



CITY OF PULLMAN

Public Works and Planning Departments

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MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director *PD*

FOR: Meeting of January 26, 2009

SUBJECT: Board Training

DATE: January 22, 2009

Over the past couple years, the city has added provisions to the Pullman City Code that involve Board of Adjustment review of appeals and objections. These new provisions are contained in Chapters 5.01 and 8.95 (attached).

In Chapter 5.01 (Pullman Nuisance Control Code), the Board is assigned responsibility for hearing appeals of nuisance abatement proceedings (see Section 5.01.080) and reviewing objections to costs assessed by the city for correcting a nuisance (see Section 5.01.100). In Chapter 8.95 (Itinerant Vendors), the Board is responsible for hearing appeals from applicants who have been denied itinerant vendor permits.

To date, no appeals involving these provisions have been filed. However, in anticipation of possible future appeals, planning staff requests Board input as to whether it would like to devote some time during one of its upcoming meetings to a short training session regarding these matters. The training would likely be conducted by the city attorney or other appropriate city staff member.

At your meeting of January 26, planning staff will entertain Board members comments pertaining to this topic.

Attachments

TITLE 5
HEALTH AND SANITATION*

Chapters:

5.01	Pullman Nuisance Control Code
5.05	Nuisance Party Regulations
5.16	Rat Control
5.25	Diseased Trees
5.32	Weeds
5.36	Ambulance Service
5.40	Solid Waste Collection and Removal
5.45	Litter Control
5.50	Public Urination Prohibited
5.55	Alcohol Consumption in a Public Place

Chapter 5.01
Pullman Nuisance Control Code

Sections:

5.01.010	Purpose.
5.01.020	Short title.
5.01.030	Definitions.
5.01.040	Public Nuisances Prohibited.
5.01.050	Other Nuisances Defined.
5.01.060	Prohibited Conduct.
5.01.070	Violation a Civil Infraction.
5.01.080	Abatement Procedure.
5.01.090	Abatement by the City.
5.01.100	Assessment of Costs for City Abatement.
5.01.120	Summary Abatement.
5.01.130	Remedies Not Exclusive.
5.01.140	Cumulative Quality of Chapter and Separation of Offenses
5.01.150	Third Party Liability.

5.01.010 Purpose. It is the purpose of this chapter to declare what shall constitute a public nuisance within the city and to provide for the abatement of such nuisances in order to protect the public health, safety and welfare; to prohibit those conditions that create fire or other safety or health hazards; to prohibit those conditions which interfere with the enjoyment of public or private property; to prevent those conditions that contribute to the degradation of the character of neighborhoods and the depreciation of property values; and to prohibit conditions which degrade the city's scenic attractiveness, livability and economic welfare. (Ord. 07-3 §2, 2007).

5.01.020 Short title. This chapter may be known and cited as the "Pullman nuisance control code." (Ord. 07-3 §3, 2007).

5.01.030 Definitions. The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

- (1) "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer, in his judgment, determines is necessary in the interest of the general health, safety and welfare of the community.
- (2) "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.
- (3) "Enforcement officer" means the Mayor or any alternate designated by him.
- (4) "Junk" includes all appliances or parts thereof, all parts of motor vehicles, tires, all iron or other metal, plastics, glass, paper, cardboard, rubber, lumber, wood, mattresses, disabled trailers or parts thereof, all of which meet one of the following requirements:
 - (a) Are discarded;
 - (b) Are unusable;
 - (c) Are broken; or
 - (d) Have not been used for their primary and original purpose for a period of six months and have no value other than scrap value.
- (5) "Nuisance Party" means a social gathering or party which is conducted on premises within the City and which, by reason of the conduct of the persons in attendance, results in any one or more of the following conditions or events occurring at the site of the said party or social gathering, or on neighboring public or private property: disorderly conduct; illegal open container; outdoor urination or defecation in a public place; unlawful sale, furnishing, dispensing or consumption of beer or intoxicating liquor; sale or furnishing of beer or intoxicating liquor to an underage person; possession or consumption of beer or intoxicating liquor by an underage person; illegal use or sale of a controlled substance; public indecency; unlawful deposit of litter or refuse; the damage or destruction of property without the consent of the property owner; unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency

services; unlawfully loud noise; or any other conduct or condition that threatens injury, inconvenience, or alarm to persons or damage to property which is hereby declared to be an unlawful public nuisance.

