

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 07-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AMENDING CHAPTER 5.24, SECTIONS 5.24.010(1 & 3) AND 5.24.030(3), OF THE VALDEZ MUNICIPAL CODE RELATED TO ITINERANT VENDORS

WHEREAS, Valdez Municipal Code, Chapter 5.24 provides for Itinerant Vendors; and

WHEREAS, Itinerant Vendors may be in place for a maximum amount of time of 120 days; and

WHEREAS, Itinerant Vendors acting as seasonal businesses find this to be inadequate timing to adequately capture business, specifically during the summer season; and

WHEREAS, all types of successful businesses, both permanent and itinerant help support a healthy economy.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that

Section 1. Section 5.24.010(1 & 3) of the Valdez Municipal Code is hereby amended to read as follows:

5.24.010 Definitions.

As used in this chapter:

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

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

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

"Local sponsor" means a business registered with the city or a local nonprofit organization.

"Peddling or hawking, itinerant vendors, and persons engaged in a temporary or transient business of any type" means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, whose business satisfies at least one of the following criteria:

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

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

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

"Religious organization" means an organization so qualified pursuant to Section 501(c)(3) of the United States Internal Revenue Code. (Prior code § 17-5.2(g))

Section 2. Section 5.24.030(3) of the Valdez Municipal Code is hereby amended to read as follows:

5.24.030 License—Application—Fees—Publication.

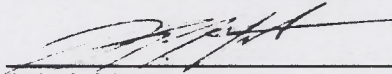
A. Application for a license under this chapter shall be made in writing and filed with the city at least seven days prior to the proposed commencement of business. The application shall contain:

1. The name and residence of the applicant;
2. The business in which the applicant desires to engage;
3. The length of time for which the license is desired, up to a maximum of ~~one hundred twenty days~~ **one hundred eighty (180) days**;
4. The names, kinds and description of articles, commodities or services which are desired to be peddled, hawked, vended or sold;
5. The names and addresses of the principals, and agents, if any, of the applicants; and
6. The particular building, structures or other places or locations in the city where such business is to be conducted including a site plan.

B. The license fee for any person applying for a license under this article shall be established by resolution of the city council, and the required license fee shall accompany the application, or be deposited with the city clerk before the license is issued. (Prior code § 17-5.2(b))

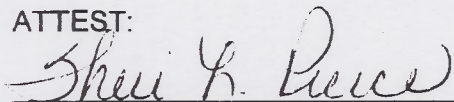
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 5th day of March, 2007.

CITY OF VALDEZ, ALASKA



Bert L. Cottle, Mayor


ATTEST:



Sheri L. Pierce, CMC, City Clerk

APPROVED AS TO FORM:

Walker & Levesque, LLC



William M. Walker

First Reading: February 21, 2007

Second Reading: March 5, 2007

Adoption: March 5, 2007

Yeas: Seven

Nays: None

Absent: None

Abstain: None





## Chapter 5.24

### PEDDLERS, SOLICITORS AND ITINERANT VENDORS

#### Sections:

5.24.010	<b>Definitions.</b>
5.24.020	<b>License—Required.</b>
5.24.030	<b>License—Application—Fees— Publication.</b>
5.24.040	<b>License—Bond.</b>
5.24.050	<b>Qualifications.</b>
5.24.060	<b>License—Insurance.</b>
5.24.070	<b>License—Suspension or revocation.</b>
5.24.080	<b>Exceptions.</b>
5.24.090	<b>Soliciting in residential areas.</b>
5.24.100	<b>Solicitations prohibited by posting of “No Solicitation” or “No Trespassing” sign.</b>

#### 5.24.010 Definitions.

As used in this chapter:

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

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

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

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

“Peddling or hawking, itinerant vendors, and persons engaged in a temporary or transient business of any type” means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, whose business satisfies at least one of the following criteria:

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

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

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

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

#### 5.24.020 License—Required.

A. All persons who engage in or carry on any business of peddling or hawking, all itinerant vendors, and all persons engaged in a temporary or transient business that does not involve door-to-door residential solicitation shall first obtain a nontransferable license to do so from the city. It is unlawful for any person to engage in or carry on any such business without first having obtained such license and having complied with the provisions of this chapter.

B. No license shall be issued for a mobile ice cream vendor or operator where the applicant is a convicted sex offender of this or any other state or country as the result of a crime committed against a person under eighteen years of age. Further, no person who is a convicted sex offender of this or any other state or country as a result of a crime committed against a person under eighteen years of age shall operate upon the streets, alleys, and roadways a vehicle used, or that appears to be used, for the retail sale of frozen desserts whether engaged in the sale of such items at the time or not. (Ord. 09-04 (part): prior code § 17-5.2(a))

#### 5.24.030 License—Application—Fees— Publication.

A. Application for a license under this chapter shall be made in writing and filed with the city at least seven days prior to the proposed commencement of business. The application shall contain:

1. The name and residence of the applicant;
2. The applicant’s work history for the past five years;
3. A list of all felony and misdemeanor convictions by the applicant;
4. The business in which the applicant desires to engage;



5. The length of time for which the license is desired, up to a maximum of one hundred eighty days;

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

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

8. The particular buildings, structures or other places or locations in the city where such business is to be conducted including a site plan or route.

