

Itinerant Merchant Application

1. NAME: _____

2. SOCIAL SECURITY #: _____

3. DRIVER'S LICENSE # & STATE: _____

4. TELEPHONE #: _____

5. CURRENT MAILING ADDRESS: _____

6. CURRENT STREET ADDRESS: _____

7. TEMPORARY ADDRESS & PHONE WHILE IN RUPERT: _____

8. MAKE, MODEL, STATE OF REGISTRATION & LICENSE PLATE # OF ALL VEHICLES BEING USED BY APPLICANT(S):

9. DESCRIPTION OF THE TYPE OF GOODS, WARES OR MERCHANDISE OFFERED FOR SALE: _____

10. LOCATION AT WHICH BUSINESS WILL BE TRANSACTED WITHIN THE CITY OF RUPERT. INCLUDE NAME AND ADDRESS OF THE OWNER OF SAID LOCATION: _____

11. DURATION OF BUSINESS VENTURE WITHIN THE CITY OF RUPERT: _____

12. LIST OF ALL CITIES & COUNTIES IN WHICH YOU HAVE CONDUCTED BUSINESS WITHIN THE PRECEDING 90 DAY PERIOD AND THE DATES BUSINESS WAS CONDUCTED IN EACH PLACE: _____

13. NAMES & ADDRESSES OF ALL PERSONS WHO WILL BE CONDUCTING BUSINESS IN BEHALF OF THE ITINERANT MERCHANT: _____

14. NAME, ADDRESS & PHONE # OF AT LEAST 3 REFERENCES REGARDING THE CHARACTER & BUSINESS RESPONSIBILITY OF THE APPLICANT.

***THIS EXCLUDES THE PRINCIPAL, PARTNERS, OFFICERS, AND DIRECTORS OF THE APPLICANT:

1. _____
2. _____
3. _____

15. NUMBER OF CALENDAR QUARTERS FOR WHICH THE APPLICATION IS MADE: _____

I, the below signed, attest that all information provided in this application is true and accurate to the best of my knowledge, and that any false information will result in the revocation of the itinerant merchant license, as well as any other consequences arising from the violation of the terms of this licensing form.

SIGNATURE: _____ DATE: _____

Itinerant Merchant's License

3-7-1 Purpose: The purpose of this license is to assist in protecting consumers who purchase goods in the City by requiring that all itinerant merchants register with the City Clerk before commencing business within the City, and that each such merchant provide sufficient information as to his or her identity so that a consumer will be able to identify and locate the itinerant merchant in the event that the consumer should wish to pursue claims for breach of warranties, fraud, misrepresentation or other claims which may arise from consumer transactions. Persons who have been residents of the City for more than one year are exempt from registration as itinerant merchants under this chapter because of the relative ease with which they can be identified and located.

3-7-2 Definition: An **itinerant merchant** is any person present within the City who sells or offers to sell to retail customers any goods, ware or merchandise unless such person is one or more of the following:

- (A) An individual who has been a permanent resident of the City for more than one year, who is conducting such business activity as owner or consignee of the goods, ware or merchandise being sold or offered for sale.
- (B) A principal or an agent of a person, firm or corporation whose principal has been continuously engaged in business at least one hundred (100) hours per month, within the City for the preceding two (2) calendar months.
- (C) An agent of a business licensed or exempt from licensing under this chapter.
- (D) A member of a tax exempt charitable, fraternal, civic or religious organization selling or offering to sell goods, wares or merchandise in behalf of said organization for tax exempt purposes of the organization as defined by the Internal Revenue Code, who provides proof of authority to act in behalf of said tax exempt organization.
- (E) A person selling used furniture, household goods, sporting equipment and clothing of his family during a period not to exceed forty-eight (48) hours, who has not previously participated in more than one such sale within the city during the same calendar year.
- (F) A guardian, conservator or personal representative selling personal assets of the decedent or ward.
- (G) A person, firm or corporation that limits the prices of the goods, wares and merchandise at a price greater than twenty-five dollars (\$25.).

3-7-3 Application Requirements: An itinerant merchant shall apply to the City Clerk for an itinerant merchant license during regular business hours of the City Clerk's office at least four (4) such hours before selling or offering for sale any goods, wares or merchandise within the City. The application shall be made by the principal or an agent of the principal who is authorized to make the application in behalf of the principal.

The applicant shall supply, on a form provided by the City Clerk, all of the following:

- (A) The name, social security number, driver's license number, telephone number, current permanent mailing address, and a current permanent street address of the person making the application, temporary mailing address and temporary phone number while the applicant is in the Rupert area; make, model, state of registration and license plate number of all vehicles being used by the applicant or agents of the applicant while preparing for and conducting business within the City.
- (B) The name and current mailing address and current street address of any principal in whose behalf the application is made.
- (C) If the itinerant merchant is a person other than the applicant acting on his own behalf, the person making the application shall supply the following:
 1. The name, address, title and telephone number of the principal or a responsible officer of the principal who can verify the authority of the person to make the application and do business in behalf of the principal.
 2. The legal status of the principal as a person.
 3. The tax identification number of the principal for Idaho sales tax.
 4. If the principal is a corporation, the state of incorporation.
 5. If the principal is a partnership, the names and addresses of all general partners.
- (D) A general description of the type of goods, wares or merchandise to be offered for sale.
- (E) The location at which the business will be transacted within the City, including the names and addresses of the owner of said business location.
- (F) The duration of the business venture within the City.
- (G) A list of all cities and counties in which the itinerant merchant had conducted business within the preceding ninety (90) day period and the dates said business had been conducted in each of said places.
- (H) The names and addresses of all persons who will be conducting business in behalf of the itinerant merchant while the itinerant merchant is doing business within the City.
- (I) The names, addresses, and phone numbers of at least three (3) references as to the character and business responsibility of the applicant, excluding the person making the application and the principal, partners, officers and directors of the applicant.
- (J) The number of calendar quarters for which the application is made.
- (K) The application form shall be signed by the person making the application, under a statement attesting to the truth and accuracy of the information supplied on the application form.

3-7-4 Duties of City Clerk and Issuance of License: Upon receipt of the completed registration form and the appropriate license fee, the City Clerk shall review the application to see if the required information has been provided. If the application has been properly submitted, the Clerk will issue a receipt indicating the calendar quarters for which the itinerant merchant is authorized to do business in the City

and said receipt shall institute proof that the itinerant merchant named on the receipt is licensed to do business within the City during the calendar quarters indicated on the receipt.

The City Clerk shall file one copy of the application and receipt in the office of the City Clerk and shall forward a copy of the application and license to the Chief of Police, who may conduct such investigation of the applicant as he or his authorized agent may deem appropriate for the protection of the consumers within the City.

3-7-5 License Fees and Bond: Each applicant shall pay to the City Clerk, at the time of submission of an application for an itinerant merchant license, the sum of ten dollars (\$10.) for the first quarter of the calendar year during which the applicant intends to conduct business in the City, plus two dollars (\$2.) for each successive additional calendar quarter of the current calendar year or succeeding calendar year during which the applicant intends to do business as an itinerant merchant within the City. The four (4) calendar quarters are January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

An applicant who wishes to extend his license for successive additional quarters may do so after his license has been issued by tendering the fee for such successive additional quarter or quarters to the Clerk prior to the expiration of the license. A new application shall not be required of the applicant if there have been no material changes in the information supplied when the license was first issued, if the license has not expired at the time the extension fee is tendered. Upon receipt of said fee, the Clerk shall issue a new receipt extending the license by the number of quarters for which payment has been received and shall file a copy in the Clerk's office and forward a copy to the Chief of Police.

A person claiming to be exempt from licensing as an itinerant merchant under Section 3-7-2(B) of this chapter may submit an application in the form required by Section 3-7-3 of this Chapter and pose a bond of ten dollars (\$10.) in lieu of payment of the license fee. If the applicant has continuously engaged in business in the City for one hundred (100) hours per month for two (2) succeeding calendar months following registration, the Clerk upon application by the itinerant merchant and receipt of proof of exemption, shall refund the bond.

The Clerk shall have the right to refuse to accept personal or business checks in payment of registration fees and may insist upon cash or a cashier's check of a local bank or a postal money order.

3-7-6 Prohibited Acts and Penalties:

- (A) It shall be unlawful for any person to engage in the business of an itinerant merchant as defined in this Chapter, unless such person has registered as an itinerant merchant for the calendar quarter in which said business

activity is being conducted and has received a receipt showing payment of said license fee for the applicable calendar quarter.

- (B) It shall be unlawful for any person to act as an agent or employee of an itinerant merchant who is not properly registered and licensed under this Chapter for the calendar quarter in which such person conducts or attempts to conduct business for such principal. It shall be the duty of each such agent to determine whether the principal is, in fact, authorized to do business as an itinerant merchant by inquiring at the office of the City Clerk, and the agent shall not be excused for violating this Chapter by reason of the fact that he or she received erroneous information from any source.
- (C) A person may be charged in the alternative with violating subsection (A) or (B) of this Section, but he may not be convicted both as a principal and agent in the same transaction. If a reasonable doubt is raised as to his status as an agent or employee of an unlicensed principal, he shall be presumed to be a principal.
- (D) It shall be unlawful for any person to submit false information on an application for an itinerant merchant license.
- (E) Violation of any portion of this Chapter shall be a misdemeanor. Upon conviction of a violation of this Chapter, the defendant shall be subject to a fine of three hundred dollars (\$300.) and a jail sentence of six (6) months or both. The conviction of the principal nor shall conviction of a principal bar the conviction of an agent if a person is charged.
- (F) The City Clerk may revoke a license and registration receipt of an itinerant merchant upon discovering a materially false representation of fact on the application or upon dishonor of a check received in payment of license fees. Revocation shall be deemed effective twenty-four (24) hours after notice is mailed to the permanent business address of the principal, as shown on the application, by certified mail with return receipt requested, postage prepaid, or by actual notice to the itinerant merchant or any agent of the itinerant merchant, whichever occurs first. (Ord. 652, 1-83)