



City Council Staff Report

REPORT DATE: February 28, 2020

MEETING DATE: March 11, 2020

SUBJECT	Code Amendment to Long Term Temporary Merchant Business Licenses
ITEM TYPE	<input type="checkbox"/> Public Hearing <input checked="" type="checkbox"/> Work Session <input checked="" type="checkbox"/> Action Item
PRESENTER	Olivia Goodale, City Administrator

APPLICABLE VICTOR VALUES

- | | | |
|--|--|---|
| <input type="checkbox"/> Culturally Historic | <input type="checkbox"/> Sustainable | <input type="checkbox"/> Connected to Nature |
| <input type="checkbox"/> Small Town Feel | <input type="checkbox"/> Family Friendly | <input checked="" type="checkbox"/> Administrative Need |

PURPOSE & PROCESS

The purpose of this item is for Council to consider a code amendment to Title 3, Chapter 1B: Long Term Temporary Merchant Business Licenses and provide policy direction on the draft. While the majority of the proposed code amendments are procedural, the draft does include some material changes which are highlighted below.

Next steps are to be determined by Council. Once Council provides policy feedback on the draft, the ordinance will be placed on an upcoming agenda for final consideration and approval.

BACKGROUND/ALTERNATIVES

Title 3, Chapter 1B- Long Term Temporary Merchant Business Licenses needs to be updated to add process provisions and definitions, eliminate work arounds from recent Land Use Code amendments, and minor housekeeping items such as moving certain sections to more intuitive locations within the Chapter. Additionally, this winter, Grand Teton Brewing, approached the City explaining general challenges in recruiting a food truck vendor to replace TasteBuds which is no longer operating, along with concern with the code that only allows for one food truck to be licensed at one time. Long Term Temporary Merchant Business licenses are an annual license. In working through the discussion, we realized a simple code update to allow one vendor to **operate** at one time vs. be **licensed** at a time would create some flexibility in scheduling vendors and still meet the intent of the original code. To follow is a summary of the proposed code amendments.

3-1B- 1: Purpose.

- New section added stating that the purpose of this Chapter is to protect the health, safety and welfare of the citizens of this City.

Policy Question: 3-1B- 2: Definitions.

- Material changes made to the definition of “Long Term Temporary Merchant Business” to apply only to sales related to immediately consumable food to better align with recent Land Use Code amendments in Title 10 in the Commercial Heavy Zone.
- Added material definitions for Mobile Food Truck and Temporary Structure.
- Other definitions added for clarification purposes.

3-1B- 3: License Required.

- New section added incorporating language from current section 3-1b-4, License Application.

Policy Question: 3-1B- 4: Limitations on Issuance.

- Material change includes allowing one licensee to operate at one time per Permanent Business and Real Property Tract as opposed to the current code which allows only for one annual license per Permanent Business and real property tract.
- Updated noise limitations to include noise produced by generators.
- Moved application requirements to more intuitive Section 3-1B-6, License Application.
- Minor language changes made throughout.

Policy Question: 3-1B- 5: License Fee.

- Material changes include requirement for a fee to be paid with no exceptions. Current code exempts General Business License holders from paying a fee thereby further circumventing requirements set forth in the Land Use Code and General Business License provisions. The current code also exempts non-profits from paying a fee under a specific set of conditions that are challenging to interpret. See Section 3-1B-6 of the current code.
- Currently, the fee is \$1,000 annually if paid in full at time of application or \$300 quarterly if paid incrementally for a total of \$1,200 per year. Staff recommends establishing one fee to be paid at time of application in the amount of \$1,000 per year.

3-1B- 6: License Application.

- Changed to require applications at least 14 days prior to operation, as opposed to 7 days as is currently required.
- Incorporates application requirements set forth in other sections of the current code and the general business license provisions.

3-1B- 7: Expiration and Renewal.

- New section although the term remains for one year.

3-1B- 8: Refusals; Appeal.

- New section that establishes an appeal process for any denied application consistent with General Business License provisions.

3-1B- 9: Exhibition of License.

- New section that requires issued licenses to be displayed on site.

3-1B- 10: Notification Required.

- New section that requires notification from a closing business.

3-1B- 11: Revocation of License; Hearing.

