

**CITY OF REXBURG
ORDINANCE 1256**

**AMENDING ORDINANCES 1029 AND 707 BUSINESS REGULATIONS AND
REGISTRATION**

AN ORDINANCE AMENDING ORDINANCE NO 1029 AND ORDINANCE NO 707; AND ALL ORDINANCES OR PART OF ORDINANCES IN CONFLICT THEREWITH; CHAPTERS 6.1 AND 6.2 OF THE REXBURG MUNICIPAL CODE; DEFINING FOOD COURT, SEASONAL, STREET, AND SIDEWALK MOBILE VENDORS, AND REPEALING SEASONAL VENDOR REQUIREMENTS; PROVIDING FOR LICENSES FOR BEER AND WINE CATERING PERMITS IN ACCORDANCE WITH THE STATE OF IDAHO STATUTE 23-934A; 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 Guide lines 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 mobile 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 mobile vehicles are present, 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 Council of City of Rexburg, in the State of Idaho, as follows:

SECTION 1: **REPEAL** “6.02.010 Definitions” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.010 Definitions~~ (*Repealed*)

As used in this article:

1. **Peddler:** Any person, whether a resident of the city or not, traveling by foot, motor vehicle or any other type of conveyance, however propelled, drawn, pushed or moved, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, food or farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place shall sell or offer the same for sale from a wagon, vehicle, railroad car, or any other type of conveyance. The word "peddler" shall include the words "hauler" and "hucksters."
2. **Solicitor or Canvasser:** An individual, whether resident of the city or not, traveling either by foot, motor vehicle or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take, whether in person or by telephone, orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for 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, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.
3. **Temporary:** Thirty days or less.
4. **Transient merchant, itinerant merchant, itinerant vendor:** 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, and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building structure, motor vehicle, tent, railroad boxcar, public room in a hotel, lodging house, apartment, shop, or any street or other place within the city for the exhibition and sale of such goods, wares and merchandise. (*Ord. 707 §1, 1990*).

SECTION 2: REPEAL “6.02.020 License Required” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.020 License Required~~ (*Repealed*)

~~It is unlawful for any peddler, solicitor or canvasser, transient merchant, itinerant merchant or itinerant vendor as the same are defined in this chapter, to engage in such business within the corporate limits of the city without first obtaining a license therefore in compliance with the provisions of this chapter. (*Ord. 707 §2, 1990*).~~

SECTION 3: REPEAL “6.02.030 Exceptions” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.030 Exceptions~~ (Repealed)

1. The provisions of this ordinance shall not apply to:
 - a. Any sales under court order;
 - b. A bona fide auction sale;
 - c. 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;
 - d. The sale of farm or garden products by the person producing the same;
 - e. The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
 - f. Contribution solicitation where the person being solicited to contribute personally knows the identity of the person soliciting the contribution, the name of the group or organization he represents, and the nature of the services performed or offered by the group or organization;
 - g. 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, etc.; membership;
 - h. Any political group seeking funds or membership;
 - i. Garage, yard, or similar sales by individuals at their residence or place of business not exceeding twice in one (1) calendar year, which sales shall not include business inventory;
 - j. Any solicitation of information for a telephone book or a City directory by a company representative;
 - k. Any organization exempt from taxation as provided by 26 U.S.C. 501 and meeting all the requirements for the exemptions provided by 26 U.S.C. 503;
 - l. A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location in Madison County where goods or services are offered or exhibited for sale;
 - m. A sale of goods, wares, merchandise and personal property of any nature whatsoever for resale to or by a business establishment at a fixed location where goods or services are offered or exhibited for sale;
 - n. A sale of services to be furnished or performed in the future to or by a business establishment at a fixed location in Madison County. (*Ord. 707 §3, 1990.*)

SECTION 4: **REPEAL** “6.02.040 License Application And Application Fee” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.040 License Application And Application Fee~~ (Repealed)

1. **Section 4:** Applicants for a license under the provisions of this ordinance must file with the City Clerk an application furnished by the City Clerk, which shall contain, 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;
 - 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. The length of time for which the right to do business is desired;
 - f. If a vehicle is to be used, a description of the name, together with license number or other means of identification;
 - g. Has a permit or license to the applicant been revoked during the past five (5) years, and if so, where and when;
 - h. Proposed method of operation;
 - i. Social security number and/or driver's license number of applicant and birthdate of applicant;
 - j. 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 therefor;
 - k. The place where the goods or property 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;
 - l. 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;
 - m. Except as provided in *Section 5-12-6A*, at the time of filing an application an investigation fee shall be paid to the City Clerk as follows:
 - i. For an investigation in Madison County only, twenty-five dollars (\$25.00);
 - ii. For an investigation in the State of Idaho only, but outside Madison County, fifty dollars (\$50.00);
 - iii. For an investigation outside the State of Idaho, two hundred fifty dollars (\$250.00)• transferable. (*Ord. 707 §4, 1990.*)

