trips, contests, street dances, tournaments, walkathons, marathons, races, exhibitions or related activities.

26. **Street Vending:** The peddling, vending, selling, displaying, or offering for sale any item of tangible personal property or other thing of value from a mobile vending trailer or vehicle situated on the public rights-of-ways between the curb lines by a vendor to persons on the sidewalk.
27. **Temporary:** Is defined as six months or less.
28. **Temporary Merchant:** Is defined as any person, whether owner or otherwise, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares, merchandise and services within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure or motor vehicle within the City for the exhibition and sale of food, beverages, goods, merchandise or services.
29. **Temporary Vendor:** A business, other than a mobile vendor, exhibiting goods or services within the City of Rexburg from a temporary or mobile structure or vehicle or in a similar temporary manner for fourteen (14) or fewer days in any one year period.
30. **Seasonal Vendor:** A business, other than a mobile vendor, exhibiting goods or services within the City of Rexburg from a temporary or mobile structure or vehicle or in a similar temporary manner for more than fourteen (14) days in any year, but for less than one hundred eighty (180) days in any year.
31. **Vendor:** Is defined as any person, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to take orders or sell food, beverages, goods, or merchandise from a mobile vending cart, mobile vending vehicle, or mobile vending trailer, or any other type of conveyance or from his or her person. The word vendor shall include the words "hauler", "huckster" and "peddler".

6.01.050 Types of fees

The following are the types of fees that are covered by this chapter:

1. A license or registration fee, paid by the operator of the business for the issuance of the license or registration;
2. A nonrefundable investigation fee, covering the cost of investigating to determine whether the applicant is eligible for a license or registration. This type of fee shall be charged only in instances specified in this chapter or in any other applicable ordinance. This fee shall be in addition to the license or registration fee;
3. A nonrefundable processing fee, covering the cost of processing an application. This type of fee shall be charged per the business registration fee list. This fee shall be in addition to the license or registration fee.

6.01.060 License or registration fees

Business license or registration fees shall be reviewed annually and any changes shall be made by resolution of the City Council. Any license or registration fee that is not on the most current City Clerk License or Registration Fee Schedule shall have fees set by the mayor and city council in each individual situation. The vendor, solicitor or canvasser, or temporary merchant non-refundable license or registration fee, in an amount established by the Rexburg City Council and listed on the most current City Clerk License or Registration Fee Schedule, shall be paid in advance.

6.01.070 Fee payment required

No person shall operate any business for which a license or registration fee is established by this chapter until and unless the license or registration fee has been paid on behalf of that business. No business license or registration shall be issued until after the payment of the fee required by this chapter. No license or registration shall be issued until any applicable investigation fee or processing fee has been paid. All license or registration fees, investigation fees and processing fees shall be paid in to the city treasurer. To the extent permitted by the budget, investigation fees and processing fees may be spent on behalf of the offices or departments actually making the investigations or processing the applications in question.

Application

1. Issuance: In the absence of a provision to the contrary, applications for business license or registration shall be made to the City Clerk. Forms shall be supplied by the clerk containing, but not necessarily be limited to, the following information:
 - a. Name and description 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 the persons who will be soliciting in the City; Personal identifying information of the applicant or the persons acting on its behalf in the City as may be necessary for the City Clerk to conduct a background investigation;
 - b. Address, both legal and local;
 - c. A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, 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. Social security number and or driver's license or registration number of applicant and birth date of applicant;
 - f. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal laws, the nature of the offense and the date, and the punishment or penalty assessed therefore;
 - g. The place where the goods assessed therefore; are 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, the proposed method of delivery, and also written permission from the property owner where the goods or property are to be sold;
 - h. A two inch by two inch (2" x 2") photograph of the applicant, showing the head and shoulders of the applicant in a clear and distinguishable manner;
 - i. At the time of filing an application an investigation fee shall be paid to the City Clerk as outlined in the current business registration fee list.
 - j. When the applicant proposes to peddle any prepared food product for human consumption, a certification by the District Seven Health Department and a Rexburg City Business Registration, issued under Rexburg City Code, shall be required prior to issuance and throughout the duration of a license or registration;
 - k. No license or registration issued hereunder shall be transferable.
 - l. No license or registration shall be issued until all appropriate fees required by ordinance have been paid. If all required information is supplied, the required fees have been paid and it does not appear that any applicable state law or city ordinances will be violated by the operation of the business, the license or registration shall be issued.
 - m. The City Clerk or other person responsible for processing license or registration applications shall provide assistance in filling out license or registration application forms to any person asking for assistance.
 - n. The City Clerk shall approve or deny the application within thirty (30) days of receipt of the completed application and application fee. Any denial may be appealed pursuant to the provisions of Rexburg City Code. If not denied within that period, the application shall be deemed approved.
 - o. Once a license or registration is issued, the applicant has an affirmative duty to maintain all applicable license or registrations and certifications and to notify the

