



Regular Council Meeting

Tuesday, September 3, 2019 at 7:00 pm

- 1) Call to order.
- 2) Pledge of Allegiance.
- 3) Invocation.
- 4) Roll call: Ward I: Kyle Larson, Cory Rota
Ward II: Karla Borders, Rebecca Schatza
Ward III: Mike Bailey, Tim Hancock
- 5) Declaration of quorum.
- 6) Approval of the Agenda.
- 7) Communication from the Floor – Citizen’s Comments.
- 8) Consent Agenda:
 - Approval of the Minutes – August 20, 2019 Regular Council Meeting.
 - Approval of the Minutes – September 3, 2019 Finance Committee Meeting.
 - Approval of the Finance Committee Recommendations – September 3, 2019.
- 9) Mayor’s Proclamation: National Recovery Month.
- 10) Ordinance No. 19-002, 3rd & Final Reading: RMC Chapter 6.08 Article 2 Revisions: Registration of Dogs.
- 11) Police Vehicle Bid Award.
- 12) Resolution No. 1397: Local Preference Purchasing Policy.
- 13) Door to Door Solicitation Discussion.

Reports and Comments:

- 14) Council Committee Reports and Council Members’ Roundtable.
- 15) City Administrator’s Report.
- 16) Mayor’s Comments.
- 17) Executive Session – Potential Litigation.
- 18) Adjourn.

RIVERTON CITY COUNCIL
Minutes of the
Regular Council Meeting
Held August 20, 2019
7:00 PM

The regular meeting of the Riverton City Council was held on the above date and time, duly convened by Mayor Richard P. Gard at 7:00 p.m. City Council Members present were Karla Borders, Tim Hancock, Mike Bailey, Rebecca Schatza, Kyle Larson and Cory Rota. Council Member Borders led the pledge of allegiance and Council Member Rota conducted the invocation.

Roll call was conducted. Mayor Gard declared a quorum of the Council.

City Staff present: City Administrator Tony Tolstedt, City Clerk/Human Resource Director Kristin Watson, Public Works Director Kyle Butterfield, Police Captain Wes Romero, Finance Director Mia Harris, Community Development Director Eric P. Carr, and Deputy City Clerk/Administrative Assistant Megan Sims.

Approval of the Agenda – Council Member Schatza moved, seconded by Council Member Hancock to approve the agenda as presented. Motion passed unanimously.

Communication from the Floor/Response to Citizen’s Comments – None.

Consent Agenda – City Clerk/Human Resource Director Kristin Watson read the consent agenda items by title only: Approval of the Minutes – August 6, 2019 Regular Council Meeting; Approval of the Minutes – August 6, 2019 Executive Session; Approval of the Minutes – August 13, 2019 Council Work Session; Approval of the Minutes – August 20, 2019 Finance Committee Meeting; Approval of the Finance Committee Recommendations – August 20, 2019 claims to be paid in the amount of \$194,144.05, Elan credit card in the amount of \$12,090.52 and payroll / liabilities for 8/1/2019 in the amount of \$226,861.98 for a total of \$433,096.55; Ordinance No. 19-009, 2nd Reading: RMC Chapter 6.08 Article 2 Revisions, Registration of Dogs, read by title only; and an Open Container Permit Application: **Cedar Bar**, Grand Opening at 413 E Fremont St, August 31, 2019, 12:00 pm – 1:00 am. Council Member Schatza moved, seconded by Council Member Borders to approve the consent agenda as presented. Motion passed unanimously.

Public Hearing & Consideration of Fireworks Permit Application: Riverton High School – City Clerk/Human Resource Director Kristin Watson reported of a fireworks permit application submitted by the Riverton High School (RHS). Mrs. Watson stated this firework permit is for the cannon that is fired annually at RHS home football games. Council Member Hancock moved, seconded by Council Member Rota to open the public hearing open. Motion passed unanimously. RHS Activities Director Reggie Miller approached the Council regarding the firework permit application. There being no others to speak, Council Member Hancock moved, seconded by Council Member Bailey to close the public hearing. Motion passed unanimously. Council Member Rota moved, seconded by Council Member Schatza to approve the fireworks permit application for Riverton High School. Motion passed unanimously.

Consideration of Black Hills Energy Easement on Airport Property – Community Development Director Eric P. Carr reported of a request received from Black Hills Wyoming Gas, LLC d/b/a Black Hills Energy for an easement at the south edge of Parcel ID 91131310017000 to install a six-inch gas main. Council Member Hancock moved, seconded by Council Member Schatza to authorize the Mayor to sign the Black Hills Wyoming Gas, LLC – Easement for Gas Lines and Appurtenances granting a twenty (20) foot easement adjoining the south edge of Highway 26 right-of-way line through Parcel: 91131310017000. Motion passed unanimously.

