

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: Discussion D 2

DATE: February 25, 2010

SUBJECT: Update of SMC 9.12 Sultan's Peddler and Solicitor Ordinance

CONTACT PERSON: Jeff Brand, Police Chief

ISSUE:

The issue is to discuss proposed changes to SMC 9.12 Peddler and Solicitor regulations to bring the regulations into conformance with state and federal law.

SUMMARY:

The City of Sultan Peddler and Solicitor Ordinance has been in place since 1979 and recent court rulings have rendered it no longer enforceable. A number of other cities have been faced with the same issue and have written updated, enforceable ordinances to protect their citizens.

In recent months we have seen an increase in citizens' complaints about aggressive peddlers that are unwilling to abandon their sales pitches and try to intimidate citizens into buying their wares.

Although recent court rulings have limited the regulation authority of cities, they have not totally restricted regulations and allow a permit process to register peddlers and solicitors. The City may collect fees to offset the administrative costs of a permit program.

A revised Peddler's and Solicitor's ordinance would update Sultan Code so it is enforceable, properly regulated and if the Council wishes, would provide fees to help offset the cost of the program.

DISCUSSION

In recent years a number of local municipalities have researched this problem and developed a number of differing ordinances which they feel addresses public concerns and meets the intent of court rulings.

Recently Sultan citizens have expressed concern and frustrations with the increased number of peddlers and solicitors interrupting their quality time at home, becoming aggressive and they have asked for some relief from the problem.

Court rulings regarding peddlers and solicitors do not suggest we totally abandon regulations of the activity but do require the city to allow political and religious groups to solicit unhindered and require the city to impose reasonable regulations to groups and corporations that wish to engage in those activities in our city. The City Attorney has provided information regarding court cases dealing with peddlers and solicitors. (Attachment B).

There are a number of policy issues the Council needs to address:

1. Does the Council want to regulate peddler and solicitors?
2. Does the Council want to require a license or permit?
3. As part of application process, does the Council want to require a background check by the Police Department?
4. Does Council want the permit process to pay for staff time and / or discourage peddlers and solicitors by imposing a high permit fee?
5. Does Council want any fee associated with its permits?
6. Does Council want to regulate the hours and days a peddler or solicitor can be active?
7. Does Council want to include service groups such as Girl or Boy Scouts, Boys and Girls Club, etc in the requirement for permits?

FISCAL IMPACT:

It is difficult to determine the fiscal impact a Peddler's and Solicitor's program, as there are many unanswered questions right now. The city of Sultan could potentially realize limited revenue from permit fees or in the case of violators, could realize revenue from fines levied by the court.

A permit program would require staff to review and enter permit information into the computer. In the event of violators, there will be court and defense attorney costs, associated.

RECOMMENDED ACTION:

Staff requests Council answer the policy questions as well as any additional questions you may have and direct staff to work with City Attorney King to develop a comprehensive and enforceable ordinance.

- ATTACHMENTS:
- A. SMC 9.12 Peddlers and Solicitors
 - B. E-mail from City Attorney
 - C. Sample Ordinances

**ISSUE: Chapter 9.12
PEDDLERS AND SOLICITORS**

Sections:

- | | |
|-----------------|-------------------------------------------|
| <u>9.12.010</u> | Uninvited solicitation declared nuisance. |
| <u>9.12.020</u> | Exceptions. |
| <u>9.12.030</u> | Violation – Penalty. |

9.12.010 Uninvited solicitation declared nuisance.

The practice of going in and upon private residences in the city of Sultan by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants, of said private residences for the sale of goods, wares and merchandise or services or solicitation of orders thereof, and/or disposing of and/or peddling or hawking the same, is declared to be a nuisance and punishable as such nuisance as a misdemeanor. (Ord. 377 § 1, 1979)

9.12.020 Exceptions.

The provisions of SMC 9.12.010 shall not apply to:

- A. A farmer or gardener vending his own unprocessed farm products raised or grown exclusively upon lands owned or tenanted by him;
- B. Vendors of dairy products and bakery goods;
- C. Unpaid solicitors for community service organizations operated not for profit;
- D. Vendors of printed materials, the chief aim of which is the dissemination of current news as distinguished from fictional writings. (Ord. 377 § 2, 1979)

9.12.030 Violation – Penalty.

Any person violating the provisions of this chapter shall upon conviction thereof be fined not more than \$300.00 or imprisoned not more than 30 days, or both fined and imprisoned. (Ord. 377 § 3, 1979)

MEMO FROM MARGARET KING, CITY ATTORNEY

Yes, SMC 9.12 needs to be replaced.