- New section that establishes revocation of license, appeal, and hearing process consistent with General Business License provisions.

3-1B- 12: Penalty.

- New section that establishes civil liability and criminal liability consistent with General Business License provisions.

Current Code 3-1b-3: Exceptions/Exemptions.

- This section was removed as a result of the proposed definition of Long Term Temporary Merchant Business being narrowed to apply only to food sales, the exceptions listed in this section are no longer applicable.

There are several options for Council to consider in proceeding:

- Provide policy feedback on the draft and direct staff to bring the ordinance forward for final approval as presented or amended with specific changes.
- Continue consideration to a future workshop.
- Opt not to move forward with consideration.
- Other.

ATTACHMENTS

Draft Code Amendment

Current Code

FISCAL IMPACT

Fiscal impact is neutral but does include the cost of publishing the legal ad after the ordinance is approved.

STAFF IMPACT

Staff impact is moderate but mostly complete at this point because the code amendment has now been drafted and reviewed at a staff level. Once the ordinance is approved, staff will need to process it for the permanent records, publish the associated legal ads, and update the code book online and in hard copy.

LEGAL REVIEW

Complete

RECOMMENDATION

Staff recommends that Council consider the attached draft and provide/confirm policy direction as needed. Staff further recommends simplifying the fee structure.

SUGGESTED MOTION

I move to direct staff to place the Code Amendment to Title 3, Chapter 1B: Long Term Temporary Merchant Business Licenses on an upcoming agenda as presented (or amended siting specific changes to the draft).

[General vote]

THE CITY OF VICTOR, IDAHO
ORDINANCE 05XX

AN ORDINANCE OF THE CITY OF VICTOR, IDAHO REPEALING AND REPLACING CHAPTER 1B OF TITLE 3 OF THE VICTOR CITY CODE REGARDING LONG TERM TEMPORARY MERCHANT BUSINESS LICENSES; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF VICTOR, COUNTY OF TETON, STATE OF IDAHO:

SECTION 1. Chapter 1B of Title 3 shall be repealed in its entirety and replaced as follows:

CHAPTER 1

GENERAL LICENSE PROVISIONS

ARTICLE B. LONG TERM TEMPORARY MERCHANT BUSINESS LICENSES

SECTION:

- 3-1B- 1: Purpose
- 3-1B- 2: Definitions
- 3-1B- 3: License Required
- 3-1B- 4: Limitations on Issuance
- 3-1B- 5: License Fee
- 3-1B- 6: License Application
- 3-1B- 7: Expiration and Renewal
- 3-1B- 8: Refusals; Appeal
- 3-1B- 9: Exhibition of License
- 3-1B- 10: Notification Required
- 3-1B- 11: Revocation of License; Hearing
- 3-1B- 12: Penalty

3-1B-1: **PURPOSE:** The purpose of this Chapter is to protect the health, safety and welfare of the citizens of this City. (Ord. O5XX § 1, 2020)

3-1B-2: **DEFINITIONS:** In construing the provisions of this Chapter, the following definitions shall apply:

CITY: The city of Victor, Idaho.

CITY ADMINISTRATOR: The city administrator of the city of Victor, Idaho, or his/her designee acting as the licensing officer.

CITY ATTORNEY: The city attorney of the city of Victor, Idaho.

CITY CLERK: The city clerk of the city of Victor, Idaho, or his/her designee acting as the licensing officer.

CITY COUNCIL: The city council of the city of Victor, Idaho.

CITY ENGINEER: The engineer of the city of Victor, Idaho, or his/her designee acting as the licensing officer.

LONG TERM TEMPORARY MERCHANT BUSINESS: Any business dispensing food prepared partially or fully at the licensed premises intended for immediate consumption by the general public operating from a Mobile Food Truck or Temporary Structure in association with a Permanent Business.

MOBILE FOOD TRUCK: Vehicles designed for a use including to cook, prepare and assemble food items on or in the unit and serve a full menu while meeting standard health and safety regulations.

PERMANENT BUSINESS: A business holding an issued business license in accordance with Victor City Code Chapter 1 of Title 3 that is in good standing.

PLANNING AND ZONING ADMINISTRATOR: The planning and zoning administrator of the city of Victor, Idaho, or his/her designee acting as the licensing officer.