Local Preference Purchasing Discussion – City Administrator Tony Tolstedt led the Council in discussion regarding the option to participate in a local preference purchasing program. Mr. Tolstedt stated the program would need to be

modified in the current purchasing policy and be approved by Council at a future meeting. Council Member Bailey moved, seconded by Council Member Schatza for the City of Riverton to move forward with the draft modifications to the purchasing policy to include local preference to Fremont County at 5%. Motion passed unanimously.

Council Member Bailey moved, seconded by Council Member Schatza to readdress the shipping container restrictions that were established through Ordinance No. 19-001 that was adopted by Council on February 19, 2019, to potentially allow more flexibility on setbacks, zoning, and ventilation in regards to the use of shipping containers as storage options in residential areas. Motion passed with Council Members Borders, Bailey, Schatza, Rota, and Mayor Gard voting aye; and Council Members Hancock and Larson voting nay.

Council Member Bailey moved, seconded by Council Member Borders to direct staff to review other zoning options in less dense areas within the City of Riverton that could be considered and/or established under rural development standards to not require curb and gutter in such areas, which would require a modification to the City's current development standards that are established through code. Motion passed unanimously.

Council Committee Reports & Council Members' Roundtable – Council Member Rota commented on the Rendezvous Games and Kickin' Trash on Thursdays at 4:00 pm; Council Member Larson reported of a public meeting to be held at City Hall on Thursday, August 22 for support of a water feature in City Park; Council Member Schatza commented on the Summer Rendezvous Games; Council Member Bailey commented on the FORCC meeting and the Airport Board meeting he attended; Council Member Hancock commented on the Solutions Committee meeting and commented on the possibilities of a residential treatment facility in Riverton; and Council Member Borders commented on the Rendezvous Games and reported on the progress of Riverton Local Food Hub Group.

City Administrator's Report – City Administrator Tony Tolstedt invited the Council and City Staff for coffee from McDonalds on August 30 at 8:30 am in the council chambers; reminded the Council of the WAM Regional meeting in Casper on September 5; and commented on a local group he met with regarding community marketing; commented on the Farmers Market and their successes.

Mayor's Comments – Mayor Richard P. Gard commented on the Rendezvous Games and thanked his team for their excellence at the games; reported on Missing and Murdered Indigenous Women meeting he attended; commented on the hospital meetings he attended; the BLM (Aethon) meeting he attended; and expressed his appreciation for the FAST Committee for their dedication to the Airport. Mayor Gard reminded the community to extend thanks to Fremont County and the City of Lander for their support at the airport and also thanked the Community Engagement Community, City Council and City Staff for a successful and seamless Rendezvous Games.

Adjourn – There being no further business to come before the Council, Council Member Larson moved, seconded by Council Member Borders to adjourn the Regular Council meeting at 8:03 p.m. Motion passed unanimously.

CITY OF RIVERTON, WYOMING

Richard P. Gard
Mayor

ATTEST:

Kristin S. Watson
City Clerk/Human Resource Director

Publication Date:



WHEREAS, recovery from mental and substance use disorders, including co-occurring disorders is an essential part of health and one’s overall wellness; and

WHEREAS, treatment and recovery services for mental and substance use disorders and co-occurring disorders is effective, and people can and do recover in our area and around the nation; and

WHEREAS, we must encourage relatives and friends of people with mental and substance use disorders and co-occurring disorders to implement preventive measures, recognize the signs of a problem, and encourage those in need of help to seek appropriate treatment and recovery support services; and

WHEREAS, to help more people with lived experience achieve and sustain recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), and the City of Riverton invite all residents of our community to participate in ***National Recovery Month***; and

NOW, THEREFORE, I Mayor Richard P. Gard, do hereby proclaim the month of September 2019, as ***National Recovery Month*** in Riverton and call upon our community to observe this month with appropriate programs, activities, and ceremonies to support this year’s ***Recovery Month*** theme, *Join the Voices for Recovery: Together We Are Stronger* and to celebrate the 30th anniversary of the ***Recovery Month*** observance.

In witness whereof I have hereunto set my hand this 3rd day of September 2019.

Signed: _____
Richard P. Gard, Mayor

Attest: _____
Kristin Watson, City Clerk/Human Resource Director

CITY COUNCIL ACTION MEMO

TO: His Honor the Mayor and Members of the City Council

FROM: Kristin Watson, City Clerk/Human Resource Director

THROUGH: Tony Tolstedt, City Administrator

DATE: August 29, 2019

SUBJECT: Ordinance No. 19-009, 3rd Reading: Riverton Municipal Code (RMC) Chapter 6.08 Article 2 Revision: Registration of Dogs.

