

BY THE COUNCIL: BEAUMONT, HIGGINS, AND SOUZA

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING GARDEN CITY CODE TITLE 3 (“BUSINESS AND LICENSE REGULATIONS”) TO AMEND THE FOLLOWING PROVISIONS: 3-4-2 BY AMENDING LANGUAGE TO PROVIDE FOR DEFINITIONS FOR VARIOUS TERMS RELATED TO VENDING; AND 3-4-9 BY AMENDING LANGUAGE TO ALLOW VENDOR CARTS, STANDS, AND MOTOR VEHICLES TO ENGAGE IN THEIR LICENSED BUSINESS ON A PUBLIC RIGHT-OF-WAY SUBJECT TO RESTRICTIONS; PROVIDING FOR SEVERABILITY; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GARDEN CITY, IDAHO:

**SECTION 1.** That Title 3, Chapter 4, Section 2 (“Definitions”), Garden City Code, be, and the same is hereby amended to read as follows:

For the purposes of this chapter, the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. Words used throughout this chapter, but not defined herein or in this title, shall have their plain, ordinary and common meaning. Words in any gender shall apply to the feminine, masculine and neuter genders.

**BUSINESS DAY:** Any calendar day except Saturday, Sunday, and any other Idaho state holiday as defined in Idaho Code section 67-5302(12).

**CITY CLERK:** The licensing officer.

**MIDBLOCK CROSSWALK AREA:** The sidewalk area which falls between the two (2) lines fifteen feet (15’) beyond each side of a marked midblock crosswalk area (identified by the crosswalk lines delineated on the street pavement) and perpendicular to the curb.

**MOBILE VENDING CART:** A movable push cart that is operated by a vendor standing on the sidewalk.

MOBILE VENDING TRAILER: A mobile trailer operated by a vendor standing on or within the frame of the trailer on the public right-of-way between the curb lines.

MOBILE VENDING VEHICLE: A motorized vehicle operated by a vendor standing on or within the frame of the vehicle on the public right-of-way between the curb lines.

PREPARED FOOD: Food sold by a vendor that is prepared at the point of sale.

SIDEWALK: That portion of the public-right-of-way which is between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians in public places of Garden City.

SOLICITOR/SOLICITATION: The term solicitor shall include persons who go from place to place within the city and sell or offer to take orders for the making, manufacturing or repairing of any article or thing for present or future delivery, whether that person collects advance payment for such sales or not.

The foregoing definition of solicitation shall not include the distribution, circulation, mailing, posting or publishing of any handbill, written advertisement, or publication. Nor shall the term solicitor include persons who have been previously asked or invited to come to a home or place to take orders or offer to take orders.

SPECIAL EVENT: The temporary use, with a valid permit, of public or private property, including streets, beaches, parks, community centers, and waterways, for the purpose of conducting certain short term events such as art shows, music concerts, fundraising events, sidewalk sales, amusement attractions, circuses, carnivals, rodeos, swap meets, sporting events, including, but not limited to, organized float trips, contests, street dances, tournaments, walkathons, marathons, races, exhibitions, or related activities.

STREET CORNER AREA:

The sidewalk area at the intersection of two (2) streets, circumscribed by curbs, the property lines abutting the sidewalk area, and the line including the point along the curb of the street either fifteen feet (15') from the outside line of a corner crosswalk, or where there is no marked crosswalk, twenty five feet (25') from the curb line on the midpoint of the intersecting streets.

STREET VENDING:

The peddling, vending, selling, displaying or offering for sale any item of tangible personal property or other thing of value from a mobile vending trailer or mobile vending vehicle situated on the public rights-of-way between the curb lines by a vendor to persons: (1) on the sidewalk; or (2) on the street only if the street has been blocked off and closed to public motor vehicle traffic by the Ada County Highway District (ACHD), and ACHD provided written approval of such activity.

TEMPORARY:

Three (3) months or less.

TEMPORARY MERCHANT:

Any person whether owner or otherwise, whether a resident of the city or not, who engages in a temporary business of selling and delivering food, beverages, goods, wares, merchandise or services within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure or motor vehicle within the city for the exhibition and sale of food, beverages, goods, merchandise or services.

VENDOR:

Any person, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to take orders to sell food, beverages, goods, wares, merchandise or services from a stand, cart, motor vehicle or any other type of conveyance or from his or her person.

The word vendor shall include the words: "hauler", "huckster", and "peddler".

**SECTION 2.** That Title 3, Chapter 4, Section 9 (“Restrictions”), Garden City Code, be, and the same is hereby amended to read as follows:

A. ~~Location. Vendor carts, stands and motor vehicle(s) are prohibited within fifteen feet (15’) of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire or police station.~~ General Restrictions: No vendor, solicitor or temporary merchant shall have any exclusive right to any location on a street or other public right-of-way or sidewalk, nor shall they be permitted to operate in any congested area where his or her operations might impede or inconvenience the public.