TEMPORARY STRUCTURE: A structure which is designed and constructed to be easily transported or dismantled after its function has been fulfilled and does not exceed 200 square feet. Structures like tents and those similar in nature do not meet the requirements of this definition.

(Ord. O5XX § 1, 2020)

3-1B-3: **LICENSE REQUIRED:** No Person shall engage in, prosecute or carry on a Long Term Temporary Merchant Business within the City unless and until a Long Term Temporary Merchant Business license is obtained in conformance with this Chapter. A Long Term Temporary Merchant Business license shall be required for each separate premises located within the City in which any person is engaged in any Long Term Temporary Merchant Business. Any person conducting such a Long Term Temporary Merchant Business shall apply for the required license by filling out an application provided by the City Clerk. (Ord. O5XX § 1, 2020)

3-1B-4: **LIMITATIONS ON ISSUANCE:**

- A. Long Term Temporary Merchant Businesses are restricted to operations within the CX (Commercial Mixed Use) and CH (Commercial Heavy) zones on private property with written authorization from the property owner and Permanent Business, which will be filed with the City. No more than one Long Term Temporary Merchant licensee is authorized to operate at one time per Permanent Business and real property tract as depicted on an authorized record of survey recorded with Teton County, Idaho.
- B. Long Term Temporary Merchant Businesses shall not operate within ¼ mile (1280') of the DX (Downtown Mixed Use) Zone.
- C. Long Term Temporary Merchant Businesses shall not be located on any lot fronting on Highway 33 or Highway 31.
- D. Long Term Temporary Merchant Businesses are not authorized as Home Occupations as defined in Victor City Land Development Code 10-9-8.
- E. No license shall be transferable by location or ownership.
- F. Long Term Temporary Merchant Businesses shall not be located and conducted within twenty (20) feet of any road, street highway, or alley, and shall be in a location that shall not create a traffic hazard.
- G. All operating Mobile Food Trucks or Temporary Structures must have passed any necessary health and safety inspections and received any necessary permits including but not limited to health inspections and building permits.
- H. No license, or anyone on the licensee's behalf, shall sound any device which produces a loud and raucous noise including noise produced by generators, shout, make an outcry, blow a horn, ring a bell or use any sound device for the purpose of attracting attention to its business.

(Ord. O5XX § 1, 2020)

3-1B-5: **LICENSE FEE:** The applicant shall pay a fee set forth by the Victor City Council pursuant to the Victor fee and fine schedule as amended from time to time by resolution of the Council for the term of the license. (Ord. O5XX § 1, 2020)

3-1B-6: **LICENSE APPLICATION.** Any Long Term Temporary Merchant Business desiring to engage in or transact business with the City shall file at least fourteen (14) days prior to

conducting business an application for licensure with the City Clerk on a form provided by the City Clerk. (Ord. O5XX § 1, 2020)

- A. Application Review: All applications for licensure shall be made to and approved by the City Clerk. An application must be submitted and approved before the business can begin operations. All first-year licenses shall be reviewed by the Planning and Zoning Administrator and any other local, state, or federal agencies deemed appropriate by the City Administrator or designee including but not limited to the fire department, health department, or other appropriate agency.
- B. Each application shall contain, but not necessarily be limited to the following information:
 - 1. Name and address of applicant;
 - 2. Address of business, both mailing and street;
 - 3. A brief description of the business activity;
 - 4. A copy of an approved state health department permit;
 - 5. A site plan of the property on which the business is to be located that specifically depicts parking and restroom facilities. Parking standards as outlined in Land Development Code Section 1.1 shall be met. Restroom facilities shall be adequate for both the Long Term Temporary Merchant Business and Permanent Business and must be within 100 yards of the Long Term Temporary Merchant Business during hours of business operation.
 - 6. A grease, trash, and waste disposal plan subject to review and approval by the City Engineer.
 - 7. A letter from the Permanent Business confirming the existence of a contractual engagement and term of the lease and permission to uses the premises as described in the application.
 - 8. Proof of general liability insurance and property casualty insurance valid through the term of the license.
 - 9. A copy of a State of Idaho Sales Tax Permit, if applicable; and
 - 10. An associated sign permit application subject to review and approval by the Planning and Zoning Administrator. Long Term Temporary Merchants shall be afforded an exception to Land Development Code Section 11.3 for up to twenty-four (24) square feet of aggregate signage which is unrelated to the Permanent Business. This exception will not be counted against the Permanent Business' allocable signage under Land Development Code Section 11.3. Any signage on the sides of a temporary structure shall be required to stay within this limitation. No such signage shall be lighted or illuminated in any manner whatsoever.
- C. Requirements: If any of the requirements in this Section are not provided to the City, a license shall not be issued. If any of the requirements in this Section lapse, are cancelled or are not current during the term of an existing license, such license shall not be renewed and may be suspended until such time the requirements of this Section can be met.
- D. Denial: The City Clerk may deny approval of a license in the event the application, or the property on which the Long Term Temporary Business is proposed to be conducted, fails to comply with all provisions of the City of Victor City Code or any other City, county, state, or federal law, rule, ordinance, or regulation.
- E. Issuance: Approved licenses shall be signed by the Mayor and attested by the City Clerk under corporate seal. Approved licenses shall be issued by the City Clerk within fourteen (14) business days from receipt of a complete application unless inspections are required. In the event inspections are required, the license will be reviewed and issued in good faith time.

