

ORDINANCE NO. 2011-9

AN ORDINANCE OF THE CITY OF ST. ANTHONY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO REPEALING CHAPTER 5.12, PEDDLERS, AND ADOPTING A NEW CHAPTER 5.12, BUSINESS LICENSES, PROVIDING FOR BUSINESS LICENSES TO REGULATE THE TRANSACTION OF BUSINESS; PROVIDING EXCEPTIONS THERETO; PROVIDING FOR FEES AND PENALTIES; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. ANTHONY, IDAHO:

REPEAL OF CHAPTER 5.12 PEDDLERS AND ENACTMENT OF NEW CHAPTER 5.12

Chapter 5.12 of the St. Anthony Municipal Code is hereby repealed and a new Chapter 5.12 entitled "Business Licenses" is hereby enacted as follows:

5.12.1: SCOPE:

(a) The provisions of this chapter apply to all business licenses 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.

(b) A further purpose of this chapter is to provide one document covering all license fees and investigation fees or processing fees connected with the issuance or renewal of licenses for any business licensed by the city. The fees provided herein shall apply in place of any earlier provision in any other ordinance. The fees and charges for businesses or operations not listed in this chapter shall be as stated in the specific ordinances or parts of ordinances relating to those businesses or operations.

5.12.2: TYPES OF FEES:

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

(a) License for a Commercial Business with a permanent presence inside the city limits of the City of St. Anthony.

(b) Home occupations Business License.

(c) Special Events Business License.

(d) Out of town, seasonal or temporary Business License.

(e) Transient Solicitor License.

(f) A nonrefundable investigation fee, covering the cost of investigating to determine whether the applicant is eligible for a license. 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 fee.

(g) A nonrefundable processing fee, covering the cost of processing an application. 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 fee.

5.12.3: FEES ESTABLISHED:

Until otherwise provided by ordinance or resolution, the annual fees shall be charged for the businesses and operations as specified in schedule A attached to the ordinance codified herein and on file with the city. The fee shall be a license fee unless the phrase "investigation fee" or the phrase "processing fee" appears with the amount of the fee.

5.12.4: DEFINITIONS:

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:

ADULT: Any person eighteen (18) years of age or older.

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.

BUSINESS: Business" as used in this chapter, shall be defined as follows: Any person, firm, or corporation operating in a specified location, and selling merchandise, wares or services therein; any person, firm or corporation regularly operating a business from place to place within the city by selling merchandise, wares or services for present or future delivery, and any contractor regularly operating a contracting and building business within the city limits.

TRANSIENT SOLICITOR: as used in this chapter, shall be construed to mean engaging in by any person of temporary or transient business within the city or in traveling from place to place therein selling wares, goods, merchandise or services for present or future delivery. A license shall be obtained by a person operating multiple businesses for each business so operated. To determine if a business is a separate business, the city may request the Federal I.D. number, State Sales Tax number, or other identifying numbers of the business. The city clerk and mayor shall have the authority to decide whether the operation constitutes a multiple business.

CHILD: Any person under the age of eighteen (18) years, provided that provisions relating to sale of liquor may refer to persons under the age of twenty one (21) years, and other ordinances may refer to persons of younger ages.

CITY: The city of St. Anthony, Idaho.

CITY OFFICER: When duties and responsibilities are given to any city officer such as the city clerk or the police department, 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.

CLERK: The city clerk.

DANGEROUS: Not safe. See definition of Safe.

LICENSE APPEAL: An appeal in accordance with city ordinances relating to license appeals.

LICENSE YEAR: The period for which business licenses are issued. In the absence of a specific provision to the contrary relating to a particular business, the license year is from January 1 to December 31 of the same year.

MINOR OR MINOR CHILD: This has the same meaning as child. See definition of Child

PERSON: An individual or a corporation, firm, partnership, association or business entity.

SAFE: Having no defect in design, materials, workmanship, method of installation or method of normal use which create a hazard to any person or property.

5.12.5: APPLICATION, ISSUANCE OF LICENSE:

(a) In the absence of a provision to the contrary, applications for business licenses shall be made to the City Clerk. Forms shall be supplied by the Clerk. No license 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 shall be issued. The City Clerk or other person responsible for processing license applications shall provide assistance in filling out license application forms to any person asking for assistance.

(b) Application referral. Upon application being made to the city clerk for a transient solicitor license, the City Clerk shall refer the application to the Chief of Police of the St. Anthony Police Department, who shall investigate the applicant and any employees of applicant including any prior complaints and criminal records, and file a written report containing his recommendations with the City Clerk.

(c) Decision on License Applications. The application, investigation and recommendations (if required) shall be forwarded to the Mayor who shall then decide whether or not said license shall issue. The city clerk shall notify the applicant of the decision of the Mayor.

(d) All licenses shall be issued by the Mayor or presiding officer of the city council and be attested by the City Clerk under the seal of the city. Said licenses shall show type of license, amount and expiration date.

(e) The mayor shall have the discretion in reviewing and granting or denying licenses for Transient Solicitors to consider the recommendation by the Chief of Police and the background

investigation to include criminal history, credit history, history of mental/emotional illness, military discharge status, experience in other localities and all other information relevant to the health, welfare and safety of the residents of the City.