SECTION 5: **REPEAL** “6.02.050 Issuance Investigation” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.050 Issuance Investigation~~ (Repealed)

1. Upon receipt of such application, or application for renewal, the city clerk shall refer it to the chief of police, who shall cause an investigation to determine 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 working days; provided, where application for renewal of a license 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, upon payment of the license fee, without referral of the application to the chief of police.
2. If the applicant or his employer has been convicted of any crime, infraction or violation of any municipal laws, except for minor traffic violations, in the previous five years, or if the applicant has made a false statement on the application, then it shall be disapproved.
3. The city clerk shall notify the applicant whether his license request is approved and upon payment of the prescribed license fee, shall issue a license. Such license shall show the name, address, photograph of licensee, the type of license issued, and the kind of goods to be sold or type of sales to be solicited thereunder, the amount of fee paid, the date of issuance and the date of expiration.
4. The city clerk shall notify the applicant if his license request is disapproved, the reasons therefore, and advise him of the appeal procedure. (*Ord. 707 §5, 1990*).

SECTION 6: **REPEAL** “6.02.060 License Fees” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.060 License Fees~~ (Repealed)

~~The current license fee for any peddler, solicitor or canvasser, or transient merchant shall be set according to the [City of Rexburg Master Fee List](#) -- search under 'Business Registration'. All fees shall be paid in advance. (*Ord. 707 §6, 1990*).~~

SECTION 7: **REPEAL** “6.02.070 Bonds Ord 707” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.070 Bonds Ord 707~~ (Repealed)

1. Before any license as provided in this chapter shall be issued for engaging in the

business of peddler, solicitor or canvasser, or transient merchant as defined in this chapter, 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 in the amount of five hundred dollars. 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 in the amount of one thousand dollars (\$1000.00) for each employee and/or agent up to a maximum of five thousand dollars (\$5000.00). ([City of Rexburg Master Fee List](#) *Fee change as per Resolution No 2008-11, March 2008*)

2. Every bond for those engaging in a business as a peddler, solicitor or canvasser, or transient merchant as defined in this chapter shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the state, the bond to be approved by the city attorney, conditioned that the applicant and all of the applicant's agents and employees, shall comply fully with all of the provisions of this chapter.
3. Based upon written justification and letters of reference from local citizens, local business firms, local companies or local corporations, or being licensed for one year, the above bonding requirements may be waived when specifically approved by the city council.
4. Action on the surety bond or cashier's check may be brought directly by any person damaged by a licensee's violation of any provision of this chapter.
5. After expiration of a license, the city clerk shall, upon application of the licensee, return the bond or cashier's check six (6) months 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 or cashier's check. (*Ord. 707 §7, 1990*).

SECTION 8: **REPEAL** “6.02.090 License Exhibition” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.090 License Exhibition~~ (*Repealed*)

~~The license issued to the licensee hereunder by the City Clerk shall be exhibited in a conspicuous place if the licensee 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. (*Ord. 707 §8, 1990*).~~

SECTION 9: **REPEAL** “6.02.110 Location Restrictions” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.110 Location Restrictions (Repealed)~~

~~No licensee 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 chapter, 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 licensee who is licensed pursuant to this chapter, where such business activity is prohibited by the city zoning code. (Ord. 707 §9, 1990).~~

SECTION 10: ~~REPEAL~~ “6.02.120 Additional Restrictions Within Commercial Business Districts Including Pro-Zones And Mixed Use Zones” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.120 Additional Restrictions Within Commercial Business Districts Including Pro-Zones And Mixed Use Zones (Repealed)~~

- ~~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.~~
 - ~~ii. 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 1" East, Rexburg Id. 83440.~~
 - ~~iii. 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.~~
 - ~~iv. IVLs are available on a first come, first serve basis. minutes. A mobile vending cart occupying an IVL that is unable to conduct business shall be removed after fifteen (15) minutes.~~~~~~
- ~~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 15 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.
 - a. 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.
 - b. 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. (*Ord. 1029, §26, 2010.*)