(Ord. O5XX § 1, 2020)

3-1B-7: **EXPIRATION AND RENEWAL:** All Long Term Temporary Merchant Business licenses shall expire one year from the date of issuance. It is the duty of each license to renew and maintain a valid license in conformance with the requirements of this Chapter. The City Clerk shall mail a renewal notice to all license holders. Provided, a failure to send such notice or the failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new

license, or renewal thereof, nor shall it be a defense in an action for the operation without a license. (Ord. O5XX § 1, 2020)

3-1B-8: REFUSALS; APPEALS:

- A. Written Appeal: Any person adversely affected by the denial of any Long Term Temporary Merchant Business license application or renewal thereof may appeal the decision of the City Clerk to the City Council for the purpose of having the City Council review of the action of the City Clerk. Any appeal shall be made within ten (10) business days from the date of written notification of refusal of the City Clerk to issue a license. The appeal must be in writing and set forth in concise language explaining the reasons such license should not have been refused.
- B. Hearing: The appeal shall be heard by the City Council within thirty (30) days after receipt of the written request unless the parties agree in writing to a different time frame. The City Clerk shall notify the appellant of the date, time, and location of the hearing. The City Council may affirm, reverse, or modify the decision of the City Clerk. The City Council shall affirm the City Clerk's decision unless the City Council finds the decision is: a) clearly erroneous; b) arbitrary, capricious or an abuse of discretion; or c) not supported by substantial evidence in the record as a whole. The City Clerk shall transmit a copy of the City Council's decision and findings to the appellant and the applicant in writing with in forty-eight (48) hours following the hearing, and any other person or entity who has requested a copy in writing.

(Ord. O5XX § 1, 2020)

3-1B-9: EXHIBITION OF LICENSE: The issued license shall be exhibited in a conspicuous place within the licensed premises. (Ord. O5XX § 1, 2020)

3-1B-10: NOTIFICATION REQUIRED: Any licensee who ceases operations entirely shall notify the City Clerk in writing that the business is no longer in operation. (Ord. O5XX § 1, 2020)

3-1B-11: REVOCATION OF LICENSE; HEARING:

- A. The City Administrator may suspend or revoke a license when the license holder commits one or more of the following acts or omissions:
 - 1. Fraud, misrepresentation or false statement contained in the application for license;
 - 2. Fraud, misrepresentation or false statement made in the course of conducting the business or trade;
 - 3. Conviction of any crime, felony and/or misdemeanor involving business, individual partners or stock holders of business, or applicant;
 - 4. Conducting business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to health, safety or general welfare of the public; or
 - 5. Any violation of this Chapter.
- B. When any of the acts or omissions as enumerated herein are committed by a license holder and the City Administrator deems that such license shall be suspended or revoked, the procedure shall be:
 - 1. The licensee shall be notified by the City Clerk, in writing, sent via certified mail to the address listed on the application; such notice shall be sent at least seven (7) days prior to the action contemplated, setting forth with particularity the reasons therefor;
 - 2. Upon receipt of the notice, the license holder may appeal the suspension or revocation to the City Council for the purpose of having the City Council review the action of the City Administrator. Such appeal shall be in writing and shall be made to the City Clerk within ten (10) business days from the date of receipt of the suspension or revocation notice; failure on the part of the licensee to appeal the suspension or revocation in writing and within the specified time period shall be deemed a waiver of a right to a hearing;
 - 3. Hearing: The appeal shall be heard by the City Council no later than twenty one (21) days after the date of written notice of intent to revoke. The City Clerk shall notify the appellant of the hearing, which notice shall specify the date, time and place of hearing, and which shall be mailed to the address set forth in the license application. If, after such public