City Clerk in writing of any material change in the information provided by the Applicant in the original application.

- p. Sworn Statements. Wherever any city ordinance requires a "sworn" statement or application relating to any business, the person making the statement may make the statement either under oath or under affirmation to tell the truth.

6.01.90 Investigation

1. Such application, or application for renewal, the City Clerk shall refer it 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 within five (5) working days. Providing, where application for renewal of a license or registration is involved, and the City Clerk has received no complaint or allegation, the City Clerk may waive payment of the investigation fee and issue the renewal license or registration, upon payment of the license or registration fee, without referral of the application to the Chief of Police.
 - a. If required, the applicant shall pay an investigation fee to the City Clerk, and in the event the applicant is a business entity, a separate fee for each individual authorized to act on its behalf in the City, as follows:
 - i. For an investigation within the State of Idaho, an amount established by the Rexburg City Council and listed on the most current City Clerk License or Registration Fee Schedule;
 - ii. For an investigation outside the State of Idaho, an amount established by the Rexburg City Council and listed on the most current City Clerk License or registration Fee Schedule;
 - b. Upon receipt of such application, or application for renewal, the City Clerk shall cause an investigation to determine the validity and completeness of the information presented on the application. Provided, where application for renewal of a license or registration is involved, and the City Clerk has received no complaint or allegation of any violation of this Chapter or other laws by the applicant, the City Clerk may waive payment of the investigation fee and issue the renewal license or registration.
 - c. If the applicant, his employer, or a person authorized to solicit on its behalf has been convicted of any crime, misdemeanor, or violation of any municipal, state or federal laws, except for minor traffic violations, in the previous five (5) years; or if the applicant has made a false statement on the application then it shall be disapproved. Such disapproval may be appealed pursuant to the provisions of the Rexburg City Code.
2. The City Clerk shall notify the applicant whether his license or registration request is approved and upon payment of the prescribed license or registration fee, shall issue a license or registration. Such license or registration shall show the name, address, the type of license or registration issued, the amount of fee paid, the date of issuance and the date of expiration. The license or registration for peddlers, solicitors, canvassers, or transient merchants will also include a photograph of said licensee and the kind of goods to be sold or type of sales to be solicited there under.
3. The City Clerk shall notify the applicant if his license or registration request is disapproved the reasons therefore, and advise him of the appeal procedure.

6.01.100 Term of license or registration

1. License or registration year. Except where otherwise specifically provided in connection with a business, the license or registration year shall run from January 1st until December 31st of the same year. No person, firm or corporation may continue to operate a business after the expiration of the license or registration unless an application has been made for a new license or registration and a new license or registration has been issued.

2. License or registration for less than a year. If a business or operation is started after the middle of the license or registration year, the fee for the license or registration shall be one-half of the annual fees in the absence of a specific provision to the contrary.

6.01.110 Administrative appeals

Any person aggrieved by any decision relating to the issuance of a license or registration may file an administrative appeal in the manner provided by ordinance.