Below is a summary from MRSC website regarding the current case law on this issue.

I have also put together and attached an overview and examples of other peddler ordinances. Basically there are two approaches:

Example #1

- ? Broad definition
- ? Requires permit
- ? Exemptions
- ? Exemption for vendors at farmers markets
- ? See Covington as an example

Example #2

- ? Broad definition
- ? No solicitors signs
- ? Permit required at farmers markets
- ? Must also comply with health, insurance, food regulations
- ? See Edmonds and Des Moines as an example.

Please review and let me know what direction that City wants to go or if you have any questions. I would be happy to help you put something together or review something that you put together. Just let me know.

FROM MRSC WEBSITE

Reviewed 10/08
About Regulation of Peddlers and Solicitors - Court Decisions General

Municipal ordinances which prohibit solicitors, peddlers, and itinerant merchants from calling on private residences for the purpose of peddling or soliciting without the request or the invitation of the occupant are sometimes referred to as "Green River" ordinances (from the case of Town of Green River, Wyoming v. Fuller Brush Co., 65 F.2d 112 (10th Cir. 1933)). "Green River" ordinances entirely prohibit and declare the practice of uninvited house-to-house canvassing to be a nuisance and misdemeanor punishable by fine and imprisonment (Rhyne, The Law of Local Government Operations, pp 495-496). Such ordinances have been upheld in the past by the United States Supreme Court. These types of ordinances have been ruled unconstitutional when they prohibit religious or noncommercial door-to-door solicitation. The U.S. Supreme Court on June 17, 2002 by a vote of 8-1, invalidated a Stratton, Ohio ordinance that required canvassers to register and obtain a permit from the mayor's office before going door-to-door promoting any cause (Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton). The Court held that the ordinance violated the First Amendment as it applied to religious proselytizing, anonymous political speech, and the distribution of handbills. See MRSC Web Page, U.S. Supreme Court Says No Permit Required to Solicit for Religious Reasons.

Other decisions include *Breard v. Alexandria*, 341 U.S. 622, 95 L.Ed 1233, 71 S.Ct. 920 (1951). The *Breard* decision was decided at a time when "commercial speech" was thought to be outside the protection of the First Amendment. More recent Supreme Court Decisions question the analysis of the *Breard* case and suggest that a complete ban on door-to-door solicitation would be found unconstitutional today. See also *McQuillin, Municipal Corporations*, 24.378 (3rd Ed.).

Even though the 1951 United States Supreme Court decision has not been expressly overruled, more recent cases suggest that a total prohibition of door-to-door solicitation would be unconstitutional and unenforceable. In *Project 80's Inc. v. City of Pocatello*, 942 F.2d 635 (9th Cir. 1991), a city ordinance prohibiting door-to-door solicitation unless the homeowner places a "solicitors welcome" sign on the house was ruled an unconstitutional infringement of free commercial speech. The court concluded that the ordinance did not provide the least restrictive alternative available to accomplish the legitimate governmental interests of protecting residential privacy and preventing crime. The Federal Court decision invalidating the Cities of Pocatello and Idaho Falls' ordinances was the second time the Court had invalidated the ordinances. The 1991 decision was the result of a remand order by the United States Supreme Court of the earlier 1988 decision in *Project 80's Inc. v. City of Pocatello*, 876 F.2d 711 (9th Cir. 1991), vacated and remanded, *City of Idaho Falls v. Project 80's Inc.*, 493 U.S. 1013, 110 S.Ct. 709, 107 L.Ed.2d 730 (1990). Similar decisions have been reached by the Ohio Court of Appeals in *City of Tiffin v. Boor*, 109 Ohio App. 3d 337, 672 NE2d 200 (Ohio Ap. 1996), the Oregon Supreme Court in *City of Hillsboro v. Purcell*, 306 Or 547, 761 P.2d 510 (Ore., 1988) and an Illinois Federal District Court in *Green v. Village of Schaumburg*, 676 F.Supp. 870 (ND Ill., 1988).

Washington

While there are no reported Washington court decisions on the validity of "Green River" ordinances, on November 3, 2000 U.S. District Court Judge John C. Coughenour issued an order (*Peace Action Coalition v. City of Medina* (253 KB), Case No. C00-1811C) enjoining the city of Medina from enforcing its regulations that require all solicitors and peddlers to register with the local police department and submit to a criminal records check. In the words of the court, "the relevant portions of the Medina Municipal Code constitute an improper prior restraint on speech protected by the First Amendment, and are impermissibly overbroad and vague, chilling constitutionally protected speech." See MRSC Web Page, *Federal Court Strikes Down Medina Ordinance Regulating Door-to-Door Solicitation*.