- (6) "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
- (7) "Public Nuisance" means:
 - (a) A violation of any City of Pullman Health and Sanitation ordinance; or
 - (b) Doing an act; omitting to perform any act or duty; or permitting or allowing any act or omission which annoys, injures, or endangers the comfort, repose, health, or safety of others; is unreasonably offensive to the senses; or which obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or
 - (c) Other nuisances as expressly defined in this chapter; or
 - (d) A nuisance party as defined in this chapter; or
 - (e) Conditions which are determined by the department director or department head responsible for enforcing an ordinance or chapter of the Pullman City Code to be violations of the standards and requirements of the ordinance or code and unreasonably detrimental to the public health and safety, or welfare, so as to constitute a public nuisance. The criteria for determining whether a nuisance exists shall be based on the criteria in subsection (b) of this section and Chapter 7.48 RCW.
- (8) "Responsible Person" means any agent, lessor, lessee or other person occupying or having charge or control of any premises, except the owner.
- (9) "Owner" means any person owning property, as shown on the real property records of Whitman County or on the last assessment roll for taxes, and shall also mean any lessee, tenant, occupant or other person having control or possession of the property. (Ord. 07-3 §4, 2007).

5.01.040 Public Nuisances Prohibited. No person owning, leasing, renting, occupying, being in possession or having charge of any property in the City, including vacant lots, shall maintain

or allow to be maintained on such property, except as may be permitted by any other City ordinance, any public nuisance, whether visible from any public street or alley, or from any other private property. (Ord. 07-3 §5, 2007).

5.01.050 Other Nuisances Defined. Without limitation of the generality of the definition of public nuisance set forth in this chapter, the following acts, omissions, conditions and things are declared to be and constitute public nuisances, subject to abatement as provided in this chapter:

- (1) Storing or accumulating, or permitting the storage or accumulation, of junk on any premises where the junk is exposed to view from any public place;
- (2) The accumulation, or permitting the accumulation of, tin cans, bottles, trash, litter, waste or refuse of any nature on any premises, except in garbage cans or containers maintained for regular collection;
- (3) Permitting the existence of any dilapidated, abandoned or partially destroyed building or structure; any unused building or structure which is not properly secured from entry; or any building or structure commenced and left unfinished;
- (4) Storing, or permitting to be stored, any toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except when stored in compliance with the requirements of all regulatory agencies having jurisdiction;
- (5) Permitting the existence of any putrid, unsound or unwholesome bones, meat, hides or skins, or the whole or any part of any dead animal, fish or fowl,
- (6) Privies, vaults, cesspools, sumps, pits, excavations or like places which are not securely protected, or which are foul or malodorous;
- (7) Any refrigerator, freezer or other insulated container within which a child could suffocate;
- (8) Creating, or permitting to be created, any noise in excess of that allowable under Pullman City Code Chapter 8.80, Noise Regulations, as it exists or may be amended at or after the effective date of the ordinance codified in this chapter, which is incorporated in this chapter by this reference;
- (9) The accumulation, or permitting the accumulation, of building materials or objects of any nature where the same endangers property or safety, constitutes a fire hazard, or creates an attractive nuisance;