6.01.120 Recordkeeping

Nothing in any city ordinance shall be deemed to prohibit the City Clerk from using computers to organize information concerning license or registrations, or to store or process such information. The clerk shall, however, have at least one written record, on paper, of each license or registration application and of each license or registration issued, organized in such a way that, if necessary, a manual search could retrieve information by the names of license or registrations.

6.01.130 Number limitations

In the absence of a specific provision to the contrary, no ordinance is to be interpreted as limiting the number of license or registration that may be issued or as limiting the number of business enterprises of any particular kind that may be operated in the city. No city officer or employee may refuse to issue a license or registration because of the officer or employee's belief that there is enough of a particular type of business in the city already.

6.01.140 Duty to issue

No city ordinance relating to business license or registration shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or registration to refuse to issue a business license or registration. License or registration shall be issued to each applicant complying with all applicable state laws and city ordinances, and license or registration shall be refused for any applicant failing to comply with all such applicable laws and ordinances.

6.01.150 Fire extinguishers

Each business shall have at least one city approved fire extinguisher on the premises. This is required not only for fires that may originate in the business but also for use for any nearby fire in a vehicle or other place. All such fire extinguishers shall be kept charged and ready to use, in an accessible location known to all employees on the premises.

6.01.160 Inspections

Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances which include building, fire, plumbing, and electrical codes relating to that business. In the absence of an emergency and in the absence of sound reasons whereby an inspection cannot be made during regular business hours, inspections shall be made during normal business hours. Immediately upon arriving at a place of business for the purpose of making an inspection, the city officer or employee making the inspection shall identify himself or herself and shall state that the purpose of the visit is to make an inspection. No person having control of any business premises shall refuse to permit a city officer or employee to enter for the purpose of making an inspection. If entry is refused, the city officer or employee shall leave and seek a search warrant or other appropriate court order, to gain entry.

6.01.170 Alternative methods

When any city ordinance requires a business to use a particular procedure or material for health or safety reasons, an alternative procedure may be proposed by the person, firm or

corporation operating the business. If the City Clerk finds that the alternative proposal has been proven to provide at least equal safety and at least equal protection to public health as the method or material required by ordinance, the alternative shall be approved. The burden of proof is on the person advocating the alternative. After approval of the alternative, other persons in the same business may continue to use the method authorized by the ordinance or the alternative method, at the option of the person operating the business. The city officer approving the alternative shall report the matter to the governing body of the city, for consideration of amendments to the ordinance. Any person aggrieved by a refusal to approve an alternative method or material may call the matter to the attention of the governing body of the city and request an amendment to the ordinance.

6.01.180 Fake repairs prohibited

No person doing business anywhere in the city shall charge for any repair or maintenance work on any vehicle or other device or thing, unless such repair or maintenance work has in fact been done.

6.01.190 Violation – Penalty

Any person, firm or corporation violating any provision of this chapter, or of any ordinance relating to licensing, where no other penalty is provided, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. Any person violating any such provision may in addition to a fine or in lieu of a fine be imprisoned for not more than six months. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

6.01.200 Bond Requirement

1. Before any license or registration as provided herein shall be issued for engaging in the business of peddler, solicitor or canvasser, or transient merchant as defined in this ordinance, every applicant plying his trade as an individual, shall file with the City Clerk a surety bond running to the City or a cashier's check as outlined in the current city fee resolution. Every business, firm, company or corporation, which has one or more employees or agents acting in the capacity of peddler, solicitor, canvasser or transient merchant, shall file with the City Clerk a surety bond covering all such employees or agents and running to the City or a cashier's check as outlined in the current city fee resolution for each employee and/or agent.
 - a. Every applicant plying his trade as an individual, shall file with the City Clerk a bond, in the amount of one thousand dollars (\$1000.00)
 - b. Every business association, company or corporation, which has employees or agents acting in the capacity of vendor, solicitor, or temporary merchant, shall file with the City Clerk a bond covering all such employees in the amount of one thousand dollars (\$1000.00) per employee to a maximum of five thousand dollars (\$5000.00).
 - c. The bond may be in form of a surety bond issued by a company license or registration to issue insurance in the State of Idaho, a money order or cashier's check payable to the City of Rexburg, or cash delivered to the City Clerk. The bond shall protect against any and all claims against the vendor, solicitor or temporary merchant arising during the effective dates of the license or registration issued under this Chapter and filed with the City Clerk within sixty (60) days of the expiration of any such license or registration. Vendors, Solicitors and Temporary Merchants shall notify each customer that they are bonded and that any claim may be presented to the City Clerk at 35 N 1st East during regular business hours.
 - d. Vendors, Solicitors, and Temporary Merchants maintaining a stationary location through the term of the license or registration may satisfy this requirement by a notice conspicuously posted near the point of sale.