SECTION 11: **REPEAL** “6.02.140 Unlawful Conduct” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.140 Unlawful Conduct~~ (*Repealed*)

~~No licensee hereunder shall:~~

1. Make physical contact with the person being solicited unless that person's permission is obtained;
2. Misrepresent the purpose of, or affiliation of those engaged in, the solicitation;
3. Fail to comply with any of the requirements and restrictions set forth in this ordinance;
4. 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;
5. Represent the issuance of any license or registration under this chapter as an endorsement or recommendation of the solicitation;
6. Enter upon any premises when the same is posted with a sign stating "No Peddlers Allowed" or "No Solicitation Allowed" or other words to such effect;
7. Knowingly make any false statement on an application for a license or registration hereunder;
8. Fraud, misrepresentation, or false statement made in the course of carrying on the business. (*Ord. 1029, §27, 2010*)

SECTION 12: **REPEAL** “6.02.150 Enforcement” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.150 Enforcement (Repealed)~~

~~It shall be the duty of any police officer of the city to enforce this chapter. The chief of police shall report to the city clerk all violations of this chapter. (Ord. 707 §11, 1990).~~

SECTION 13: **REPEAL** “6.02.160 License Renewal” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.160 License Renewal (Repealed)~~

~~Licenses 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. (Ord. 707 §12, 1990).~~

SECTION 14: **REPEAL** “6.02.170 Licenses Expiration” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.170 Licenses Expiration (Repealed)~~

~~All licenses issued under the provisions of this chapter shall expire on the date specified in the permit. No license shall be issued for a period longer than one (1) year. (Ord. 707 §13, 1990).~~

SECTION 15: **REPEAL** “6.02.180 Violation - Penalty” of the Rexburg Municipal Code is hereby *repealed* as follows:

R E P E A L

~~6.02.180 Violation - Penalty (Repealed)~~

~~Any person, business, firm, company or corporation who shall violate any of the provisions of this chapter shall be guilty of an infraction and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00). Each day of violation continued shall be separate offenses, punishable as hereinabove described. (Ord. 707 §14, 1990).~~

SECTION 16: **REPEAL** “6.02.190 Severance Clause” of the Rexburg Municipal Code is hereby *repealed* as follows:

REPEAL

~~6.02.190 Severance Clause (Repealed)~~

~~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 this ordinance shall stand notwithstanding the invalidity of any part.~~

SECTION 17: **AMENDMENT** “6.01.010 Scope” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

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 for the issuance or renewal of licenses or registrations for any business by the city andand their license or registration fees,investigation fees,or processing fees . 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. (*Ord. 1029, §1, 2010*).

SECTION 18: **AMENDMENT** “6.01.020 License Or Registration Required” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

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. (*Ord. 1029, §2, 2010*).

SECTION 19: **AMENDMENT** "6.01.030 Exceptions" of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.030 Exceptions

The provisions of this Chapter shall not apply to:

1. Any sales under court order;
2. A bona fide auction sale;
3. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to, or solicit orders for future delivery, from local retailers, local businesses, local governments, local schools, or local wholesale firms;
4. The sale of farm or garden products by the person producing the same;
5. The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
6. Contribution solicitation where the person being solicited to contribute personally knows the identity of the person soliciting the contribution, the name of the group or organization they represent, and the nature of the services performed or offered by the group or organization;
7. 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;
8. Any political group seeking funds or membership;
9. Garage, yard, or similar sales by individuals at their residence or place of business not exceeding fourteen (14) 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;
10. 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 (501c3 organizations - this includes the Farmer's Market)*;
 11. A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location in Madison County where goods or services are offered or exhibited for sale;
 12. Any activity conducted pursuant to a Special Events Permit (Public Gathering Permit); (*Ord. 1029, §3, 2010*)
 13. Any businesses where the proprietor is a minor, and where sales do not exceed \$10,000 annually (Idaho §15-5-409a).