The 1951 Supreme Court *Breard* case upholding such ordinances was recently cited in the case of *Singleton v. Jackson*, 85 Wn.App. 835 (1997) (holding that a door-to-door solicitor at a private residence was a licensee rather than a trespasser or invitee for purposes of premises liability if the front entry may be easily reached and there are no posted signs indicating strangers are not welcome). The validity of local ordinances banning door-to-door sales, however, was not addressed. A decision to totally prohibit door-to-door solicitation may not be defensible and should be carefully reviewed with the attorney.

Other types of regulations of door-to-door solicitation such as licensing, registration and identification requirements have survived constitutional challenges and been upheld by the

courts as appropriate regulations. For example, the City of Pasco's ordinance on licensing and regulation of itinerant vendors was upheld by the Federal Court in *Hispanic Taco Vendors of Washington v. City of Pasco*, 994 F.2d 676 (9th Cir. 1993). In drafting provisions for peddlers' and hawkers'

licenses, the city should review the provisions of chapter 36.71 RCW, especially RCW 36.71.090 restricting the ability of cities and counties to prohibit sales or require licenses for sales of farm produce. In addition, RCW 73.04.050 and .060 restrict local regulation of certain veterans. The enclosed samples contain examples of the necessary exemptions.

In the area of regulation of charitable solicitations, the city should refer to the provisions of chapter 19.09 RCW on charitable solicitations. It is recommended that other constitutional issues raised by the regulation of canvassing and solicitation involving religious activities should be discussed with legal counsel.

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COVINGTON

Chapter 5.15 PEDDLERS*

Sections:

<u>5.15.010</u>	Definition of peddler.
<u>5.15.020</u>	Permit required – Exemptions.
<u>5.15.030</u>	Permit – Application.
<u>5.15.040</u>	Investigation of applicant – Issuance and denial of permit.
<u>5.15.050</u>	Permit – Exhibit.
<u>5.15.060</u>	Permit – Expiration.
<u>5.15.070</u>	Permit – Revocation.
<u>5.15.080</u>	Right of appeal.
<u>5.15.090</u>	Use of streets.
<u>5.15.100</u>	Hours and notice.
<u>5.15.110</u>	Records.
<u>5.15.120</u>	Violation – Penalty.

*Prior legislation: Ord. 72-98.

5.15.010 Definition of peddler.

Unless otherwise exempt under the provisions of this chapter, a “peddler” is defined as follows:

(1) All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the City by going from house to house or from place to place or by indiscriminately approaching individuals.

(2) Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within the proceeding subsection; provided, however, that this chapter is not applicable to any sales person or canvasser who solicits trade from wholesale or retail dealers within the City.

(3) Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land or in any other place not used by such person as a permanent place of business. (Ord. 95-98 § 1)

5.15.020 Permit required – Exemptions.

(1) In addition to the business license required by CMC 5.10.020, no person, corporation, partnership or other organization shall engage in the business of a peddler within the City limits without first obtaining a permit therefor as provided in this chapter. If any individual is acting as an agent for or employed by an individual, corporation, partnership or other organization, both the individual and the employer or principal for whom the individual is peddling must obtain a permit as provided in this chapter; provided, however, that said employer or principal for whom the individual is peddling need not obtain a permit if written proof is submitted to the City Manager establishing that said employer and/or principal has transacted business within the State of Washington for a continuous period of at least three

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years immediately prior to the application's filing with the City Manager; provided further, that if the City does not require a license of the employer pursuant to the above exemption, the City may still investigate the employer to see if the employer has in any manner violated any provision of CMC 5.15.040(2) and may deny a permit to any individual employee if violations are found to exist.

(2) The following persons are exempt from the permit requirements and fee provisions of this chapter:

(a) Farmers who peddle agricultural, horticultural, or farm products they have actually grown, harvested or produced;

(b) Any person who is specifically requested to call upon others for the purpose of displaying goods, literature or giving information about any article, service or product;

(c) Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 USC 501(c)(3) or other similar civic, charitable or nonprofit organizations;

(d) Newspaper carriers;

(e) Peddlers operating at any City-sponsored or authorized civic event for a time period not to exceed five consecutive days, so long as each peddler's name, address and telephone number is submitted to the City, in advance of the civic event, to be maintained in the City records; and

(f) Vendors operating at a farmers' or public market or other City-sponsored or approved activity under the provisions of a temporary use permit; provided, that the name, address and telephone number of each vendor is provided in advance to the City of Covington to be maintained in the City records. (Ord. 09-09 § 2; Ord. 22-05 § 3; Ord. 66-03 § 1; Ord. 95-98 § 1)

5.15.030 Permit – Application.

(1) Applicants for a permit under this chapter must file with the City Manager a sworn application in writing on a form to be furnished by the City.