- e. After expiration of a license or registration, the City Clerk shall, upon application of the license or registration, return the bond to the person designated in the application sixty (60) days after receipt of application for return, unless the Clerk has been notified of the pendency of any claim or cause of action by any person upon the bond. If the Clerk received notice of a claim, the bond shall not be released except as directed by a court or the persons(s) submitting the claim. After being license or registration for one (1) year, without claims against the bond, the above bonding requirements will be waived.

6.01.202 Bond Requirements for non- peddler, solicitor or canvasser, or transient merchant.

Bonding for other businesses may require bonding as deemed necessary by the City Clerk.

6.01.210 Exhibition of License or Registration

1. The City Clerk shall notify the applicant whether his license or registration request is approved and shall issue a license or registration. Such license or registration shall show the name, address, the type of license or registration issued, the amount of fee paid, the date of issuance and the date of expiration. The license or registration for peddlers, solicitors, canvassers, or transient merchants will also include a photograph of said licensee and the kind of goods to be sold or type of sales to be solicited there under.
2. The City Clerk shall notify the applicant if his license or registration request is disapproved, the reasons therefore, and advise him of the appeal procedure pursuant to the provisions of this ordinance.
3. The license or registration issued to the license or registration hereunder by the City Clerk shall be exhibited in a conspicuous place if the license or registration is using a vehicle or a building in his business, and otherwise must be kept by the person and exhibited at any time upon request.

6.01.220 Mobile Vending Cart, Trailer, and Vehicle standards

1. Mobile vending carts, trailers, and vehicles must be designed and built meeting normal industry standards and used in a safe manner.
2. A Mobile vending cart frame must not exceed five (5) feet wide by nine (9) feet long by seven (7) feet high, and must be able to be pushed by one person. The mobile vending cart must have a minimum of two functional rubber-tired wheels. The braking mechanism on the mobile vending cart shall be affixed in such a manner that it is not readily removable in order to secure the cart when parked on the sidewalk. The use of ropes and shocks as the sole braking mechanism is prohibited.
3. Generators on mobile vending carts, trailers, and vehicles powered by gasoline are prohibited. Only generators powered by propane are acceptable. No mobile vending cart shall carry more than two five gallon containers of propane on public right-of-way. Generators shall not be placed on the ground.
4. Mobile vending carts, trailers, and vehicles must have the BBQ grill enclosed and permanently built into the structure of the vendor cart, trailer, or vehicle.
5. An approved hand-held fire extinguisher is required and if a heating or cooking appliance is used; a five pound "K" fire extinguisher is also required.
6. With the exception of merchandise or food items to be sold, mobile vending carts, trailers, and vehicles presented for inspection shall be exactly as they will appear when operating on a public right-of-way, including any food rack.
7. Support equipment and accessories, other than the generator and the propane

tanks must not extend more than four (4) feet from the edge of the cart, trailer, or vehicle in any direction and shall not be placed so as to impede pedestrian traffic. Umbrellas, canopies, or other covers used on mobile vending carts, trailers, or vehicles must be securely fastened. Its open diameter may not exceed nine (9) feet with a minimum vertical clearance of seven (7) feet, eight (8) inches and must not extend more than four (4) feet from the edge of the cart, trailer, or vehicle in any direction.

8. Unsecured menu boards or sidewalk signs are prohibited.
9. Mobile vending carts, trailers, and vehicles shall have a clean appearance at all times and comply with all codes.