- (10) The existence of any offensive or dangerous accumulation of weeds, trash, dirt, filth, waste shrubs, lawn or yard trimmings, the carcass of any animal or other offensive matter;
- (11) The existence of any dead, diseased, infested or dying tree that may constitute a danger to street trees, streets or portions thereof;
- (12) The existence of any tree, shrub or foliage, unless by consent of the city, which is apt to destroy, impair, interfere or restrict:
 - (a) Streets, sidewalks, sewers, utilities or other public improvements,
 - (b) Visibility on, or free use of, or access to such improvements;
- (13) The existence of any vines or climbing plants growing into or over any street tree, or any public hydrant, pole or electroliner, or the existence of any shrub, vine or plant growing on, around or in front of any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto;
- (14) The existence of a sidewalk or a portion of a sidewalk adjacent to any premises which is out of repair, and in a condition to endanger persons or property, or in a condition to interfere with the public convenience in the use of such sidewalk;
- (15) The dumping or otherwise unlawful depositing of refuse, sawdust or any other material without a permit;
- (16) The existence of any obstruction to a street, alley, crossing or sidewalk, and any excavation in or under any street, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which, having been made by lawful permission, is kept and maintained after the purpose thereof has been accomplished, and for an unreasonable length of time;
- (17) The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or otherwise dilapidated or unsafe condition;
- (18) The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks,

trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof;

- (19) Visible vehicle tires not mounted on a vehicle, vehicle bodies or parts, bed mattresses or springs, water heaters or other household appliances, and damaged or stored or discarded furniture or other household goods or items including indoor furniture left outdoors in a residential zone or other zone within the City where such items are inconsistent with permitted uses authorized within the zone.
- (20) Any unsightly building, billboard, fence or other structure, or any old, abandoned or partially destroyed building left unfinished or any of same that may be dangerous to life or property;
- (21) The existence or maintenance of graffiti, and other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates, vehicles, signs, road surfaces and other structures, trees, and all other real and personal property within the city;
- (22) All vacant, unused, or unoccupied buildings and structures within the city, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the city. (Ord. 07-3 §6, 2007).

5.01.060 Prohibited conduct.

- (1) It is unlawful for any Responsible Person or owner to permit, maintain, suffer, carry on or allow, upon any premises located within city limits, any of the acts or things declared by this chapter to be a public nuisance.
- (2) It is unlawful for any person, firm or corporation, by itself or by its agents or employees, or as the agent or employee of another person, firm or corporation, to do or permit to be done upon any premises over which it has control, or to maintain, carry on, suffer or allow, at any place or places in the preceding sections mentioned, any of the acts or things herein declared to be nuisances, or to do or cause, or permit or suffer to be done, or maintain any act or thing which shall be

detrimental or injurious to public health or offensive to the senses or contrary to public decency or morality.

- (3) In case the owner or agent of any premises is found to have had actual or constructive knowledge of the maintenance on or in said premises of any nuisances as herein defined, he or she shall, for the purpose of this chapter, be deemed in violation of this chapter. (Ord. 07-3 §7, 2007).

5.01.070 Violation a Civil Infraction. Upon determination by a code enforcement officer or other responsible official of the City that a nuisance exists, a Notice of Civil Infraction shall be issued to a Responsible Person or Owner in accordance with the procedures set forth in Chapter 1.02 of the Pullman City Code. Any person violating any of the provisions of this chapter is guilty of a Class Two (2) civil infraction. A person cited for violation of this chapter for a second or subsequent incident is guilty of a Class One (1) civil infraction.

If the code enforcement officer has been previously notified that a property at which a nuisance exists is managed by a property manager or a property management company, the code enforcement officer will attempt to also provide a copy of the notice to such property manager or property management company via United States mail. Notification to a property manager or property management company will not excuse the cited person from his or her obligation to immediately abate or to appear in court. The lack of courtesy notice to a property manager or property management company shall not prevent the issuance of an infraction to any person for any continuing or subsequent nuisance at said property. (Ord. 07-3 §8, 2007).

5.01.080 Abatement procedure. If a condition deemed a nuisance by the code enforcement officer or other responsible official of the City has not been voluntarily abated by a Responsible Person or Owner, the City may proceed with abatement of the condition. The following procedures for notice and hearing shall be followed for all abatements except a Summary Abatement as defined in section 5.01.120.