Recommendation: That Council adopt proposed ordinance no. 19-009 – Riverton Municipal Code (RMC) Chapter 6.08 Article 2 Revisions: Registration of Dogs on *third & final* reading.

Background: Staff continually reviews City Code in an effort to ensure accuracy and transparency. On occasion, we come across code references that are conflicting or unclear.

Discussion: This proposed ordinance is being presented in order to provide clarity regarding Article II Registration of Dogs of Chapter 6.08 Dogs and Cats. In Article II, the definition that was added is conflicting to this Article, as cats are not required to be registered. Therefore, the proposed ordinance is recommending the removal of section 6.08.075, and changing all animal references in Article II to dog. In addition, this proposed ordinance re-establishes definitions for Chapter 6.08.

Ordinance No. 19-009 was adopted on first reading at the regularly scheduled council meeting on August 6, 2019.

Ordinance No. 19-009 was adopted on second reading at the regularly scheduled council meeting on August 20, 2019.

Alternatives: Council may direct staff to modify the proposed ordinances; or Council may deny the proposed ordinance.

Budget Impact: Outside of the publishing costs, there is not a budget impact as a result of adopting this ordinance.

Council Goals: This ordinance does not directly support the Council Goals; however, the clarification and further development of the Riverton Municipal Code is an ongoing objective.

PROPOSED ORDINANCE NO. 19-009

AN ORDINANCE AMENDING TITLE 6 “ANIMALS”, TO REVISE CHAPTER 6.08 “DOGS AND CATS”, ARTICLE II “REGISTRATION OF DOGS”; AND TO ESTABLISH SECTION 6.08.010 “DEFINITIONS”; OF THE RIVERTON MUNICIPAL CODE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1. 6.08.010 “Definitions”, is hereby established to read as follows:

For the purpose of this chapter, the following words shall have the meanings respectively ascribed to them by this section:

“Animal(s)” is defined as dog(s) or cat(s).

“Animal control officer” means the person employed by the city to control animals.

“At large” means any dog or cat shall be deemed to be at large when it is off the premises of its owner and not under restraint by a person physically able to control it.

“Cat” means any male or female feline.

“Dog” means any male or female canine. Where the word “dog” is used without a qualifying word, it shall be deemed and held to include both sexes.

“Noisy dog” or “noisy cat” means any dog or cat which habitually, constantly or frequently disturbs the sleep, peace or quiet of any neighborhood.

“Nuisance” means any animal which trespasses on public or private property; is at large, damages, soils, defiles or defecates on private or public property other than that of its owner; causes garbage which has previously been placed in a garbage or refuse container to be strewn or deposited on private or public property; habitually, constantly or frequently disturbs the sleep, rest, tranquility or peace of any neighborhood or person; chases pedestrians, bicyclists or motor vehicles; attacks other domestic animals; any dog or cat in heat which is not confined; any animal which creates offensive odors disturbing to any neighborhood or person, including animal waste from domestic animals that has created an offensive or foul odor, or that is unsanitary or dangerous to health.

“Owner” means any person owning, keeping or harboring a dog or cat. Any person who shall permit a dog or cat to habitually remain or to be fed in or about his premises shall be considered and be held to be the owner of such dog or cat.

“Police officer” means persons employed by the city as its enforcement officers.

“Restraint” A dog or cat is under restraint within the meaning of this chapter if it is within the property limits of its owner or keeper or under actual physical control of such owner or keeper or other person physically capable of controlling the animal.

“Vicious animal” means any animal which has attacked, menaced or bitten any person without reasonable provocation or any animal which has behaved in such a manner that the owner knows or should reasonably know that the animal is possessed of a tendency to attack, menace or bite persons without reasonable provocation.

Section 2. 6.08 “Dogs and Cats”, Article II “Registration of Dogs” is hereby amended to read as follows:

Article II. Registration of Dogs

6.08.070 Required.

It is unlawful for any person to keep or harbor any dog in the city over the age of two months unless he or she shall cause the same to be registered through the animal adoption center. The registration shall be effective for ~~three years from purchase date~~ *the duration of the current inoculation for rabies* and shall require renewal upon expiration. (Ord. 12-003 § 1, 2012; Ord. 05-013, 2005)

6.08.075 Definition.

~~—Animals. For the purposes of this section, animal(s) is defined as dog(s) or cat(s), pursuant to Section 6.08.010 of this chapter. (Ord. 05-013, 2005)~~

6.08.080 Fee.

Registration fees shall be established by the city council by resolution. (Ord. 12-003 § 1, 2012; Ord. 05-013, 2005)