6.01.230 General Restrictions

Vendors, solicitors, and temporary merchants are subject to the following restrictions:

1. No vendor, solicitor, or temporary merchant hereunder shall have any exclusive right to any location in a public street or sidewalk, nor shall he/she be permitted to operate in any congested area where his operations might impede or inconvenience the public. This license or registration does not preclude the issuance of a special events permit or other permits by the Parks Department in public parks or the granting of permission to sell and/or operate on private property by its owners.
2. Vendors, solicitors, and temporary merchants shall be allowed to engage in their license or registration business only between seven (7) a.m. and (11) p.m. Sunday through Friday and seven (7) a.m. and (12) a.m. on Saturday in commercially zoned areas. All mobile vending carts, trailers, or vehicles must be removed from public property during non-vending hours. If a Special Event Permit is sought, the City may make an exception to the usual hours of operation.
3. Any public safety officer or city licensing officer shall be authorized to enforce this ordinance.
4. Unless positioned on a designated Identified Vending Location, a mobile vending cart, trailer, or vehicle shall not be located:
 - a. Where clear pedestrian passage on the public sidewalk is less than five feet wide; Within a midblock crosswalk area;
 - b. On the portion of a public sidewalk crossed by a public or private driveway or within ten feet of either side of the driveway;
 - c. Within any street corner area.
 - d. For purposes of this section:
 - i. "Midblock crosswalk area" means the sidewalk area which falls between the two lines fifteen feet beyond each side of a marked midblock crosswalk area (identified by the crosswalk lines delineated on the street pavement) and perpendicular to the curb.
 - ii. "Street Corner Area" means the sidewalk area at the intersection of two streets, circumscribed by curbs, the property lines abutting the sidewalk area, and the line including the point along the curb of the street either fifteen feet from the outside line of a corner crosswalk or where there is no marked crosswalk, twenty-five feet from the curb line on the mid-point of the intersecting streets.
 - e. Within five (5) feet from a perpendicular line drawn to the curb from either side of a doorway;
 - f. In a manner in which the movement or visibility of vehicles using the street or other public right-of-way is obstructed.
5. Unless otherwise provided, mobile vending carts, trailers, or vehicles shall not be placed within fifty (50) feet of another mobile vending cart, trailer, vehicle, or Identified Vending Location.

6. Mobile vending carts, trailers, or vehicles shall not be locked or chained to a parking meter, tree, street light or other street furniture.
7. Mobile vending carts, trailers, and vehicles shall not be left unattended on city streets or sidewalks for more than fifteen (15) consecutive minutes.
8. Utility service connections are not permitted on city facilities including street light unless authorized by the city. Electrical lines are not allowed overhead or lying in the pedestrian portion of the sidewalk.
9. Vendors, solicitors, and temporary merchants shall keep the area of operation free of debris. Vendors selling food or beverages must provide trash receptacles and waste removal adjacent to or as a part of their operations. All spilled food, beverages, grease, or other trash or debris accumulating within twenty (20) feet of any mobile vending cart, trailer or vehicle shall be cleaned and collected by the vendor and deposited in the vendor's trash receptacle. The vendor is prohibited from depositing its waste, ice, and any grey or waste water into sidewalk waste receptacles, privately owned dumpster, City planters, gutters or the street drainage system.
10. Mobile vending carts, trailers, or vehicles shall be maintained in such a manner that prevents the spilling or splattering of grease, water, food, or trash on any public right-of-way where the cart, trailer or vehicle is located. The cart, trailer, or vehicle owner shall be responsible for the cleaning and repair of any public right-of-way soiled, stained, or damaged by the placement and operation of their mobile vending operations.

6.01.240 Location Restrictions

No license or registration hereunder shall have any exclusive right to any location in a public street, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. No business activity shall be carried on in any area of the City by any or registration that is licensed or registered pursuant to this ordinance, where such business activity is prohibited or violates setbacks as established by the City of Rexburg Development Code.