(2) All applications shall provide the following information on the application, with sufficient proof of identification:

(a) Name, date of birth and description of the applicant;

(b) Address and telephone number;

(c) A brief description of the nature of the business and the goods or services to be sold;

(d) If employed or acting as an agent, the name and address of the employer or principal, together with the description of the exact relationship with the principal or employer;

(e) If a vehicle is to be used, a description of the same, including the license number;

(f) A photograph of the applicant, taken within 60 days immediately prior to the date of filing the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

(g) A statement as to whether or not the applicant has been convicted of any crime within the last 10 years, including misdemeanors, gross misdemeanors, or violations of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor; and

(h) All sales to occur on a parcel of land must be upon property zoned CB or RB and the following must accompany the application:

(i) Signature of the property owner authorizing use of parcel;

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(ii) A site plan showing the location of the sales area the nearest driveway and the nearest fire hydrant.

The peddling must comply with the applicable provisions of Chapter 21A.32 KCC adopted by the City;

(i) Such other information as may be required by the City.

(3) Unless otherwise exempt under CMC 5.15.020, any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers shall obtain a permit as provided herein and shall provide the following information on the application in addition to any information required as set forth above:

(a) The applicant's name, address and telephone number and the names and addresses of all

individuals who are employed by or acting as an agent for the applicant;

(b) If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent; provided, however, that the City Manager may waive any portion of this requirement when disclosure would be unduly burdensome;

(c) If a partnership, the names, addresses and telephone numbers of the partners;

(d) A list of any criminal convictions during the past 10 years for the applicant, any owners of the business, and if a corporation, the board of directors and officers;

(e) Name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicants;

(f) A list of all other cities, towns and counties where the applicant has obtained a peddler's permit or similar permit within the past five years; and

(g) Such other information as may be required by the City.

(4) At the time of filing the application, each applicant shall pay a nonrefundable fee as set forth in the current fee resolution to cover the City's cost of investigation and the issuance of a permit, including each peddler, principal and/or employer. (Ord. 22-05 § 4; Ord. 66-03 § 2; Ord. 95-98 § 1)

5.15.040 Investigation of applicant – Issuance and denial of permit.

(1) The City Manager shall refer the application to the Police Department which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. Upon completion, the Police Department shall forward the results of the investigation, together with a recommendation for approval or denial, to the City Manager.

(2) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the City Manager shall issue the permit to the applicant. The City Manager shall deny the applicant the permit if the applicant has:

(a) Committed any act consisting of fraud or misrepresentation;

(b) Committed any act which, if committed by a permit holder, would be grounds for suspension or revocation of a permit;

(c) Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

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(d) Been refused a permit under the provisions of this chapter; providing, however, that any applicant denied a permit under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; or

(e) Made any false or misleading statement in the application.

(3) The denial of a permit to an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall be a sufficient basis to deny a permit to the individual applicants who are employed by or acting as an agent for the applicant. (Ord. 66-03 § 3; Ord. 95-98 § 1)

5.15.050 Permit – Exhibit.

Peddlers are required to exhibit their permit displayed on their person and fully visible while conducting any peddling activities. (Ord. 95-98 § 1)

5.15.060 Permit – Expiration.

All permits issued pursuant to this chapter are nontransferable and should be valid for the calendar year in which issued. License fees shall not be prorated for any portion of the year. (Ord. 95-98 § 1)

5.15.070 Permit – Revocation.

(1) Permits issued pursuant to this chapter may be revoked by the City Manager after notice and hearing for any of the following causes:

(a) Fraud, misrepresentation or false statement contained in the application for permits;

(b) Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler;

(c) Any other violation of this chapter;

(d) Conviction after submission of the application for a peddler's permit of a felony or misdemeanor directly relating to the occupation of peddler, including, but not limited, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

(e) Conducting the business of peddling in any unlawful manner or such manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public; or

(f) Violation of any part of this chapter by any employer of a permit holder, regardless of whether the employer is separately licensed under this chapter.

(2) The revocation of any permit held by an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall constitute a basis for revoking the permit issued to individual applicants who are employed by or acting as agents for such individual, corporation, partnership or organization.