Street vending cannot be conducted with a mobile vending cart. Street vending from a mobile vending trailer or mobile vending vehicle to a person(s) on the street may only be conducted if the street has been blocked off and closed to public motor vehicle traffic by ACHD, thereby ensuring that the business activity will be regulated and carried out in areas that are not congested and will not otherwise impede or inconvenience the public. ACHD must provide written approval of such activity before the activity may be conducted.

Business activity as regulated by this chapter may be conducted on private property only if written approval of the property owner is given prior to the commencement of the business activity.

No business activity regulated by this chapter shall be conducted on the Garden City greenbelt.

No business activity regulated by this chapter shall be conducted in any area or at any location of the city by anyone licensed pursuant to this chapter, where such business activity is prohibited by any other section of this code or local, state, or federal law.

~~No business activity regulated by this chapter shall be carried out in any congested area where operations might impede or inconvenience the public.~~

The judgment of a public safety officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

B. Prohibited Locations: A mobile vending cart, mobile vending trailer or mobile vending vehicle shall not be located:

1. Where clear pedestrian passage on the public sidewalk is less than five feet (5’) wide;
2. Within a midblock crosswalk area;
3. On the portion of a public sidewalk crossed by a public or private driveway or within ten feet (10’) of either side of the driveway;
4. Within any street corner area;
5. Within five feet (5’) from a perpendicular line drawn to the curb from either side of a doorway;
6. In a manner in which the movement or visibility of vehicles using the street or other public right-of-way is obstructed;

7. Within fifteen feet (15') of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire or police station.

C. Parking Restrictions: Mobile vending trailers and mobile vending vehicles must at all times be parked in a legal manner. Vending operations on the street shall be conducted only to pedestrians on sidewalks unless the street has been blocked off and closed to public motor vehicle traffic by ACHD, and ACHD provided written approval of such activity. No service to the public shall be made from the street side of the vehicles unless the street has been blocked off and closed to public motor vehicle traffic by ACHD, and ACHD provided written approval of such activity.

D. "Open for Business" Sign: To differentiate between mobile vending trailers or mobile vending vehicles that are merely legally parked on the street from those that are actively engaged in vending operations, any street vending cart, trailer or vehicle must place an "open for business" sign on the cart, trailer or vehicle in a conspicuous manner when the vending operations are open for business. This sign must be taken down when vending operations have ceased.

E. Hours Of Operation: Vendors and solicitors shall be allowed to engage in their licensed business only between nine o'clock (9:00) A.M. and one hour after sunset unless located in a commercially zoned area. All vending stands, carts or vehicles must be removed from public property during nonvending hours. If an special event permit is sought, the city council may make an exception to the usual hours of operation.

F. Removal Of Trash: All trash or debris accumulating within twenty feet (20') of any vending stand shall be collected by the vendor and deposited in trash containers. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.

**SECTION 3.** If any provision or section of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

**SECTION 4.** All ordinances of the City of Garden City that conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 5.** That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

**SECTION 6.** Pursuant to an affirmative vote of one-half (1/2) plus one (1) of the members of the full Council, the rule requiring two (2) separate readings by title and one (1) reading in full be, and the same is hereby, dispensed with and accordingly, this Ordinance is passed and adopted.

**SECTION 7.** This ordinance shall be in full force and effect on the 26<sup>th</sup> day of August, 2019, and from and after passage, approval, and publication.

**PASSED** by the City Council and **APPROVED** by the Mayor of Garden City, Idaho, this 26<sup>th</sup> day of August, 2019.

ATTEST:

  
\_\_\_\_\_  
Lisa M. Leiby, City Clerk

APPROVED:

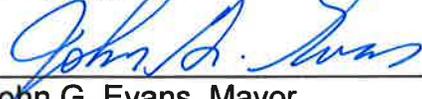
  
\_\_\_\_\_  
John G. Evans, Mayor

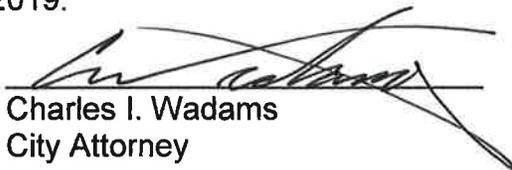


EXHIBIT "A"

**STATEMENT OF GARDEN CITY ATTORNEY  
AS TO ADEQUACY OF SUMMARY  
OF ORDINANCE NO. 1011-19**

The undersigned, Charles I. Wadams, in his capacity as City Attorney of the City of Garden City, Idaho, hereby certifies that he is the legal advisor of the City and has reviewed a copy of the attached Summary of Ordinance No. 1011-19 of the City of Garden City, 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 26<sup>th</sup> day of Aug., 2019.