6.08.100 Issuance of receipt—Entry into register.

Upon the receipt of a bona fide certificate showing that the dog for which registration is requested has, during the calendar year for which registration is requested, received an inoculation for rabies and upon the collection of the registration fee provided for by resolution by the city council, a receipt shall be issued and the ~~animal~~ *dog* for which such fee is paid shall be registered and such certificate of inoculation for rabies is presented, in a book kept for that purpose, which shall describe each ~~animal~~ *dog* by tag number, age, kind of dog, number on rabies inoculation certificate, *rabies inoculation expiration date*, and name and address of the owner or keeper. (Ord. 05-013, 2005)

6.08.110 Tags—Generally.

When a dog is registered under this article, the owner or keeper shall be given a license tag bearing the dog's registration number. Such registration tag shall be secured around the neck of the ~~animal~~ *dog* registered, and it is unlawful for any person to put upon any ~~animal~~ *dog* any tag of the kind herein required, except the one delivered for that particular ~~animal~~ *dog*. (Ord. 05-013, 2005)

6.08.120 Tags—Unlawful removal.

It is unlawful for any person, other than a police officer performing his or her duty, to remove the collar or registration tag from any dog without the consent of the dog's owner. (Ord. 05-013, 2005)

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall take effect from its adoption and publication as required by law and the ordinances of the City of Riverton.

PASSED ON FIRST READING August 6, 2019

PASSED ON SECOND READING August 20, 2019

PASSED ON THIRD READING _____

PASSED AND APPROVED this _____ day of _____, 2019.

CITY OF RIVERTON, WYOMING

By: _____
Richard P. Gard
Mayor

ATTEST:

Kristin S. Watson
City Clerk/Human Resource Director

ATTESTATION

I, Kristin S. Watson, Clerk of the City of Riverton, attest that Ordinance No. 19-009 was passed, adopted, and approved by the Governing Body of the City of Riverton on the ____ day of _____ 2019. I further certify that the above proclamation ran at least once in the Riverton Ranger, a newspaper of general circulation within Riverton, Wyoming, the effective date of publication, and therefore the effective date of enactment being _____.

Kristin S. Watson
City Clerk/Human Resource Director

CITY COUNCIL STAFF REPORT

TO: His Honor the Mayor and Members of the City Council
FROM: Brian Eggleston, Fleet and Sanitation Supervisor
THROUGH: Anthony Tolstedt, City Administrator
DATE: September 3, 2019
SUBJECT: Cooperative “Piggyback” Purchase of One (1) Police Vehicle

Recommendation: The Riverton City Council approves the purchase of one (1) 2020 Chevrolet Tahoe Police Package vehicle from Fremont Chevrolet, GMC, and Buick, in the amount of \$35,511.00, after the Carpeting and Lane Departure options were deleted.

Background: During the preparation and adoption of the 2019-2020 budget, the Riverton City Council authorized the purchase of one (1) police vehicle, at the request of the police department. The Riverton City Council budgeted \$50,000.00 for the total project, which included procurement of the vehicle, and the purchase and installation of the required law enforcement equipment.

Discussion: Wyoming State Statute requires that the purchase of any vehicle be competitively bid. The only exception to that requirement is the Governmental Entities Cooperative Purchasing clause. This allows State Agencies and/or political subdivisions within the State of Wyoming the ability to purchase vehicles based off a competitive bid from another government entity.

In the case of the police vehicle, the Wyoming Department of Transportation began soliciting bids for ten (10) 2020 Chevrolet Tahoe, Police Package vehicles for the Wyoming Highway Patrol in July 2019. The bid was awarded during the August 15, 2019, Wyoming Transportation Commission meeting to Fremont Chevrolet, GMC, and Buick of Riverton, Wyoming. The following is the breakdown of that competitive bid:

VENDOR	TOTAL BID	UNIT PRICE
Fremont Chevrolet	\$362,910.00	\$36,291.00
Fremont Chevrolet	After Options Removal	\$35,511.00
Teton Motors	\$366,163.60	\$36,616.36
Bob Ruwart Motors Inc.	\$395,000.00	\$39,500.00
John Elway Chevrolet-Colorado	\$387,500.00 + \$19,375.00 (Out of State Bid)	\$38,750.00

Staff proposes the City of Riverton utilize the Governmental Entities Cooperative Purchasing clause in order to procure one (1) budgeted police vehicle.

Budget Impact: \$50,000.00 is budgeted for the purchase of the police vehicles. This budget includes the procurement of the vehicles and the addition of all necessary law enforcement equipment. The vehicle purchase will total \$35,511.00. The cost of up-fitting (law enforcement equipment) is estimated to be

\$10,962.50 minus decaling. That would bring the total to \$46,473.50. This will leave a remainder of \$3,526.50 to cover the cost of decaling the vehicle, and incidental expenses related to the installing of the law enforcement equipment.