hearing, the City Council determines that one or more of the grounds for suspension or revocation exists, the license shall continue to be suspended or revoked. The City Clerk must notify the appellant of the City Council's determination in writing within forty-eight (48) hours following the hearing.

(Ord. O5XX § 1, 2020)

3-1B-12: PENALTY:

- A. **Civil Liability:** The City Attorney shall, at the direction of the City Council, institute civil suit in the name of the City to enforce compliance with the provisions of this Chapter by injunctive relief, declaratory relief or other civil remedy. The City shall be entitled to recover its costs and attorney fees from the other party upon prevailing in any such civil action. No civil judgment, or any act by the City or the violator shall bar or prevent a criminal prosecution for each and every violation of this Chapter.
- B. **Criminal Liability:** A person who violates any provision of this Chapter or operates any Long Term Temporary Merchant Business for which a license is required by this chapter without having first obtained a license, as herein provided, shall be guilty of a misdemeanor, punishable by a fine as established from time to time by resolution of the City Council and published in the City Fee and Fines Schedule plus costs of prosecution, or imprisonment for not more than thirty (30) days, or both such fine and imprisonment, which penalty shall be in addition to any other penalties provided in this Chapter. Each day that a violation of this chapter occurs shall be deemed a separate offense.

(Ord. O5XX § 1, 2020)

SECTION 2. All ordinances, resolutions or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

SECTION 3. This ordinance shall be in full force and effect from and after its passage, approval and publication, according to law.

PASSED BY THE COUNCIL OF THE CITY OF VICTOR, IDAHO, this Xth day of March, 2020.

APPROVED BY THE MAYOR OF THE CITY OF VICTOR, IDAHO, this Xth day of March, 2020.

ATTEST:

Will Frohlich, Mayor

Michelle Smith, City Clerk

**NOTICE AND PUBLISHED SUMMARY
OF ORDINANCE PURSUANT TO I.C. § 50-901(A)**

CITY OF VICTOR ORDINANCE NO. O5XX

AN ORDINANCE OF THE CITY OF VICTOR, IDAHO REPEALING AND REPLACING CHAPTER 1B OF TITLE 3 OF THE VICTOR CITY CODE REGARDING LONG TERM TEMPORARY MERCHANT BUSINESS LICENSES; AND ESTABLISHING AN EFFECTIVE DATE.

The principal provisions of this ordinance amendment are as follows:

- 3-1B- 1: Purpose- The purpose of this Chapter is to protect the health, safety and welfare of this citizens of this City.
- 3-1B- 2: Definitions- Establishes definitions relating to license provisions.
- 3-1B- 3: License Required- Establishes circumstances under which a license is required.
- 3-1B- 4: Limitations on Issuance- Establishes limitations on the issuance and operation of a license.
- 3-1B- 5: License Fee- Establishes an annual license fee.

- 3-1B- 6: License Application- Establishes application requirements, process, and issuance parameters.
- 3-1B- 7: Expiration and Renewal- Establishes that all licenses are for a term of one year from date of issuance and must be renewed.
- 3-1B- 8: Refusal and Appeal- Establishes application denial, appeal, and hearing process.
- 3-1B- 9: Exhibition of License- Requires issued licenses to be displayed.
- 3-1B- 10: Notification Required- Requires notification from a closing business.
- 3-1B- 11: Revocation of License, Hearing- Establishes revocation of license, appeal, and hearing process.
- 3-1B- 12: Penalty- Establishes civil liability and criminal liability.

A full text of this ordinance is available for inspection at Victor City Hall, City of Victor, 32 Elm Street, Victor, Idaho. This Ordinance shall become effective upon passage and publication.