SECTION 20: **AMENDMENT** “6.01.040 Definitions” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

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:** Any person eighteen years of age or older.
2. **Approved:** 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:** streets within commercial and industrial zones on streets designated as non-arterial and identified on the Mobile Vendor Map.
4. **Child:** 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:** 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:** The City Clerk. The licensing or registration officer of the City of Rexburg.
8. **Dangerous:** Not safe. See "safe."
9. **License or registration appeal:** An appeal in accordance with city ordinances relating to license or registration appeals.
10. **License or registration year:** 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 1" to December 31" of the following year.
11. **Minor or minor child:** has the same meaning as child. See "child."
- 12.
13. **Mobile Vending Court:** An area that consists of four (4) or more vendors in an open-air location with designated stalls or areas. *(See Development Code 9.4 for further information.)*
14. **Mobile Vending Pushcart:** A moveable pushcart that is operated by a vendor standing on the sidewalk or street.
15. **Mobile Vending Structure:** A temporary, approved structure for mobile vending.
16. **Mobile Vending Trailer:** A mobile trailer operated by a vendor standing on or within the frame of the trailer.
17. **Mobile Vending Vehicle:** A self-contained motorized vehicle operated by a vendor standing on or within the frame of the vehicle, which is capable of moving under its own power. (Ex: Bus, Van)
- 18.
19. **Parks:** any city owned open space defined as a public park. *(See 12.4.)*
20. **Parking:** As defined in the Rexburg Development Code. *(See Parking Space.)*
21. **Person:** An individual or a corporation, firm, partnership, association or business entity.
22. **Public Safety Officer:** Is defined as a city licensing officer, fire fighter, police officer, and meter monitor.
23. **Safe:** Having no defect in design, materials, workmanship, method of installation or method of normal use which creates a hazard to any person or property.
24. **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.
- 25.
26. **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, making appeals at residences, as when selling or canvassing (door to door sales), and attempting to take, in person , 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.

27. **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.

Requires a Public Gathering Permit.

28.

29. Temporary: Is defined as six months or less.

30.

31. **Vendor:** 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 pushcart, 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".

- a. **Mobile Vendor.** A business exhibiting goods or services within the City of Rexburg from a mobile vending vehicle, mobile vending trailer, or mobile structure.

- i. **Mobile Vendor Locations.** *(See 12.04.070 for restrictions on public park vending.)*

- (1) **Mobile Court Vendor:** A mobile vendor on private property.
- (2) **Pushcart Vendor:** A daily mobile vendor, vending from a mobile pushcart to persons on the designated, public right-of-way.
- (3) **Street Vendor:** A daily mobile vendor in a designated parallel parking stall selling only to persons or pedestrians on the sidewalk. *(See Development Code 9.4.) (See Development Code 9.4 for map.)*

- ii. **Mobile Vendor Operation Times.**

- (1) **Daily Vendor.** A business exhibiting goods and services within the City of Rexburg from a temporary or mobile structure or vehicle, or in a similar manner for not more than eighteen (18) hours in twenty-four (24) hours on any one site.
 - (A) **Special Events.** Hours of operation may be amended with approval of a Public Gathering Permit allowing setup and take-down to occur one hour before or after the stated times.
- (2) **Private Property Vendor.** A business exhibiting goods and services within the City of Rexburg from a temporary or mobile structure or vehicle, or in a similar manner on private property for greater than fourteen (14) days in a calendar year.
- (3) **Temporary Vendor.** A business exhibiting goods or services with the City of Rexburg from a temporary or mobile

structure or vehicle, or in a similar manner for less than fourteen (14) days in a calendar year.

SECTION 21: **AMENDMENT** “6.01.050 Types Of Fees” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.050 Types Of Fees

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

1. **License or Registration Fee.** A license or registration fee, paid by the operator of the business for the issuance of the license or registration;
2. **Inspection Fee.** A nonrefundable safety inspection fee for mobile structures or life safety inspections for short-term rentals;
3. **Investigation Fee.** 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;
4. **Processing Fee.** A nonrefundable processing fee, covering the cost of processing an application. This type of fee shall be charged per the City Masterregistration fee list. This fee shall be in addition to the license or registration fee. (*Ord. 1029, §5, 2010*).

SECTION 22: **AMENDMENT** “6.01.080 Application” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.080 Application

- A. **Issuance.** Applicants for a business license or registration under the provisions of this ordinance must file with the City Clerk an application, furnished by the City Clerk, which shall contain such information as the Clerk shall request.
- B. When the applicant proposes to vend 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;

- C. No license or registration issued hereunder shall be transferable.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. **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. (*Ord. 1029, §8, 2010*)

SECTION 23: **AMENDMENT** “6.01.090 Investigation” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.090 Investigation

- A. 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.

