

ORDINANCE NO. 08-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PULLMAN, WHITMAN COUNTY, WASHINGTON, RELATING TO ITINERANT VENDORS, ADDING CHAPTER 8.95 TO PULLMAN CITY CODE, ITINERANT VENDORS, AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the City Council desires to establish a system of registration for itinerant vendors who operate within the City of Pullman in the interests of public health and safety; and

WHEREAS, the City of Pullman is a charter code city organized under Title 35A RCW and possesses broad police powers.

NOW, THEREFORE, the City Council of the city of Pullman do ordain as follows:

Section 1: There is hereby added a new Chapter 8.95 to the Pullman City Code entitled Itinerant Vendors.

Section 2: There is hereby added a new section 8.95.010 to the Pullman City Code to read as follows:

8.95.010 Definition of Itinerant Vendor.

Unless otherwise exempt under the provisions of this chapter, an "Itinerant Vendor" 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 goods 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 Itinerant Vendors are embraced within the preceding 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.

Section 3: There is hereby added a new section 8.95.020 to the Pullman City Code to read as follows:

8.95.020 Permit Required - Exemptions.

(1) No person, corporation, partnership or other organization shall engage in the business of an Itinerant Vendor within the City limits without first obtaining a permit from the Pullman Police Department. 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 acting must obtain a permit as provided in this chapter.

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

- (a) Persons who offer for sale agricultural, horticultural, or farm products which they have personally 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) Itinerant Vendors operating at any City-sponsored or authorized civic event for a time period not to exceed five consecutive days; and
- (f) Itinerant Vendors operating at a public market or other City-sponsored or approved activity so long as the activity does not occur more than one time per week for more than five months of each calendar year; and provided further, that the name, address and telephone number of each vendor is provided in advance to the Chief of Police.

Section 4: There is hereby added a new section 8.95.030 to the Pullman City Code to read as follows:

8.95.030 Permit - Application.

- (1) Applicants for a permit under this chapter must file with the Chief of Police 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) Current address and telephone number, including local contact information;
 - (c) A brief description of the nature of the business and the goods or services to be sold and the anticipated period of time during which the business will be conducted within the City;
 - (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 for purposes of the Itinerant Vendor's business, 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 criminal violations of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor; and
 - (h) All Itinerant Vendor stands must be located upon property zoned C1, C2, C3, I1, I2, or IRP and the following must accompany the application:

- (i) Signature of the property owner authorizing use of parcel;
 - (ii) A site plan showing the location of the sales area, the nearest driveway and the nearest fire hydrant.
 - (iii) Such other information as may be required by the City.
- (3) Any individual, corporation, partnership or other organization which acts as the principal or employer for individual Itinerant Vendors 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 the applicant is not an individual person, the application shall include current contact information for the business entity, inclusive of the name, address, telephone number and registered agent of the entity;
 - (c) Name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicants;
 - (d) A list of all other cities, towns and counties where the applicant has obtained an Itinerant Vendor's permit or similar permit within the past five years; and
 - (e) 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 vendor, principal and/or employer.

Section 5: There is hereby added a new section 8.95.040 to the Pullman City Code to read as follows:

8.95.040 Investigation of Applicant - Issuance and Denial of Permit.

- (1) The Police Department shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant within fourteen (14) days of the application being completed. The Police Department shall promptly forward the results of the investigation, together with a recommendation for approval or denial, to the Chief of Police.
- (2) The Chief of Police may 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 vendor, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
 - (d) Been previously 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 Itinerant Vendors 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.
- (4) The denial of a permit shall be provided to the applicant in writing by personally delivering the

notice of denial to the applicant or by mailing the notice of denial, postage prepaid, to the address stated on the application.

Section 6: There is hereby added a new section 8.95.050 to the Pullman City Code to read as follows:

8.95.050 Permit - Exhibit. Itinerant Vendors are required to exhibit their permit displayed on their person and vehicle used in the business, which permit shall be fully visible while conducting any Itinerant Vendor activities.