(1) Notice.

- (a) On determination by the code enforcement officer, or other responsible official of the City, that a nuisance exists despite prior enforcement activities, he/she shall cause a notice to be posted on the premises or at the site of the nuisance, directing the owner or other Responsible Person to abate the condition within seven (7) days after notice or other reasonable period.

- (b) At the time of the posting, the code enforcement officer shall also cause a copy of the notice to be mailed by United States mail, to the owner of the property as listed in the tax records of Whitman County. If the code enforcement officer has been previously notified that a property is managed by a property manager or a property management company, the code enforcement officer will attempt to also provide a courtesy copy of the notice to such property manager or property management company via United States mail.
- (c) The notice to abate shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, Responsible Person, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____ you are hereby notified that the undersigned pursuant to Chapter 5.01 of Pullman City Code has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection ____ of 5.01._____:

You are hereby notified to abate said condition to the satisfaction of the undersigned within seven (7) days of the date of this notice. If you do not abate such condition within seven (7) days the City will abate the condition at your expense.

Abatement is to be accomplished in the following manner:

_____(Insert description of necessary action)_____.

This Notice may be appealed to the Board of Adjustment pursuant to PCC 5.01.080(2)(b) within five (5) days of the date of this Notice.

Dated: _____

By: _____ (Name of enforcement officer).

- (d) If the Notice to Abate is issued to a person other than the property owner, an additional notice shall be sent via U.S. Mail to the last known owner as listed in the tax records of Whitman County, stating that any cost of abatement accrued to the

city and not paid by the Responsible Person, may be assessed to and become a lien on the property.

- (e) Upon completion of the posting and mailing, the person posting and mailing shall execute and file a certificate stating the date and place of the mailing and posting.
- (2) Abatement by the Responsible Person.
 - (a) Within seven (7) days after the posting and mailing of notice as provided in subsection (1) of this section, the Responsible Person and/or the owner shall remove the nuisance unless a protest has been filed as provided in subsection (2)(b) of this section.
 - (b) A Responsible Person and/or the owner, protesting that no nuisance exists, shall file with the city clerk a written statement within five (5) days of the notice specifying the basis for the appeal.
 - (c) The appeal shall be referred to the Board of Adjustment which shall set a time for hearing the appeal as soon as practicable, but no more than (30) days after the date of the Notice to Abate. The appeal shall be heard pursuant to PCC Chapter 17.185. (Ord. 07-3 §9, 2007).

5.01.090 Abatement by the city.

- (1) If the nuisance has not been abated or appealed by the Responsible Person within the time allowed, the code enforcement officer or other responsible official may cause the nuisance to be abated.
- (2) The officer charged with abatement of the nuisance shall have the right to enter into or upon the property at reasonable times to investigate or cause the removal of such nuisance.
- (3) In all cases of summary abatement pursuant to this chapter and abatement under subsection (1) of this section, the city's costs of abatement, including labor, materials and reasonable value of city equipment employed, shall be a debt owing to the city jointly and severally by all owners and Responsible Persons to whom notice to abate was given, for which the city shall have a lien on the real property. In the event sums due the city under this subsection shall not be paid forthwith, or in the event the owner cannot be found, the Finance Director may record a notice of claim of lien in the name of the city. The notice of claim of lien shall be in the

same form, and recorded with the same filing officer, and be enforced and foreclosed as provided by law for liens for labor and materials as provided in Chapter 60.04 RCW, as the same exists or may be amended at or after the effective date of the ordinance codified in this chapter. (Ord. 07-3 §10, 2007).