City of Victor
Mayor and City Council
By: Michelle Smith, City Clerk

First Reading: March X, 2020
Adopted after first reading pursuant to Idaho Code § 50-902

**STATEMENT OF VICTOR CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY OF ORDINANCE NO. O5XX**

The undersigned, Herbert J. Heimerl III, City Attorney of the City of Victor, Idaho, hereby certifies that he is the legal advisor of the City and has reviewed a copy of the attached Ordinance No. O5XX of the City of Victor, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A(3).

DATED this Xth day of March, 2020.

Herbert J. Heimerl III
City Attorney

CHAPTER 1

GENERAL LICENSE PROVISIONS

ARTICLE B. LONG TEMPORARY MERCHANT BUSINESS LICENSES

SECTION:

- 3-1B- 1: Definitions
- 3-1B- 2: Limitations on Issuance
- 3-1B- 3: Exceptions
- 3-1B- 4: License Applications
- 3-1B- 5: Sales Tax License
- 3-1B- 6: License Fee
- 3-1B- 7: Exhibition of License
- 3-1B- 8: Noise/Signage
- 3-1B- 9: Public Property

3-1B-1: **DEFINITIONS:** A “Long Term Temporary Merchant” is any business dispensing goods or services within the City of Victor operating from a temporary or mobile structure in a secondary or ancillary capacity to a primary and permanently developed business. Long term temporary Merchants may operate within the CX (Commercial Mixed Use) and CH (Commercial Heavy) zones on private property with written authorization from the primary business under a City one-year renewable license basis. (Ordinance 091213, O529)

3-1B-2: **LIMITATIONS ON ISSUANCE:**

- A. Long Term Temporary Merchants are restricted to operations within the CX (Commercial Mixed Use) and CH (Commercial Heavy) zones on private property with written authorization from the property owner and General Business License holder, which will be filed with the City. No more than one Long Term Temporary Merchant licensee is authorized per General Business License and real property tract as depicted on an authorized record of survey recorded with Teton County. Long Term Temporary Merchants are restricted to the General Business and Service Commercial Zones.
- B. Long Term Temporary Merchants shall not operate within ¼ mile (1280') of the DX (Downtown Mixed Use) Zone.
- C. Long Term Temporary Merchants shall not be located on any lot fronting on Highway 33 or Highway 31.

- D. Long Term Temporary Merchants must provide a grease, trash, and waste disposal plan to be approved by the City Engineer.
- E. Long Term Temporary Merchants must operate in secondary capacity to a permanent business operating in good standing with the City (the "Permanent Business") and both the Long Term Temporary Merchant and the Permanent Business must operate as an approved use under current City zoning regulations.
- F. Long Term Temporary Merchants must be contractually engaged with the Permanent Business at which they are located. They must provide restroom facilities adequate for both the Long Term Temporary Merchant and Permanent Business. Restrooms must be within 100 yards of the Long Term Temporary Merchant during hours of business operation.
- G. Long Term Temporary Merchants are not authorized as Home Occupations (as defined in Victor City Code 10-22-2).
- H. Long Term Temporary Merchants shall be issued for one year only with fees paid in accordance with the Victor fee and fine schedule prior to the issuance of a license. No Long Term Temporary Merchant license shall be valid for more than one person or legal entity, nor shall a license be transferable.
- I. Long Term Temporary Merchants must not be located and conducted within twenty (20) feet of any road, street highway, or alley, and shall be in a location that shall not create a traffic hazard.
- J. Long Term Temporary Merchants must provide proof of general liability insurance and property casualty insurance.
- K. The City may require review of any application by the fire department, health department, or other appropriate agency.
- L. Long Term Temporary Merchants shall be afforded an exception to the City's sign ordinance for up to twenty-four (24) square feet of aggregate signage which is unrelated to the Permanent Business. This exception will not be counted against the Permanent Business' allocable signage under the City's sign ordinance. Any signage on the sides of a vehicle or other structure shall be required to stay within this limitation. No such signage shall be lighted or illuminated in any manner whatsoever. (Ordinance 091213, O529)

3-1B-3: **EXCEPTIONS/EXEMPTIONS:** The following activities are exempt from the licensing requirements of this Chapter:

- A. Any sales under court order;
- B. Any activity conducted pursuant to a Special Events Permit. Special Events Permit operations are exclusive from and do not deduct from the fourteen (14) days allowable Temporary Business limitation;
- 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, and local governments, local schools, or local wholesale firms. These types of businesses must obtain a license under Victor City Code 3-1-B;
- 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 delivery and sale of the newspaper;
- F. The occasional sale of admission by local school students to a function of their school; or fund-raising sales by local service clubs or beneficent or fraternal groups;
- G. “Sidewalk” vending such as lemonade stands operated by children;
- H. Garage, yard, or similar sales by individuals at their residence or place of business;
- I. Any organization exempt from taxation as provided by 26 U.S.C. 501 and meeting all the requirements for exemptions provided by U.S.C. 503;
- J. Catering and mobile prepared food operations such as construction site prepared food
Merchants operating under a General Business License with principle product preparation originating from a permanent facility; and
- K. The Planning Administrator may make a decision on exceptions of like or similar operations with an appeal option for the applicant to the City Council. (Ordinance 091213, O529)

3-1B-4: **LICENSE APPLICATION.** Any Long Term Temporary Merchant desiring to engage in or transact business with the City shall file at least seven (7) days prior to conducting business an application for licensure with the City Clerk on a form provided by the City Clerk, which application shall include the name of the merchant, the location where the business shall be conducted, the kind of business, the requested dates of operation and such other information as the City may require. Upon receipt of an application, the City Clerk may refer the application to the sheriff's department and/or any other department to conduct a review, inspection or investigation as the City Clerk deems necessary for the protection of the public good. If, as a result of such review, the applicant appears to be of satisfactory standing and all other departmental requirements are met; the City Clerk shall issue the license. (Ordinance 091213, O529)

3-1B-5: **SALES TAX LICENSE:** No license shall be issued until the applicant has provided to the City Clerk a copy of a current Idaho sales tax license in the name of the applicant. (Ordinance 091213, O529)

3-1B-6: **LICENSE FEE:** The applicant shall pay a fee set forth by the Victor City Council pursuant to the Victor fee and fine schedule as amended from time to time by resolution of the Council for the term of the license provided however, that:

- A. If the applicant is the holder of a current, valid business license issued by the City, there will be no additional fee for the temporary use provided that the services, goods, wares, or merchandise to be sold are the same as those sold from or upon the regularly licensed permanent premises of the applicant/City of Victor business licensee. All other temporary business activities shall pay the standard temporary business fee.
- B. If the applicant is a nonprofit organization (a) with proof provided of its nonprofit status in accordance with the Internal Revenue Code of the United States, (b) where not less than seventy-five percent (75%) of the new profits of such sales shall be retained by the applicant and (c) where the services, goods, wares, and merchandise is non business-related personal property sold by individuals not regularly engaged on a full-time basis in the business of selling, manufacturing, distributing or providing such services, goods, wares and merchandise, then there shall be no fee. (Ordinance 091213, O529)

3-1B-7: **EXHIBITION OF LICENSE:** Temporary businesses requiring licensing shall be posted conspicuously in the place of business. A separate license must be obtained for each business location. (Ordinance 091213, O529)

3-1B-8: **NOISE/SIGNAGE:** No license, or anyone on the licensee's behalf, shall shout, make an outcry, blow a horn, ring a bell or use any sound device for

the purpose of attracting attention to its business. Signage is prohibited except pursuant to a valid temporary sign permit issued by the Planning Department. (Ordinance 091213, O529)

3-1B-9: **PUBLIC PROPERTY:** No public property, including any park, street, sidewalk or right of way therefore shall be utilized at any time for sale of any kind with the exception of newspapers, magazines, religious information or materials, or other such activities as are protected under the First Amendment of the Constitution of the United States; provided, however, that the provisions of this subsection shall not apply to nonprofit, benevolent or other City authorized organizations approved in advance by the City Council or its designee to sell items at an event occurring near or in a city park, nor during the specified period of closure, to those portions of public streets and the adjacent sidewalks and rights of way which may be officially closed to vehicular traffic from time to time by order of the City Council. (Ordinance 091213, O529)

ARTICLE B. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS
(Ord. 11-0824-1, 08-24-12, Deleted in its entirety- O516, 2017)