1. 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:
 - a. For an investigation within the State of Idaho, an amount established by the Rexburg City Council and listed on the [City's Master Fee List](#) ;
 - b. For an investigation outside the State of Idaho, an amount established by the Rexburg City Council and listed on the [City's Master Fee List](#) ;
 2. 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.
- B. 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.
- C. 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. (*Ord. 1029, §9, 2010*)

SECTION 24: **AMENDMENT** “6.01.210 Exhibition Of License Or Registration” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

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 solicitors (door to door sales) 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. (*Ord. 1029, §21, 2010*).

SECTION 25: **AMENDMENT** “6.01.220 Location Restrictions” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.220 Location Restrictions

No license or registration hereunder shall have any exclusive right to any location in a public street or sidewalk, nor shall they be permitted to operate in any congested area where their 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 licensee, who t is licensed or registered pursuant to this ordinance, where such business activity is prohibited by the City of Rexburg Development Code. This license or registration does not preclude the issuance of a Public Gathering 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.

(*Ord. 1029, §24, 2010*). (*See Development Code 9.04.070.*)

[Mobile Street Vendor Map](#) (locations that allow street vending)

SECTION 26: **AMENDMENT** “6.01.230 Unlawful To Conduct” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.230 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;

- b. Misrepresent the purpose of, or affiliation of those engaged in, the solicitation;
- c. Fail to comply with any of the requirements and restrictions set forth in this ordinance;
- d. 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;
- e. Represent the issuance of any license or registration under this ordinance as an endorsement or recommendation of the solicitation;
- f. Enter upon any premises when the same is posted with a sign stating "No Peddlers or Solicitors Allowed" or other words to such effect;
- g. Knowingly make any false statement on an application for a license or registration or registration hereunder;
- h. Fraud, misrepresentation or false statement made in the course of carrying on the business. (*Ord. 1029 §27, 2010*)

SECTION 27: **AMENDMENT** “6.01.240 Enforcement” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.240 Enforcement

Any public safety officer or city licensing officer of the City shall be authorized to enforce this ordinance. The Chief of Police shall report to the City Clerk all violations of this ordinance. (*Ord. 1029, §28, 2010*).

SECTION 28: **AMENDMENT** “6.01.250 Renewals” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.250 License Renewal

SECTION 29: **AMENDMENT** “6.01.260 Expiration Of License Or Registration” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.260 License Or Registration Expiration

SECTION 30: **AMENDMENT** “6.01.270 Penalty” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.270 Penalty

Any person, business, firm, company or corporation who shall violate any of the provisions of this ordinance shall be guilty of an infraction and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00). (*Ord. 1029, §31, 2010*). *Each day or violation continued shall be separate offenses, punishable as herein above described. (Ord. 707, §14, 1990).*

SECTION 31: **AMENDMENT** “6.02.200 Cancellation Of Sale” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.300 Cancellation Of Sale

The buyer shall have the right to cancel the solicitor/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, Civil Right's Day, President's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day. (*Ord. 1029, §33, 2010*).

SECTION 32: **AMENDMENT** “6.02.210 Exiting Mobile Vendors” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.02.210 Exiting Mobile Vendors

SECTION 33: **AMENDMENT** “6.01.280 Severance Clause” of the Rexburg

Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.320 Severance Clause

SECTION 34: **AMENDMENT** “CHAPTER 6.2 PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS AND VENDORS” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

Solicitor or Door-to-door businesses may require bonding as deemed necessary by the City Clerk. (*Ord. 1029, §20, 2010*).CHAPTER

6.2 PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS AND VENDORS

Solicitor or Door-to-door businesses may require bonding as deemed necessary by the City Clerk. (*Ord. 1029, §20, 2010*).

SECTION 35: **AMENDMENT** “6.02.070 Bond Requirement” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.02.070 Bond Requirement

- A. Every bond for those engaging in a business as a peddler or solicitor, as defined in this ordinance shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the state, the bond to be approved by the city attorney, conditioned that the applicant and all of the applicant's agents and employees, shall comply fully with the all of the provisions of this ordinance. (*Ord. 707 §7, 1990*)
- B. Before any license or registration as provided herein shall be issued in the business of peddler or solicitor, 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 or solicitor, 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. The current business

registration fees may be found on the [City's Master Fee List - business registration fees](#).