(f) Each licensed business shall display its license in a place readily observable by the public. Each licensed Transient Solicitor shall wear on the right side of his/her chest, and display in plain sight a name tag which clearly displays the name of the solicitor and the company by whom the solicitor is employed, if any. Each solicitor shall have a copy of the business license on his person and available for inspection by any member of the public on request.

5.12.6: RECORDS ON COMPUTERS:

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

5.12.7: ADMINISTRATIVE APPEALS:

Any person aggrieved by any decision relating to the issuance of a license may file an administrative appeal with the City Council.

5.12.8: LICENSE YEAR:

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

5.12.9: PAYMENT REQUIRED:

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

5.12.10: NUMBERS OF LICENSES:

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

a particular type of business in the city already.

5.12.11: FIRE EXTINGUISHERS:

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

5.12.12: INSPECTIONS:

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

5.12.13: DUTY TO ISSUE LICENSE:

Except as provided in Section 5.12.5(e), above, no city ordinance relating to business licenses shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or to refuse to issue a business license. Licenses shall be issued to each applicant complying with all applicable state laws and city ordinances, and licenses shall be refused for any applicant failing to comply with all such applicable laws and ordinances.

5.12.14: FAKE REPAIRS PROHIBITED:

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

5.12.15 SOLICITATION AT POSTED PREMISES PROHIBITED

(a) Any person who sells or solicits orders for the sale of goods, services, food or beverage at any posted residence without prior invitation by the occupant thereof, shall be guilty of a misdemeanor.

(b) For the purposes hereof, a residence is "posted" if a "No Solicitors," or other similar sign, is prominently displayed at or near the primary entrance to the premises.

(c) Nothing herein shall prevent door-to-door dissemination of political campaign materials, the exercise of the political franchise, or campaign activities, voter registration

activities, proselytizing or dissemination of religious faith or view point or the solicitation of contributions or donations by any education related, charitable or religious organization qualified under 26 USC Section 501.

(d) Any nonexempt person, business, or other entity conducting door-to-door sales shall be required to have a business license issued by the city.

5.12.16: PENALTY:

Any person violating any provision of this chapter or of any ordinance relating to licensing shall be guilty of a misdemeanor. Where no other penalty is provided, such person shall be fined not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. Any person violating any such provision may in addition to a fine or in lieu of a fine be imprisoned for a term in the county jail of not more that six (6) months. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

5.12.17: EXEMPTIONS:

Governmental activities, including among others, educational activities (also to include extracurricular fund raising activities), charitable, political and religious activities shall be exempt from the requirements of this chapter. Established festivals, parades, picnics, and other like public events sponsored by the City, Chamber of Commerce or other non-profit service organizations shall also be exempt from the requirements of this chapter. Events similar to Summerfest and the Farmers Market sponsored by the Chamber of Commerce which hosts for profit vendors shall be required to have a single event business license to the issued to the Chamber of Commerce.

5.12.18: SEVERABILITY:

This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

5.12.19: REPEAL OF CONFLICTING PROVISIONS:

All provisions of the ordinances and Municipal Code of the City of St. Anthony which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

5.12.20: CONFLICTING REGULATIONS:

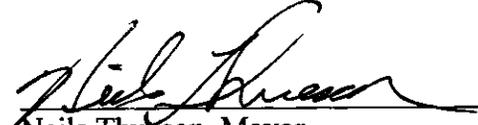
If conflicts occur between different regulations of this Ordinance, or between this ordinance and other regulations of City of St. Anthony, the most restrictive regulation shall apply.

5.12.21: EFFECTIVE DATE:

The City Council having determined that an emergency exists, this ordinance shall take effect upon the proclamation of the mayor or president of the council, posted in at least five (5) public places of the city.

Enacted by the City Council and Approved by the Mayor on the 22nd day of September, 2011.

CITY OF ST. ANTHONY, IDAHO


Neils Thueson, Mayor

ATTEST:

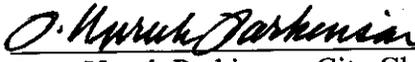

Patty Unruh Parkinson, City Clerk



Exhibit A

Resolution 2011-7

BUSINESS LICENSE FEES

Annual fees:

Commercial Business with a permanent physical presence inside the city limits of the City of St. Anthony.

Initial/Renewal License \$ 10.00

Home Occupations

Initial/Renewal License \$ 10.00

Commercial Special Events (no longer than three (3) days such as circuses, carnivals, festivals and similar events) \$ 50.00

Out of Town, Seasonal or Temporary Businesses engaged in business activities within the city limits, such as food stands, contractors and vendors without a permanent place of business in the city, and like businesses \$ 50.00

Transient Solicitors \$250.00

Processing Fee¹ not to exceed \$250.00

Enacted by the City Council and Approved by the Mayor on the 27th day of October, 2011.

CITY OF ST. ANTHONY, IDAHO


Neils Thueson, Mayor

ATTEST:


Patty Unruh Parkinson, City Clerk



¹ Will be determined by City Clerk for applications involving background checks and/or significantly more work than is usual.