5.01.100 Assessment of costs for City abatement.

- (1) In the event the City takes action to abate a public nuisance, the Finance Director shall send to the owner and the Responsible Person, by U.S. mail, postage prepaid, a notice stating:
 - (a) The total cost of abatement including the administrative costs;
 - (b) The cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice;
 - (c) That if the owner or Responsible Person objects to the cost of the abatement as indicated, a Notice of Objection may be filed with the Finance Director not more than ten (10) days from the date of notice.
- (2) If a Notice of Objection is filed, at the next available Board of Adjustment meeting, the Board in the regular course of business, shall make a decision on the objections to the costs assessed. The Board may uphold or waive the costs assessed in whole or in part. The procedures of PCC 17.170.030 and 17.185.030 are not applicable to a Notice of Objection.
- (3) If the Board upholds all or part of the assessed costs, said costs shall be paid within thirty (30) days after Board action on the Notice of Objection. If the costs remain unpaid after thirty (30) days, an assessment of the costs as stated or decided by the Board shall be made by City Council resolution and shall be recorded as a lien upon the property. Notification of the recording shall be mailed to the owner, postage prepaid, or may be by personal service.
- (4) The lien shall be enforced and shall bear interest at the rate of seven (7) percent per annum. The interest shall begin to run from the date of recording.
- (5) A failure to receive the notice of the proposed assessment will not void the assessment, and it shall

remain a valid lien against the property. (Ord. 07-3 §11, 2007).

5.01.120 Summary abatement. The procedure provided by PCC 5.01.080 is not exclusive. The code enforcement officer, fire chief or chief of police may proceed summarily to abate a health or other nuisance whenever any condition on, or use of, property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public, or a significant portion thereof, the City shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall be collected as provided in PCC 5.01.100. (Ord. 07-3 §12, 2007).

5.01.130 Remedies Not Exclusive. The remedies prescribed in this chapter are in addition to all other remedies provided or authorized by law. (Ord. 07-3 §13, 2007).

5.01.140 Cumulative Quality of Chapter and Separation of Offenses. The provisions of this Chapter shall be cumulative and in addition to the provisions of the now existing ordinances of the city of Pullman.

Each day that a nuisance continues shall constitute a separate offense hereunder and shall subject the person cited to continuing daily penalties for each and every day that a nuisance continues unabated. (Ord. 07-3 §14, 2007).

5.01.150 Third party liability.

- (1) It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- (2) It is the specific intent of this chapter to place the obligation of complying with its requirements upon the individual or entity responsible for the premises and no provisions nor term used in this chapter is intended to impose any duty whatsoever upon the City or any of its officers and employees, for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.
- (3) Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any

liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of a property owner to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 07-3 §15, 2007).

Chapter 8.95
Itinerant Vendors

Sections:

- 8.95.010 Definition of Itinerant Vendor.
- 8.95.020 Permit Required - Exemptions.
- 8.95.030 Permit - Application.
- 8.95.040 Investigation of Applicant - Issuance and Denial of Permit.
- 8.95.050 Permit - Exhibit.
- 8.95.060 Permit - Expiration.
- 8.95.070 Permit - Revocation.
- 8.95.080 Right of Appeal.
- 8.95.090 Use of Streets.
- 8.95.100 Hours and Notice.
- 8.95.110 Records.
- 8.95.120 Violation - Penalty.

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. (Ord. No. 08-10 §2, 2008)

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. (Ord. No. 08-10 §3, 2008)

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. (Ord. No. 08-10 §4, 2008)

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. (Ord. No. 08-10 §5, 2008)

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. (Ord. No. 08-10 §6, 2008)

8.95.060 Permit - Expiration. All permits issued pursuant to this chapter are nontransferable and shall be valid for ninety (90) days. (Ord. No. 08-10 §7, 2008)

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. (Ord. No. 08-10 §8, 2008)

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. (Ord. No. 08-10 §9, 2008)

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. (Ord. No. 08-10 §10, 2008)

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. (Ord. No. 08-10 §11, 2008)

8.95.110 Records. The Police Department shall maintain a record for each permit issued and record the reports of violation therein. (Ord. No. 08-10 §12, 2008)

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. (Ord. No. 08-10 §13, 2008)