(3) The revocation of a permit for three or more persons who are employees or agents of an individual, corporation, partnership or organization shall constitute a basis for revoking the permit issued to the employer or principal, as well as the permits issued to all other employees or agents of that employer or principal.

(4) Notice of revocation of a permit shall be given by the City Manager in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. In addition, it shall state that the peddler's permit shall be suspended pending the outcome of such hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his or her last known address. The revocation shall become final if no appeal is requested as provided in CMC 5.15.080. If the permit holder is an individual, corporation, partnership or organization which employs or

serves as the principal for individual permit holders, the notice shall also be mailed to the individual permit holders. (Ord. 66-03 § 4; Ord. 95-98 § 1)

5.15.080 Right of appeal.

Any person aggrieved by the action of the City Manager in the denial of an application for permit or in the decision to revoke a permit as provided in this chapter shall have the right to appeal to the City Hearing Examiner. Such appeal shall be taken by filing with the City Manager, within 10 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Hearing Examiner shall set a time and place for a de novo hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided in this chapter for notice of hearing on revocation. The decision and order of the Hearing Examiner on such appeal shall be final and conclusive. Hearings shall be held within 21 days of the day the request is received by the City. (Ord. 66-03 § 5; Ord. 95-98 § 1)

5.15.090 Use of streets.

No peddler shall have any exclusive right to any location in the public streets, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 95-98 § 1)

5.15.100 Hours and notice.

No person shall engage the business of peddler between the hours of 8:00 p.m. and 8:00 a.m. (Ord. 95-98 § 1)

5.15.110 Records.

The Police Department shall report to the City Manager all convictions for violations of this chapter and the City Manager shall maintain a record for each permit issued and record the reports of violation therein. (Ord. 66-03 § 6; Ord. 95-98 § 1)

5.15.120 Violation – Penalty.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of up to \$1,000 and/or imprisonment for a term not to exceed 90 days. (Ord. 95-98 § 1)

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This page of the Covington Municipal Code is current through Ordinance 22-09, passed December 8, 2009.

Disclaimer: The City Clerk's Office has the official version of the Covington Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.covington.wa.us/>
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City of Edmonds

Chapter 4.12 PEDDLERS, SOLICITORS AND STREET VENDORS

Sections:

- 4.12.010 Definitions.
- 4.12.020 License required.
- 4.12.030 License fees.
- 4.12.040 License application – Information required.
- 4.12.050 Investigation of applicants.
- 4.12.055 Street vendor requirements.
- 4.12.060 Issuance of license – Expiration.
- 4.12.065 Soliciting and peddling restrictions.
- 4.12.070 Carrying of license required.
- 4.12.080 Revocation of license.
- 4.12.085 Appeal procedure.
- 4.12.090 Purchase orders – Form and content.
- 4.12.100 Penalties.
- 4.12.110 Severability.

4.12.010 Definitions.

A. “Solicitor” or “peddler” means any person who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any goods or services in the city by going from house to house or from place to place or by indiscriminately approaching individuals.

1. Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are included; provided, however, that this section shall not be deemed applicable to any salesman or canvasser who solicits trade from wholesale or retail dealers in the city.

2. Any person who, while selling or offering for sale any goods, services or anything of value, stands in a doorway, any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business shall be deemed a solicitor or peddler within the meaning of this chapter, except as noted in subsection B of this section.

B. “Street vendor” means any person who shall sell food, flowers, nonalcoholic beverages only, and/or other goods or services from a nonmotorized mobile vending unit, in the commercially zoned areas of the city of Edmonds, including unzoned property or right-of-way adjacent to or abutting on commercially zoned areas, shall be deemed a street vendor subject to the regulations contained in this chapter. The commercially zoned areas are those zoned Neighborhood Business (BN), Community Business (BC), Planned Business (BP), Commercial Waterfront (CW); and General Commercial (CC, CG2).

C. "Mobile vending unit" means a cart, kiosk or other device capable of being pushed by one person, with at least two functional wheels and positive wheel-locking devices. [Ord. 3513 § 1, 2004; Ord. 2536 § 1, 1985; Ord. 830 § 1, 1960].

4.12.020 License required.

A. It shall be unlawful for any person to act as solicitor, peddler or street vendor within the meaning and application of this chapter unless that person or his/her employer shall have first secured a license in the manner provided in this chapter.

1. Any person who shall sell, deliver or peddle any dairy product, meat, poultry, eel, fish, mollusk, or shellfish must first obtain a license pursuant to this chapter.

2. No licenses shall be issued or maintained for the sale of poultry or poultry products or meat or meat products which are adulterated or distributed under unsanitary conditions.