CITY COUNCIL STAFF REPORT

TO: His Honor the Mayor and Members of the City Council
FROM: Anthony Tolstedt, City Administrator
DATE: August 30, 2019
SUBJECT: Local Purchasing Preference Discussion

Recommendation: That Council approve the local preference policy as provided.

Background: At the regular Riverton City Council meeting on 3/5/2019, Council approved minor modifications to the purchasing policy. During discussion there was some question as to how a local purchasing preference would work and if it were allowable by law. Staff was directed to determine if and how such a policy would work. As such, Staff inquired into existing policies and law associated with the development of such a policy.

Debernardi v. Green River held that the only preference available was the State preference. However, the Wyoming Supreme court has over ruled that decision. In the case of *Western Wyoming Construction v. Sublette County*, the Court held that the State preference only applied to instate vs. out of state contractors. It did not apply when there were two in state contractors. In that case the Court allowed Sublette County to give a local preference to a Sublette County contractor over a Fremont County contractor. The one item was that there had to be a policy in place and that said policy was required to state the preference amount. Such policy cannot simply state a preference, as that would allow for arbitrary and capricious decisions. Therefore, the policy would need to state what the preference is in a quantative manner and what qualifies a business for that consideration.

At the regular City Cocunil meeting on 8/20/2019, Council directed Staff to prepare a proposed policy change which would allow for the application of a local preference. The parameters were denoted as a 5% preference and a geographical boundry defined as within the borders of Fremont County.

Discussion: The proposed change would modify the City of Riverton Purchasing Policy by a local preference for businesses located within Fremont County. The policy is prepared as directed with a 5% preference being applied. The policy also provides for the calculation method of the preference and appropriate exceptions.

Alternatives: Council may modify the proposed parameters of a policy or reject the policy.

Budget Impact: While the budgetary impact cannot be quantified at this time, it is expected that the implementation of a local purchasing preference would have the potential to increase cost on certain items when compared to other bids that would not receive a local preference. This is especially true when considering large projects such as 1% projects where bid amounts can exceed a million dollars.

Council Goals: The provided discussion does not directly apply to any of the adopted goals. However, development of policies and procedures specific to the City of Riverton aid in the effective and efficient operation of the City.

RESOLUTION NO. 1397

A RESOLUTION ADOPTING AN ADDENDUM TO THE CITY OF RIVERTON WYOMING PURCHASING PROCEDURES.

WHEREAS, the City Council of the City of Riverton, Wyoming, passed and approved a “City of Riverton, Wyoming Purchasing Procedures,” by Resolution No. 892 at the regular meeting of said City Council on February 6, 2001; and

WHEREAS, the “City of Riverton, Wyoming Purchasing Procedures” was amended by minute action on March 5, 2019; and

WHEREAS, the City Council of the City of Riverton, Wyoming, desires to amend the recently adopted “City of Riverton, Wyoming Purchasing Procedures” to include Local Purchasing Preference language as reflected in Exhibit A to be included in the “City of Riverton, Wyoming Purchasing Procedures”;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIVERTON, WYOMING, THAT the “City of Riverton, Wyoming Purchasing Procedures” is hereby amended to include a Local Purchasing Preference and shall be effective as herein provided and shall rescind any communications or documents pertaining to the investing by the City of Riverton heretofore.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2019 by the City Council of the City of Riverton, Wyoming.

CITY OF RIVERTON, WYOMING

By: _____
Richard P. Gard, Mayor

ATTEST:

Kristin S. Watson, City Clerk/Human Resource Director

EXHIBIT 'A'

Policy:

Whenever bids or informal quotes are solicited, award shall be made to the local bidder making the lowest responsible bid if such bid is not more than five percent (5%) higher than that of the lowest responsible non-local bidder and provided that articles bid are not of inferior quality to those offered by competitors outside of the defined local preference designation.

Procedure:

1) *Applying Local Preference:*

A local business shall be defined as a business whose principal business office, or a satellite office with at least one full-time employee, is located within Fremont County. Suppliers seeking recognition of local status will be required to sign a statement that the supplier meets the above qualifications either in the purchase order or other document.

2) *Calculation of preference:*

After bids are solicited and tabulated, each out-of-state bid is increased by 5% for the purpose of determination of award only. All bids are reviewed to determine the lowest responsible bid complying with specifications. Award is made to the lowest responsible bidder.

3) *Exceptions:*

- a) In cases where Federal or State policies or law prohibit the application of a local preference policy as provided for herein, the policy shall not be applied.
- b) The local preference provided for herein shall not be in addition to any other preference which may be applied.