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

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

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

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

#### **5.24.040 License—Bond.**

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

#### **5.24.050 Qualifications.**

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

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

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

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

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

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

#### **5.24.060 License—Insurance.**

Licenses provided for in this chapter may be issued by the city manager or his designee. Upon proper application, the city shall issue the license unless it finds that the operations of the business may be contrary or detrimental to the public interest, health, safety or welfare. (Ord. 09-04 (part): prior code § 17-5.2(e))

#### **5.24.070 License—Suspension or revocation.**

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

#### **5.24.080 Exceptions.**

The provisions of this chapter do not apply to:

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

B. Fund-raising activities of a political organization;

C. Charter boat and aircraft operations;

D. The sale of seafood by a fisherman;

E. The sale of farm products by the grower;

F. The sale of personal goods or wares at activities such as garage sales or flea markets;

G. The sale of arts or crafts by the person who created the goods;

H. Trade shows which have a local sponsor or are sanctioned by the Valdez Convention and Visitors Bureau or the Valdez Civic Center;

I. The sale of Christmas trees during Christmas season; provided, that the business owner registers the business with the city and obtains written permission from the property owner where the sale is to occur;

J. Orders taken and contracts entered into, in the ordinary course of business, by authorized agents of firms and corporations having permanent places of business

outside the city; provided, that such orders and contracts are not sought through door-to-door, street corner, mass telephone, or similar solicitations;

K. Casual sales of personal property not done in the ordinary course of business; and

L. Any business conducted wholly within a private residence. (Ord. 09-04 (part): prior code § 17-5.2(h))

**5.24.090 Soliciting in residential areas.**

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

1. Charitable, religious or political solicitations;

2. The solicitation of newspaper or magazine subscriptions;

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

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

**5.24.100 Solicitations prohibited by posting of "No Solicitation" or "No Trespassing" sign.**

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



(h) Post and beam support footings and foundations shall be designed by a licensed architect or engineer, registered in Alaska.

P. Section 1805.5.1, Foundation Wall Thickness, is amended by adding a second paragraph to read as follows:

Unless an architect or civil engineer, registered in Alaska, designs the building and stress calculations are furnished for review with the plans, the minimum foundation requirements for stud bearing walls shall be set forth in Table No. 1805.4.2.

Q. Section 2309.9.8, Piping in walls, is amended by adding a second paragraph as follows:

Plumbing walls having waste and vent piping passing through the studs shall be of 2 x 6 construction.

R. Section 3103, Temporary structures, is amended by adding subsections as follows:

#### 3103.5 Temporary structures

Buildings, structures, sheds, canopies, reviewing stands, or fences used for the protection of the public around and in conjunction with a construction project may be erected by special permission from the building official for the duration of said project. Structures may be erected without meeting all requirements for permanent structures, but must meet the following conditions:

(a) When a building permit has been issued for new construction or remodeling, a permit for a barricade fence or construction shack will not be required.

(b) The structure shall comply with the side, front and back yard setbacks and separation from adjacent building requirements as provided by Title 17 of the Valdez Municipal Code, but in no case less than 10 feet.

(c) All structures shall meet structural requirements in regard to type of materials, span, and stresses as determined to be safe by the building official.

(d) The structures and all associated materials must be removed from the site at the completion of the project. The site shall be returned to a nuisance free condition.

#### 3103.6 Seasonal use structures

Sales stalls, carnivals, fairs and assembly pavilions or tents, including such structures as tent frames and attending support structures such as decks, boardwalks, light poles, and plumbing/mechanical and electrical installations, may be erected by special permit from the building official for a period of 180 days. Seasonal use structures may be erected without meeting all requirements for permanent structures, but must meet the following conditions:

(a) Seasonal use structures will be limited to group B and M type occupancies and located in the commercial business district, or light industrial zoning districts.

(b) The structure shall not exceed one story in height.

(c) A permit shall be obtained and code compliance inspection performed prior to use or occupancy of the structure.

(d) Seasonal activities with seating areas must provide temporary or permanent toilet facilities as required by the International Plumbing Code.

(e) Seasonal use structures shall meet structural requirements in regard to type of materials, spans and stresses as determined to be safe by the building official.

(f) Seasonal use structures shall be a minimum of 10 feet from front, sides and rear property lines and adjacent structures, and comply with Section 24 of International Fire Code.

(g) Seasonal use structures shall be removed from the premises when the permit expires and the site shall be left clean and nuisance-free and returned to its original condition.

#### 3103.7 Permit applications

The application for a seasonal use structure permit shall include:

(a) Property owner's name, mailing address and contact phone number.

(b) Legal description of the proposed site with a plot plan showing the proposed location of the structure on