1. 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) or such other amount as may be established by resolution of the City Council or such other amount as may be established by resolution of the City Council City Council.
2. Every business association, company or corporation, which has employees or agents acting in the capacity of peddler or solicitor 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).
3. 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 peddler or solicitor 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. Peddlers or solicitors, shall notify each customer that they are bonded and that any claim may be presented to the City Clerk at 35 N 1st Et during regular business hours.
4. Peddlers or Solicitors 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.
5. 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.
6. Action on the surety bond or cashier's check may be brought directly by any person damaged by a licensee's violation of any provision of this chapter.

SECTION 36: **AMENDMENT** “6.02.100 General Restrictions For Vendor, Solicitor, Or Temp Merchant” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.02.100 General Restrictions For Vendor, Solicitor, Or Temp Merchant

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

.(6.01.030 #14 & 6.01.220)

1. Vendors shall be allowed to engage in their license or registration business only between seven (7) a.m. and (11) p.m. Sunday through Thursday and seven (7) a.m. and (12) a.m. on Friday and 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. Setup can occur up to one hour before and take down can occur one hour after stated times.
2. Any public safety officer or city licensing officer shall be authorized to enforce this ordinance. (See 6.01.240.)
3. **Location.** Mobile vendors shall only be permitted in Commercial, Mixed Use, Industrial zones, or on city streets as identified in the Mobile Vendor Map. (*See zoning use tables.*) 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.
4. Location (*See 6.01.220.*) .
5. Mobile vending carts, trailers, or vehicles shall not be locked or chained to a parking meter, tree, street light or other street furniture. Mobile vending carts, trailers, and vehicles shall not be left unattended on city streets or sidewalks for more than fifteen (15) consecutive minutes. Utility service connections are not permitted on city facilities including street light unless authorized by the city.
6. 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.
7. 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.

SECTION 37: **AMENDMENT** “6.02.080 Mobile Vending Cart, Trailer, And Vehicle Standards” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.02.080 Mobile Vending Cart, Trailer, And Vehicle Standards

(*See Development Code 9.04.030.*)

SECTION 38: **AMENDMENT** “6.02.130 Street Vending Restrictions” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.02.040 Street Vending Restrictions

((See

1. (*See Development Code 9.04.060.*)

SECTION 39: **ADOPTION** “6.03.190 Beer And Wine Catering Permit” of the Rexburg Municipal Code is hereby *added* as follows:

A D O P T I O N

6.03.190 Beer And Wine Catering Permit(*Added*)

Alcohol beverage catering permits for a single party or convention may be obtained from the City of Rexburg by any person holding an Idaho Retail Beer and/or Wine License to serve and sell beer and/or wine by the drink at a party or convention not to exceed five (5) consecutive days in accordance with Idaho Code §23-934A. A filing fee in the amount of \$20.00 per day, or such other amount as may be established by resolution of the City Council, for each permit (beer or wine) shall be paid to the City of Rexburg and is nonrefundable.

SECTION 40: **AMENDMENT** “6.01.200 Bond Requirements For Non-Peddler, Solicitor Or Canvasser, Or Transient Merchant” of the Rexburg Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.01.200 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. (*Ord. 1029, §20, 2010*).

SECTION 41: **AMENDMENT** “6.01.060 License Or Registration Fees” of

the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

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 [City's Master Fee List](#) shall have fees set by the mayor and city council in each individual situation. The non-refundable license or registration fee, in an amount established by the Rexburg City Council and listed on the [City's Master Fee List](#), shall be paid in advance. (*Ord. 1029, §6, 2010*).

SECTION 42: **AMENDMENT** “6.01.120 Recordkeeping” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.120 Recordkeeping

SECTION 43: **AMENDMENT** “6.01.190 Violation - Penalty” of the Rexburg Municipal Code is hereby *amended* as follows:

AMENDMENT

6.01.190 Violation - Penalty

Any person, firm or corporation violating any provision of this chapter, or of any ordinance relating to licensing, shall be guilty of an infraction and upon conviction shall be punished by a fine not to exceed three hundred dollars for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(*Ord. 1029, §19, 2010*).

SECTION 44: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 45: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall

not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 46: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from January 5, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF REXBURG COUNCIL JANUARY 05, 2022.

	AYE	NAY	ABSENT	ABSTAIN
Council President Jordan Busby	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Robert Chambers	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Tisha Flora	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Colin Erickson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Mikel Walker	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Bryanna Johnson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Jerry L Merrill, Rexburg Mayor, City
of Rexburg



Deborah Lovejoy, Rexburg City Clerk
City of Rexburg