CITY COUNCIL ACTION MEMO

TO: His Honor the Mayor and Members of the City Council
FROM: Anthony Tolstedt, City Administrator
DATE: August 30, 2019
SUBJECT: Door to Door Solicitation

Recommendation: That Council direct staff as to the further development of the Riverton Municipal Code (RMC).

Background: At the meeting on 8/20/2019, Staff was asked to look into the further development of RMC 5.28.010 which denotes:

It is unlawful for any person to enter upon the premises of another with the intent to sell merchandise, either from stock or by order, when such property is posted with a sign prohibiting solicitation. This section shall not apply if entry is made by prior appointment or a contractual relationship between the person and the owner exists which allows for entry, or to the use of door hangers as a means of communication. (Ord. 13-011 § 1, 2014)

The request was made in light of information being provided to Council that members of the community were having some difficulties with certain door to door solicitors.

Discussion: At this time, Staff has discussed the matter and does not feel that the modification of the existing ordinance to provide for a permitting process is necessary. It is the general recommendation of Staff that the City use social media to provide for further education as to the existing ordinance and the ways in which door to door solicitations may be restricted prior to redevelopment of the code. If these efforts are not useful or incidents increase in frequency, the recommendation would likely change and the matter would be brought back to the Council for further consideration.

In an effort to educate as to the extent such a process could be implemented, sample language is provided. Should Council wish to implement such a permitting process, Staff would likely use the provided language as a basis for development of the policy.

Alternatives: Council may direct staff to modify the existing RMC as desired.

Budget Impact: If Council directs staff to implement a more defined and developed process by which door to door solicitors are permitted, there will be additional staff time and potential costs associated with the implementation of such a process. The extent and impact to those impacts are unknown as such a change has not been defined at this time.

Council Goals: The modification does not align with any particular goal but does support the ongoing goal to develop the RMC.

Chapter 5.20 - DOOR TO DOOR SOLICITATION^[3]

Footnotes:

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Editor's note— Ord. No. 939, § 1, adopted August 26, 2013, repealed ch. 5.20, §§ 5.20.010—5.20.114 and §§ 2—17 enacted a new ch. 5.20, §§ 5.20.010—5.20.170. Former ch. 5.20 pertained to transient merchants, and was derived from Ord. 534 (part), adopted 1994; Ord. 560, adopted 1996; Ord. 565 (part), adopted 1996; Ord. 575, adopted 1997; Ord. No. 857, adopted July 27, 2009; Ord. No. 862, adopted September 28, 2009; Ord. No. 879, § 1, adopted April 26, 2010.

5.20.010 - Purpose.

The provisions of this chapter are intended to balance the First Amendment rights of door-to-door solicitors in the city with the privacy, safety, health and welfare of the city residents by:

- A. Requiring all commercial solicitors to conduct any door-to-door solicitation within the city pursuant to a permit issued by the city;
- B. Reasonably limiting the hours of door-to-door solicitation activities; and
- C. Prohibiting all door-to-door solicitations at residences where the owner or occupant has prohibited solicitation in a manner consistent with the provisions of this chapter.

(Ord. No. 939, § 2, 8-26-2013)

5.20.020 - Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

- A. "*Applicant*" shall mean any person or entity who has submitted an application for a permit.
- B. "*Commercial solicitor*" shall mean any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.
- C. "*Door-to-door commercial solicitation*" shall mean attempting to make personal contact with any person at his residence, without prior invitation by or appointment with the resident, for the primary purpose of:
 1. Attempting to sell, for present or future delivery, any goods, wares or merchandise, newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he is collecting advance payments for such sales and services;
 2. Seeking or attempting to obtain contributions of money or any other thing of value for the benefit of any association, organization, corporation, or program, excluding those defined under door-to-door non-commercial solicitation;

3. Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.
- D. *"Door-to-door non-commercial solicitation"* shall mean attempting to make personal contact with any person at his residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:
1. Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c);
 2. Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c);
 3. Personally delivering to the resident a handbill or flyer advertising a future not-for-profit event, activity, good or service;
 4. Distribution of religious tracts and information on behalf of a religious organization;
 5. Door-to-door canvassing and pamphleteering as a vehicle for the dissemination of ideas, or views or opinions by one (1) engaged in political activities as a candidate or on behalf of a candidate in a recognized federal, state or local election, or on behalf of an issue on an upcoming ballot.
- E. *"Door-to-door solicitation permit"* shall mean a document issued by the city authorizing a commercial solicitor to engage in door-to-door commercial solicitation.
- F. *"Employer"* shall mean any person, company, corporation, business, partnership, organization, or any other entity on behalf of whom a person is acting.
- G. *"No commercial solicitors"* or *"no commercial solicitation" sign* shall mean a prominently displayed sign that is exhibited on or near the main entrance to the premises or on or near the main door to any residence, stating "no commercial solicitors" or "no commercial solicitation" and applies only to commercial solicitation.
- H. *"No solicitors"* or *"no solicitation" sign* shall mean a prominently displayed sign that is exhibited on or near the main entrance to the premises or on or near the main door to any residence, stating "no solicitors" or "no solicitation" and applies to all form of solicitation.
- I. *"No solicitation list"* shall mean a list of the addresses of city residents who have requested that their residences be placed on a list maintained and published by the city for the purpose of informing prospective solicitors that door-to-door solicitation at such addresses are prohibited.
- J. *"Non-commercial solicitor"* shall mean any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door non-commercial solicitation.
- K. *"Permit holder"* shall mean any person to whom a permit has been issued under the provisions of this chapter.

- L. "*Person*" shall mean a natural person or business entity, such as, without limitation, corporation, association, firm, joint venture, estate, trust, business trust, partnership or any group or combination thereof.
- M. "*Public entity*" shall mean the state, county, municipality, school district, special improvement district, and any other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.
- N. "*Residence*" shall mean a private residence in the city, including but not limited to condominium units and apartments, and shall include the yards, grounds or hallways, thereof.

(Ord. No. 939, § 3, 8-26-2013)

5.20.030 - Solicitation prohibited.

- A. No person shall engage in commercial solicitation upon any premises without prior invitation from the occupant thereof if such premises is posted with a notice prominently displayed upon which is printed "no commercial solicitors" or "no commercial solicitation". For the purposes of this subsection, a dwelling house or apartment or other residence will be deemed to be posted against solicitation if the above notice is exhibited on or near the main entrance to the premises or on or near the main door to any residence located thereon.
- B. No person shall engage in any form of solicitation upon any premises without prior invitation from the occupant thereof if such premises is posted with a notice prominently displayed upon which is printed "no solicitors" or "no solicitation". For the purposes of this subsection, a dwelling house or apartment or other residence will be deemed to be posted against solicitation if the above notice is exhibited on or near the main entrance to the premises or on or near the main door to any residence located thereon. This provision shall apply to all solicitation including, without limitation, activities that are religious, charitable, non-profit, or political and all solicitation of newspaper or magazine subscriptions.

(Ord. No. 939, § 4, 8-26-2013)

5.20.040 - No-solicitation list for commercial solicitations.

- A. Any owner or lawful occupant of any residence within the city who wishes to prohibit door-to-door commercial solicitation at his or her residence may register the address of such residence with the city by completing a form prepared by the city clerk which may be submitted to the city clerk either in person, by mail, or on the city's website. Such registration shall take effect ten (10) business days after the date of the city's receipt of the registration form.
- B. The city shall maintain and publish a no-solicitation list consisting of all residential addresses that have been registered herein and that have not been deleted by the city herein or by the owner or lawful occupant of the registered property. Each permit holder shall be

responsible for obtaining and reviewing a copy of such list immediately upon issuance of a permit under this chapter and at such intervals thereafter as may be reasonably necessary to ensure compliance with the requirements of this section.

- C. As of the effective date of the registration of a residential address under subsection A., all door-to-door commercial solicitation at such address shall be prohibited until such time, if at all, that the address has been deleted from the no solicitation list.
- D. Each residential address appearing on the city's no-solicitation list will remain on the list for five (5) years from the date it was submitted to the city, at which time it shall be deleted from the list unless a new form requesting no solicitation at such residence has been submitted by the owner or lawful occupant thereof. .
- E. Prior to the expiration of the five (5) year period referenced in subsection D., the owner or lawful occupant of any residence appearing on the no solicitation list may cause such residence to be removed from the list by submitting a written request for removal of the same to the city clerk.
- F. Neither the city nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages or liabilities of any kind arising from or relating to any errors or omissions that may occur in compiling and maintain the no-solicitation list.

(Ord. No. 939, § 5, 8-26-2013)

5.20.050 - Commercial solicitation permit required.

It shall be unlawful for any person to engage in door-to-door commercial solicitation activities within the city without first obtaining a door-to-door solicitation permit issued by the city. Unless authorized or permitted pursuant to the terms and provisions of this chapter, the practice of being in and upon private residential property within the city by solicitors for the purpose of commercial solicitation, the same is prohibited and is punishable as set forth in this chapter.

(Ord. No. 939, § 6, 8-26-2013)

5.20.060 - Exemptions.