  
Charles I. Wadams  
City Attorney

**SUMMARY OF ORDINANCE NO. 1011-19  
OF THE CITY OF GARDEN CITY, IDAHO**

**PUBLIC NOTICE IS HEREBY GIVEN** that the City of Garden City, Idaho, adopted at its regular meeting of the 26<sup>th</sup> day of August, 2019, that Ordinance No. 1011-19 entitled:

**AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING GARDEN CITY CODE TITLE 3 ("BUSINESS AND LICENSE REGULATIONS") TO AMEND THE FOLLOWING PROVISIONS: 3-4-2 BY AMENDING LANGUAGE TO PROVIDE FOR DEFINITIONS FOR VARIOUS TERMS RELATED TO VENDING; AND 3-4-9 BY AMENDING LANGUAGE TO ALLOW VENDOR CARTS, STANDS, AND MOTOR VEHICLES TO ENGAGE IN THEIR LICENSED BUSINESS ON A PUBLIC RIGHT-OF-WAY SUBJECT TO RESTRICTIONS; PROVIDING FOR SEVERABILITY; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

This ordinance updates Garden City's Vendors, Solicitors and Temporary Merchants Chapter (Chapter 4) of its Business and License Regulations Title (Title 3) in the Garden City Code. It adds definitions and modifies and adds prohibitions, restrictions, and regulations regarding mobile vending carts, trailers and vehicles.

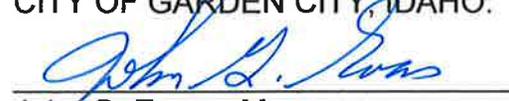
The effective date of the ordinance is the 26<sup>th</sup> day of August, 2019, and the date of its passage, approval, and publication. A copy of the full text of the ordinance is available at the city clerk's office, 6015 N. Glenwood Street, Garden City, Idaho 83714. Examination may be requested in writing or in person during regular business hours of the city clerk's office, from 8:00 a.m. until 5:00 p.m., pursuant to Section 50-901A(4), Idaho Code.

DATED this 26<sup>th</sup> day of August, 2019.

ATTEST:

  
\_\_\_\_\_  
Lisa M. Leiby, City Clerk

CITY OF GARDEN CITY, IDAHO:

  
\_\_\_\_\_  
John G. Evans, Mayor



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## AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
264046	0004359499	SUMMARY OF ORDINANCE NO. 1011-19 OF TH	legal notice	\$78.52	1	7.44 In

**Attention:** Lisa Leiby

GARDEN CITY CITY OF  
6015 GLENWOOD ST  
GARDEN CITY, ID 837141347

**SUMMARY OF ORDINANCE  
NO. 1011-19  
OF THE CITY OF GARDEN  
CITY, IDAHO**

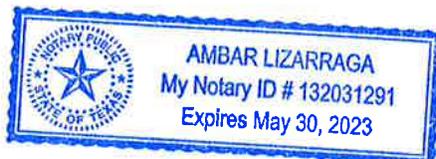
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This ordinance updates Garden City's Vendors, Solicitors and Temporary Merchants Chapter (Chapter 4) of its Business and License Regulations Title (Title 3) in the Garden City Code. It adds definitions and modifies and adds prohibitions, restrictions and regulations regarding mobile vending carts, trailers or vehicles, and vendor trailers or vehicles.

The effective date of the ordinance is the 26<sup>th</sup> day of August, 2019, and the date of its passage, approval, and publication. A copy of the full text of the ordinance is available at the city clerk's office, 6015 N. Glenwood Street, Garden City, Idaho 83714. Examination may be requested in writing or in person during regular business hours of the city clerk's office, from 8:00 a.m. until 5:00 p.m., pursuant to Section 50-901A(4), Idaho Code. DATED this 26<sup>th</sup> day of August, 2019.

CITY OF GARDEN CITY, IDAHO:  
John G. Evans, Mayor



VICTORIA RODELA, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterrupted published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

1 Insertions

Beginning issue of: 08/30/2019

Ending issue of: 08/30/2019

*VRodela*

(Legals Clerk)

On this 30th day of August in the year of 2019 before me, a Notary Public, personally appeared before me Victoria Rodela known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

*Ambar Lizarraga*

Notary Public in and for the state of Texas, residing in Dallas County

Extra charge for lost or duplicate affidavits.  
Legal document please do not destroy!

ATTEST:  
Lisa M. Leiby, City Clerk  
0004359499-01