3. No licenses shall be issued for the sale of shellfish unless the vendor can produce a certificate of compliance as required by RCW 69.30.020.

B. All persons acting as a solicitor, peddler or street vendor shall comply with all laws, ordinances and regulations, including all Snohomish County health department requirements. [Ord. 3513 § 2, 2004; Ord. 2990 § 1, 1994; Ord. 2536 § 1, 1985; Ord. 830 § 2, 1960].

4.12.030 License fees.

The license fees for solicitors, peddlers or street vendors shall be as follows:

A. Investigation Fee. New applications for a solicitor, peddler or street vendor license shall be accompanied by a nonrefundable investigation fee of \$10.00. Except as provided in section B hereof, this investigation fee shall be tendered only with the initial application of any individual.

B. Annual Fee. On January 1st of each year all solicitor, peddler and street vendor licenses shall automatically expire and be null and void unless an annual fee of \$25.00 is paid to the city clerk; provided, however, for licenses issued after June 30th of any year, only one-half of the annual fee shall be required. Any license renewed after June 30th of any year shall be treated as a new application and subject to the investigation fee. For each mobile vending unit, there shall also be an annual fee of \$200.00. Associated solicitor, peddlers and street vendors, and mobile vending units operated as an adjunct to an existing licensed business shall pay any fee(s) set forth in subsection C of this section.

C. Associated Solicitor, Peddler and Street Vendor, and Associated Mobile Vendor Fee. An annual fee of \$8.00 per year per person or unit shall be paid by the following person or unit(s) licensed:

1. For each additional person soliciting, peddling or vending under a principal applicant's license issued pursuant to subsection B of this section; and/or
2. For each mobile vending unit operated as an adjunct to an existing licensed business on a site immediately adjacent to the business and authorized for use pursuant to a street use permit.

The fees provided for by this section shall not be reduced after June 30th as provided for annual fees in subsection B of this section.

D. Exemptions. The following persons shall be exempt from license fees and applications required under this chapter:

1. Newspaper carriers;
2. Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 USC Section 501(c)(3) or other similar civic, charitable or nonprofit organizations;
3. Peddlers of fruits, vegetables, berries, eggs or any farm produce edibles raised, gathered, produced or manufactured by such person;
4. A person who, after having been specifically requested by another to do so, calls upon that other person for the purpose of displaying goods, literature or giving information about any article, thing, product or service;
5. Notwithstanding the exemptions provided herein, all exempt persons must provide proof of their exempt status along with photo identification upon request by a prospective customer or law enforcement officer;
6. Exempt persons are exempt only from city business licensing requirements and must comply with all provisions of law, ordinance and regulations and all applicable Snohomish County health district requirements. [Ord. 3096 § 1, 1996; Ord. 2990 § 2, 1994; Ord. 2536 § 1, 1985; Ord. 2435 § 4, 1984; Ord. 1619 § 1, 1972; Ord. 830 § 3, 1960].

4.12.040 License application – Information required.

A. Any person, firm or other organization desiring to secure a solicitor's, peddler's or street vendor's license shall apply therefor in writing to the city clerk, on forms provided by the city, and such application shall set forth as to each solicitor, peddler or street vendor as the principal applicant as follows:

1. The name, address and telephone number of the principal applicant, firm or other organization;
2. In the event the name or address of the applicant has changed within the last two years, each name and address over the last two-year period preceding the most recent;
3. The nature or character of the goods, wares, merchandise or services to be offered by each principal applicant;

4. A list of the persons originally contemplating solicitation, peddling or street vending within the city of Edmonds, and the information required in subsection B of this section as to each;

5. The name, address and telephone number (business and home) of the individual acting as manager of the principal applicant;

6. Written approval for the vending site from the abutting property owner and/or tenant in accordance with ECC 4.12.055(L); and

7. Such other information as reasonably required by city officials.

B. For each person soliciting, peddling or street vending within the city of Edmonds pursuant to a principal applicant and license as required herein, whether acting as an employee, independent contractor, or otherwise, the following information shall be provided to the city clerk on forms provided by the city and shall set forth as to each such person the following:

1. His or her name, address and home telephone number;

2. The name, address and telephone number of the person, firm or other organization holding the principal license;

3. His or her age and general personal description as required by the city;

4. Any and all facts relating to any conviction of crimes as such information may be required by the city in the application form; and

5. Such other information as reasonably required by city officials.

C. The city clerk shall refer the application to the chief of police, who shall make a criminal history background investigation of the applicant. Upon completion, the chief of police shall forward the results of the investigation to the city clerk.

D. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the city clerk shall, upon payment of the prescribed fee, issue the license to the applicant. The city clerk shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;

2. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;

3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the occupation of peddler, solicitor or street vendor and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

4. Been charged with a misdemeanor or felony of the type defined in subsection (D)(3) of this section, and disposition of that charge is still pending;

5. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and

6. Made any false or misleading statements in the application.

E. Every peddler shall be required to carry the peddler's license and display it along with photo identification upon request by a prospective customer or law enforcement officer.

F. The city clerk is authorized to promulgate rules regarding the manner and method of payment, including a prohibition or regulation of payment by check, and the form of the application. [Ord. 3513 § 3, 2004; Ord. 2990 § 3, 1994; Ord. 2536 § 1, 1985; Ord. 1619 § 2, 1972; Ord. 830 § 4, 1960].

4.12.050 Investigation of applicants.

It shall be the duty of the chief of police to investigate each applicant made under ECC 4.12.040, in which investigation the chief of police shall determine:

- A. The genuineness of all credentials presented by the applicant and/or the individual solicitor, peddler or street vendor and the reliability of the product or services;
- B. If the applicant and/or its solicitor, peddler or street vendor has a criminal record;
- C. The truth of the facts set forth in the application; and
- D. If the applicant or solicitor, peddler or street vendor proposes to engage in a lawful and legitimate commercial or professional enterprise.

Such investigation must be completed within a reasonable time. [Ord. 2536 § 1, 1985; Ord. 830 § 5, 1960].

4.12.055 Street vendor requirements.

Any person seeking a permit for a street vendor license under the definition of this chapter shall comply with the following requirements:

- A. Prior to issuance of any street vendor permit, the applicant shall submit and receive approval by the architectural design board for the design of the mobile vending cart and any signage.
- B. In addition to the licensing requirements of this chapter, any street vendor shall be required to obtain a street use permit.
- C. All advertising shall be placed on the mobile vending unit and will not be allowed on the street or sidewalk. Maximum sign area allowed shall be 10 square feet.
- D. The vending site shall be kept clean and orderly at all times, and the vendor must provide a refuse container. No portion of a vendor's inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any unenclosed portion of any lot or site within the city, nor upon any

public street or right-of-way without the issuance of a street use permit for a mobile vending unit issued pursuant to ECC 4.12.030(B) and (C).

E. The city reserves the right to limit the number of vending permit sites in any given area of the downtown. The development services director shall determine the allowable number of street vendors and shall exercise this discretion based upon the needs of the public, diversity of products offered for sale, the smooth flow of pedestrian and vehicular traffic and other similar considerations.

F. If located on a sidewalk, a minimum clearance of five feet shall be maintained by any street vendor.

G. Street vendors shall not locate within that portion of improved street right-of-way designed for vehicular traffic or parking. Street vendors seeking to locate in improved street rights-of-way or on sidewalks shall be oriented toward pedestrian traffic movement or safety. Any application to locate a street vendor in the street right-of-way shall require approval by the city traffic engineer and shall not interfere in any way with vehicular or pedestrian traffic or safety.

H. No mechanical audio or noise making devices and no hawking is allowed. Hawking is the loud, repeated oral solicitation of business by the vendor or an assistant.

I. Street vendors are prohibited in parks and in residentially zoned areas.

J. Street vendors are prohibited from occupying parking spaces on city property or in improved city rights-of-way reserved for vehicular traffic, parking or other transportation.

K. All street vendors shall comply with all applicable Snohomish County health district requirements.

L. The applicant shall submit with his application a copy of the written approval for the vending site from the abutting property owner and/or tenant. In the event that the property owner or tenant shall disagree, the property owner's decision shall be final.

1. In the event that the proposed site abuts property owned by the city of Edmonds, the applicant shall be required to obtain the city's approval. Approvals relating to park property shall be handled as a request to let a concession under the terms of this chapter. Request for sites abutting all other public land owned by the city shall be forwarded to the city council for their review and approval.

2. In the event that the site for which approval is sought abuts vacant land, the applicant shall make reasonable written attempts to secure the approval of the property owner. If the applicant is unable to do so, the city may accept written proof of such attempts and issue a conditional permit. If a complaint is later received from the owner of the land, the license shall be revoked. The granting of such a conditional license shall vest no right in the applicant.

M. The maximum permissible size for any mobile vending unit shall be:

1. Thirty square feet for sidewalk locations; and
2. Fifty square feet for locations within the street or other public right-of-way or when located on private property.