6.01.250 Street Vending Restrictions

In addition to the restrictions and qualifications contained in this chapter, street vendors are additionally subject to the following restrictions:

1. **Parking Restrictions.** Vendor trailer or vehicles must at all times be parked in a legal manner. Vending operations shall be conducted only to pedestrians on sidewalks. No service to the public shall be made from the street side of the vehicles(s).
2. **"Open for Business" Sign.** To differentiate between vending trailers or vehicles that are merely legally parked on the street from those that are actively engaged in vending operations, any street vending cart, trailer, or vehicle must place an "open for business" sign on the cart, trailer, or vehicle in a conspicuous manner when the vending operations are open for business. Conversely, this sign must be taken down when vending operations have ceased.

6.01.260 Additional restrictions within Commercial Business Districts including Pro-Zones and Mixed Use Zones:

1. In addition to the restrictions contained in this chapter, all vendors, solicitors, and temporary merchants must comply with the following restrictions in order to vend in the Commercial Business District (Commercial Zones) unless exempted by a special events permit:

- a. Sidewalk vending restrictions in Commercial Zones.
 - i. Street vending is prohibited if it impedes pedestrian or vehicular traffic. The City Clerk may require a vehicular traffic impact assessment if traffic congestion becomes an issue.
 - b. Sidewalk Vending: Mobile vending carts and trailers are prohibited from selling within non-approved areas including residential areas. Approved mobile vending areas are designated by resolution and they are displayed on the city's zoning map; otherwise all approved locations can be obtained at the City Clerk's office at 35 North 1st East, Rexburg Id. 83440.
 - i. Determining Identified Vending Locations (IVLs). The Office of the City Clerk will identify locations that are compatible with the public interest in the use of the sidewalk areas as public right-of-way. The Office of the City Clerk shall accept applications for review and approval.
 - ii. IVLs are available on a first come, first serve basis.
2. Only one vending cart may occupy an IVL at one time.
3. Anytime a mobile vending cart occupies an IVL it must be open for business, and the vendor may not leave the cart unattended for greater than fifteen consecutive minutes. A mobile vending cart occupying an IVL that is unable to conduct business shall be removed after fifteen (15) minutes.
4. Beginning at seven (7) a.m. the first properly license or registration mobile vendor that positions his or her cart over the IVL may maintain that position until eleven (11) p.m. as designated by the City Clerk, or except as provided herein.
5. Any IVL which is designated as a "Restricted IVL" by Administrative Order of the City Clerk shall be prohibited from use by all vendors, solicitors, and temporary merchants unless a special event has been scheduled at the "Restricted IVL" location the by the City.
6. No person shall use a mobile vending cart while engaged in sidewalk vending within the Commercial Zones without displaying thereon, in a conspicuous manner, all applicable license or registrations and permits.

6.01.270 Unlawful to Conduct:

1. No license or registration hereunder shall:
 - a. Make physical contact with the person being solicited unless that person's permission is obtained; Misrepresent the purpose of, or affiliation of those engaged in, the solicitation;
 - b. Fail to comply with any of the requirements and restrictions set forth in this ordinance;
 - c. Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or to buy anything from that solicitor;
 - d. Represent the issuance of any license or registration under this ordinance as an endorsement or recommendation of the solicitation;
 - e. Enter upon any premises when the same is posted with a sign stating "No Peddlers Allowed" or other words to such effect;
 - f. Knowingly make any false statement on an application for a license or registration or registration hereunder;
 - g. Fraud, misrepresentation or false statement made in the course of carrying on the business.

6.01.280 Enforcement

It shall be the duty of any police office of the City to enforce this ordinance. The Chief of Police shall report to the City Clerk all violations of this ordinance.

6.01.290 Renewals

License or registrations which are not renewed for a minimum of any six (6) quarters within the two (2) year period from the date of the original issue shall be, upon application for renewal, treated as an original application.

6.01.300 Expiration of License or Registration

All license or registrations issued under the provisions of this ordinance shall expire on the date specified in the permit. No license shall be issued for a period longer than one (1) year.