Section 7: There is hereby added a new section 8.95.060 to the Pullman City Code to read as follows:

8.95.060 Permit - Expiration. All permits issued pursuant to this chapter are nontransferable and shall be valid for ninety (90) days.

Section 8: There is hereby added a new section 8.95.070 to the Pullman City Code to read as follows:

8.95.070 Permit - Revocation.

- (1) Permits issued pursuant to this chapter may be revoked by the Chief of Police 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 an Itinerant Vendor;
 - (c) Any other violation of this chapter;
 - (d) Conviction after submission of the application for an Itinerant Vendor's permit of a felony or misdemeanor directly relating to the occupation of Itinerant Vendor, including, but not limited, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
 - (e) Conducting the business of an Itinerant Vendor 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 Itinerant Vendors may 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 Chief of Police in writing, setting forth specifically the grounds of the revocation and the time and place of hearing, which hearing shall be held no more than ten (10) days after the date of the written notice. In addition, the notice shall state that the Itinerant Vendor's permit shall be suspended pending the outcome of such hearing. Such notice shall be personally delivered to the Itinerant Vendor or mailed, postage prepaid, to the permit holder at his or her last known address. Following the hearing, the Chief of Police shall issue a written decision within forty-eight (48) hours, upholding or dismissing the revocation of the permit. The decision of the Chief of Police upholding the revocation of the permit shall become final if no appeal is requested as set forth further in this Chapter. If the permit holder is an individual, corporation, partnership or organization which employs or serves as the principal for individual permit holders, a copy of the written decision shall also be mailed to the individual permit holders.

Section 9: There is hereby added a new section 8.95.080 to the Pullman City Code to read as follows:

8.95.080 Right of Appeal. Any person aggrieved by the action of the Chief of Police in the denial of an application for permit or in the decision to uphold the revocation of a permit as provided in this chapter shall have the right to appeal to the Board of Adjustment. Such appeal shall be taken by filing a written appeal with the City Clerk, within ten (10) days after notice of the action complained of has been delivered or mailed to such person's last known address, and shall include a written statement setting forth fully the grounds for the appeal. The City Clerk shall promptly 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 Board of Adjustment on such appeal shall be final and conclusive. Hearings shall be held within 21 days of the day the appeal is received by the City.

Section 10: There is hereby added a new section 8.95.090 to the Pullman City Code to read as follows:

8.95.090 Use of Streets. No Itinerant Vendor 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.

Section 11: There is hereby added a new section 8.95.100 to the Pullman City Code to read as follows:

8.95.100 Hours and Notice. No person shall engage in the business of an Itinerant Vendor between the hours of 8:00 p.m. and 8:00 a.m. unless permitted by other applicable city ordinance.

Section 12: There is hereby added a new section 8.95.110 to the Pullman City Code to read as follows:

8.95.110 Records. The Police Department shall maintain a record for each permit issued and record the reports of violation therein.

Section 13: There is hereby added a new section 8.95.120 to the Pullman City Code to read as follows:

8.95.120 Violation - Penalty. Violation of any of the provisions of this chapter shall be a Class 2.5 civil infraction and punishable by the penalty for the same as established by ordinance.

Section 14: This ordinance shall be in full force and take effect five (5) days from and after its publication, or a summary thereof is published, in the official newspaper of the city of Pullman.

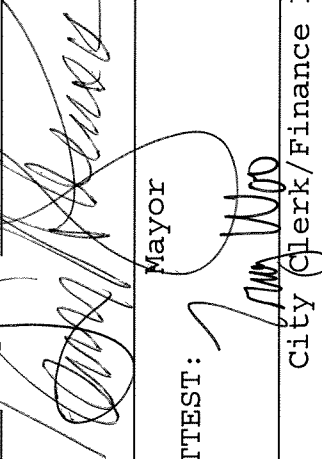
PASSED by the City Council of the city of Pullman at a regular meeting held on the 8th day of July, 2008.

ATTEST:

Mayor

Approved as to form:


City Attorney


City Clerk/Finance Director

Summary Published: July 12, 2008

FILED

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CITY CLERK'S OFFICE
PULLMAN, WASHINGTON