In no event shall any mobile vending unit exceed 10 feet in length. [Ord. 3513 § 4, 2004; Ord. 3270 § 1, 1999; Ord. 2536 § 1, 1985].

4.12.060 Issuance of license – Expiration.

The chief of police shall determine, within a reasonable time, from his investigation, that the facts set forth in the application are true, that the purpose of the applicant and its solicitors, peddlers or street vendors is to engage in a lawful and legitimate commercial or professional enterprise.

Having determined these facts, he shall then approve the application and the city clerk may issue the license applied for. Such license shall expire on the 31st day of December of the year in which such license has been issued. Except as hereinafter provided, no license shall be issued until the conclusion of the aforesaid investigation. [Ord. 2536 § 1, 1985; Ord. 830 § 6, 1960].

4.12.065 Soliciting and peddling restrictions.

All licenses issued pursuant to this chapter shall be subject to the following time and location restrictions:

A. Fourth of July Fireworks Display. For the purpose of crowd and traffic control on the Fourth of July, all soliciting after 6:00 p.m. within one mile of the official fireworks display shall take place only within the confines of the fireworks viewing area as designated by the chief of police on the Civic Center playfield.

B. No peddler or solicitor shall engage or attempt to engage in the business of peddling at any home, residence, apartment complex or business that prominently displays a “No Peddlers” or “No Solicitors” sign or any other similar sign that communicates the occupants' desire to not be contacted by peddlers.

C. No peddler or solicitor shall engage in the business of peddling between the hours of 8:00 p.m. and 9:00 a.m. [Ord. 3513 § 5, 2004; Ord. 2990 § 4, 1994; Ord. 2370 § 1, 1983].

4.12.070 Carrying of license required.

Such license shall be carried at all times by each solicitor, peddler or street vendor for whom issued, when soliciting, canvassing or street vending in the city of Edmonds, and shall be exhibited by any such solicitor, peddler or street vendor whenever and wherever

he or she shall be requested to do so by any police officer or any person solicited. [Ord. 2536 § 1, 1985; Ord. 830 § 7, 1960].

4.12.080 Revocation of license.

Such license may be revoked by the city of Edmonds for the violation by either the employer or the solicitor, peddler or street vendor of any of the ordinances of the city of Edmonds. The city of Edmonds may also revoke a license for a street vendor under the following conditions:

- A. Failure to comply with the terms of this chapter;
- B. Misrepresentation of facts in the licensee's application for the necessary permits;
- C. Failure to comply with the terms of a valid street use permit;
- D. Creation of a hazard to the public health or safety; or
- E. As otherwise provided herein. [Ord. 2536 § 1, 1985; Ord. 830 § 8, 1960].

4.12.085 Appeal procedure.

- A. Whenever the city clerk determines that there is cause for denying any license application or revoking any license issued pursuant to this chapter, the clerk shall notify the person holding the license using at least one of the following methods: 1) registered or 2) certified mail, return receipt requested or 3) personal service on the licensee. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the grounds for the denial or revocation of a license.
- B. The applicant or licensee may appeal the decision of the city clerk to deny or revoke a license by filing a written notice of appeal to the city council within 48 hours of the city clerk's decision.
- C. Upon timely receipt of the notice of appeal, the city clerk shall set a date for hearing the appeal, which shall occur within 10 days of receipt of the appeal. The city clerk shall mail notice of the date of the hearing to the applicant or licensee at least five days prior to the hearing date.
- D. The hearing shall be de novo. The city council may affirm, reverse or modify the city clerk's decision.
- E. The decision of the city council shall be final. Any person desiring to appeal must file an appropriate action in Snohomish County Superior Court within 14 days of the city council's decision. [Ord. 2990 § 5, 1994].

4.12.090 Purchase orders – Form and content.

All orders taken by license solicitors, peddlers or street vendors shall be in writing, in duplicate, stating the name as it appears on the license, the address of both the solicitor, peddler or street vendor and his employer, the terms thereof, and the amount paid in advance, and one copy shall be given to the purchaser. [Ord. 2536 § 1, 1985; Ord. 830 § 9, 1960].

4.12.100 Penalties.

Any person or persons who violate or fail to comply with any of the provisions of this chapter shall upon conviction of said violation be punished as provided in ECC 5.50.020. [Ord. 2536 § 1, 1985; Ord. 1619 § 3, 1972; Ord. 830 § 10, 1960].

4.12.110 Severability.

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of the chapter as a whole, or any part thereof, other than the part declared to be invalid. [Ord. 2536 § 1, 1985; Ord. 830 § 11, 1960].