6.01.310 Penalty

Any person, business, firm, company or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days or both such fine and imprisonment. Each day or violation continued shall be separate offenses, punishable as herein above described.

6.01.320 Severance Clause

The provisions of this ordinance are declared to be severable if any section, sentence, clause, or phrase of this ordinance shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that his ordinance shall stand notwithstanding the invalidity of any part.

6.01.330 Cancellation of sale

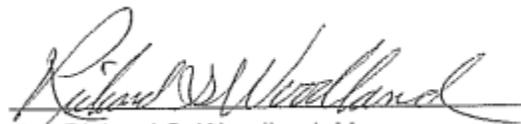
The buyer shall have the right to cancel the door-to-door sale within three business days. A business day is any calendar day except Sunday, or the following holidays New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day.

6.01.340 Suspension

Any person or business in violation of any portion of this ordinance or of the Rexburg City Code shall have their rights to engage in business within the City of Rexburg suspended.

This ordinance will take effect and be in full force and effect from and after its passage, approval and due publication as provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 23rd day of June, 2010.


By: Richard S. Woodland, Mayor

(SEAL)

ATTEST:

Blair D. Kay, City Clerk

STATE OF IDAHO)
)ss.
 County of Madison)

I, BLAIR D. KAY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the Ordinance entitled:

AN ORDINANCE REPEALING ORDINANCE NO 709; AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; DEFINING MOBILE VENDOR, TEMPORARY VENDOR, AND SEASONAL VENDOR; ESTABLISHING DESIGN REVIEW PROCESSES AND STANDARDS FOR TEMPORARY AND SEASONAL VENDOR USES; REGULATING BUSINESSES BY REQUIRING A BUSINESS REGISTRATION OR LICENSE FOR THE OPERATION OF BUSINESSES WITHIN THE CITY OF REXBURG, IDAHO; AND PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND FOR SEVERABILITY; AND PROVIDING WHEN SAID ORDINANCE SHALL TAKE EFFECT.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 23rd day of June, 2010.

 Blair D. Kay, City Clerk

(SEAL)

**APPENDIX 1
 BUSINESS REGISTRATION FEES**

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
707 & 1029	6.02.060	Peddler, Solicitor, or Itinerant Merchant (Include photo of applicant, see applicable appendix) Fees were amended March 19, 2008 By Resolution 2008-11	Each Day: \$100.00 Each Month: \$300.00 Each Quarter: \$500.00 "and" a Surety bond for \$1,000.00 OR a refundable cashier's check for \$1,000.00 The investigation fees are noted below.	FC/HD

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
709	6.01.040	Amusement Center (more than 10 video games)	\$40.00	
709	6.01.040	Auctioneer	\$40.00	COP
709	6.01.040	Bakery	\$20.00	COP
709	6.01.040	Bartender (New) (expires 1 yr. from date issued)	\$20.00 \$10.00 Renewal	COP&HD
709	6.01.040	Beer (On premises)	\$200.00	COP
709	6.01.040	Beer (Off premises)	\$50.00	CC/ST/MD
709	6.01.040	Wine (On premises)	\$200.00	CC/ST/MD
709	6.01.040	Wine (Off premises)	\$50.00	CC/ST/MD
709	6.01.040	Bowling Alley	\$20.00	CC/ST/MD
709	6.01.040	Buses	\$20.00	COP
709	6.01.040	Cafeteria	\$20.00	COP
709	6.01.040	Candy Factory	\$20.00	COP/HD
709	6.01.040	Carnival	\$100.00	COP/HD
709	6.01.040	Catering Service	\$20.00	COP/HD
709	6.01.040	Circus	\$100.00	COP/HD
709	6.01.040	Concession	\$20.00	COP/HD
709	6.01.040	Convenience Store	\$20.00	COP/HD
709	6.01.040	Cooking School (sell food)	\$20.00	COP/HD
709	6.01.040	Dairy	\$2.50 per truck \$20.00 min.	COP/HD
709	6.01.040	Dance Hall	\$200.00	COP/HD
709	6.01.040	Delicatessen or Cafeteria	\$20.00	COP/FC
709	6.01.040	Delivery Service	\$20.00	COP/HD
709	6.01.040	Fireworks Stand, Safe & Sane 6/26 to 7/26	\$20.00 Registration & \$50.00 per Stand	COP
709	6.01.040	Food Processing	\$20.00	FC
709	6.01.040	Fountain	\$20.00	COP/HD
709	6.01.040	Fruit Stand	\$20.00	COP/HD
709	6.01.040	Gas Station	\$20.00	COP/HD
709	6.01.040	Grocery Store	\$20.00	COP
709	6.01.040	Hotel/Motel	\$1.00 per unit \$20.00 min	COP/HD
709	6.01.040	Ice Cream Store	\$20.00	COP
709	6.01.040	Junk Dealer	\$50.00	COP
709	6.01.040	Kennel, Commercial (selling, breeding petition of 75% in 200 feet)	\$50.00	COP
709	6.01.040	Kennel, Non-Commercial (over 2 dogs petition of 75% in 100 feet)	\$25.00	COP
709	6.01.040	Meat Market.	\$20.00	COP
709	6.01.040	Mechanic Repair Shops/Garages	\$20.00	COP/HD
709	6.01.040	Mobile Home Court	\$1.00 per space \$20.00 min	COP
709	6.01.040	Motion Picture Theatre (per screen)	\$20.00	COP

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
709	6.01.040	Moving and Storage Business	\$20.00	COP
709	6.01.040	Nursing Home	\$1.00 per bed \$20.00 min	COP
709	6.01.040	Pawn Broker	\$50.00	COP/HD
709	6.01.040	Photographer	\$20.00	COP
684	6.05.040	Plumber (master)	\$50.00 \$35.00 Renewal	COP
684	6.05.060	Plumber (journeyman)	\$20.00 \$10.00 Renewal	
684	6.05.080	Plumber (apprentice)	\$5.00	
709	6.01.040	Pool Hall	\$20.00	
709	6.01.040	Private Patrolman (\$1,000 bond)	\$20.00	COP
709	6.01.040	Private Patrol Services (\$2,000 bond)	\$20.00	COP
709	6.01.040	Public Conveyance (\$20.00 per vehicle)	\$20.00	COP
709	6.01.040	Recreation, Physical Fitness, Sports Centers	\$20.00	COP
709	6.01.040	Restaurant	\$20.00	COP/HD
709	6.01.040	Retail Store or Business (not otherwise scheduled)	\$20.00	COP/HD
709	6.01.040	Rooming House and/or Apartment	\$1.00 per unit \$20.00 min	COP/HD
709	6.01.040	Street closure (house move)	\$50.00	COP
709	6.01.040	Second Hand Store	\$20.00	COP
709	6.01.040	Sign Company	\$20.00	COP
709	6.01.040	Snack Bar	\$20.00	COP
709	6.01.040	Spraying & Dipping	\$20.00	COP
709	6.01.040	Tanning Parlors and Salons	\$20.00	COP/HD
709	6.01.040	Taxi operator	\$20.00	COP/HD
709	6.01.040	Taxi Company	\$20.00 per cab	COP
911	6.10.050	Towing and Parking Enforcement	\$250.00 \$50 Renewal	COP
<p>Investigation Fee 5.08.040: Except as provided above, at the time of filing an application, an investigation fee shall be paid to the city clerk as follows:</p> <ol style="list-style-type: none"> 1. For investigation in county - \$ 25.00 2. For investigation in state outside county - \$ 50.00 3. For investigation outside state - \$ 200.00 				
<p>Expiration 6.04.070: All licenses expire December 31 of each year. Exception: Bartender permits expire 1 yr. from date issued. (Ordinance 709).</p>				
<p>Approval Codes: FC (Fire Chief) HD (Health Department) COP (Chief of Police) CC (City Council) ST (State of Idaho) MD (Madison County)</p>				