- A. Any solicitor previously invited by the owner or occupant of the private residential property is exempt from the prohibitions under Sections 5.20.030 and 5.20.050. Such invitation shall not relieve the commercial solicitor from complying with all other terms and provisions of this chapter including the requirement to obtain a door-to-door solicitation permit.
- B. Those persons engaged in non-commercial solicitation as defined herein, are not required to obtain a door-to-door solicitation permit.

(Ord. No. 939, § 7, 8-26-2013)

5.20.070 - Possession and display of license.

Every person permitted pursuant to this chapter must at all times possess and display their door-to-door solicitation permit in a conspicuous place while soliciting, and shall produce the same whenever requested to do so by a police officer or other person.

(Ord. No. 939, § 8, 8-26-2013)

5.20.080 - Door-to-door solicitation restrictions.

- A. No person will engage in solicitation upon any residential premises after having been asked by the owner or occupant thereof to leave such premises or residence.
- B. There will be no solicitation upon any residential premises, other than upon prior invitation by the occupant, prior to ten (10:00) a.m. or after seven (7:00) p.m., of any day.
- C. Not more than two (2) individuals will engage in solicitation upon any residential premises at the same time for the same goods or merchandise, services, or for religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision will be deemed to have violated such provision.
- D. Every person engaged in solicitation shall, at the time of initial contact with a prospective customer or donor, immediately identify himself and truthfully state the purpose of the solicitation.
- E. Each person issued a permit shall conduct himself or herself at all times:
 - 1. In a quiet, orderly and lawful manner;
 - 2. Enter within any home only upon being expressly invited to do so by an occupant thereof;
 - 3. Leave any premises immediately upon the request of any occupant or owner of same;
 - 4. Give a written and signed detailed receipt for all payments received by him/her stating the amount of the payment, a description of goods, wares or merchandise and/or services for which said payment was made, the applicable sales tax and the total of all charges made or to be made in connection with the same and when and in what amounts any additional payments are to be made; and
 - 5. Remove any waste or trash made by solicitor.
 - 6. No person licensed under this chapter shall shout, make any outcry, blow a horn or use any sound device, including any loud-speaking radio or sound amplifying device for the purpose of attracting attention to any goods, wares or merchandise which the person proposes to sell, without specific written authorization by city.

(Ord. No. 939, § 9, 8-26-2013)

5.20.090 - Application contents; fees.

- A. Each person applying for a door-to-door solicitation permit shall submit written application under oath on forms provided by the city with payment of the permit fee in the amount of two hundred dollars (\$200.00), to the city clerk to defray the costs of processing the application and costs for identification badge(s) for applicant(s). Said fees shall be nonrefundable. The applicant shall state upon oath or affirmation that the information contained in the application is truthfully provided to the best of their knowledge and belief.
- B. The applicant shall supply the following information and any such additional information that the city may include upon the application form:
1. Applicant's true and correct name, and any former names or aliases;
 2. Applicant's business address and business telephone number;
 3. If different from the applicant, the name, address and phone number of the responsible person or entity;
 4. The name, address and phone number of the applicant's immediate supervisor, if any;
 5. Information regarding the business including, without limitation, its legal status and proof of registration with, or a certificate of good standing from the Wyoming Secretary of State;
 6. Proof the applicant or the applicant's company has registered with the state department of revenue for the payment of sales tax;
 7. Proof that the applicant or the applicant's company has obtained a valid city contractor's license, if required, in accordance with Title 5 of this Code.
 8. A brief explanation of the nature and duration of the solicitation activity that requires a permit under this ordinance;
 9. Whether a permit, license or registration in connection with soliciting has ever been revoked by any jurisdiction and an explanation of the circumstances;
 10. A complete list of all persons to be authorized to solicit under the permit;
 11. For each person authorized to solicit under a permit, the following information:
 - a. Name, address, phone number and date of birth;
 - b. A current copy of the person's criminal background check as maintained by the state bureau of investigation, and five (5) year driver's history from the state department of transportation dated no more than sixty (60) days prior to the date of the application;
 - c. A description of the individual, including height, weight, color of eyes and color of hair;
 - d. Proof of identification by submittal of any of the following that bear a photograph of said person:
 - i. A valid U.S. driver's license or identification card issued by any state;
 - ii. A valid U.S. uniformed service identification card;
 - iii. A valid U.S. passport and work Visa; or

- iv. U.S. Citizenship and Immigration Services Green Card.
 - 12. A description of all vehicles that the applicant will use and license plate number; and
 - 13. Any other information determined to be relevant by the administrative official.
- C. Each applicant shall provide to the city liability insurance in which the city is named an additional insured to cover any and all incidents that may occur as a result of this door to door solicitation. The insurance shall be comprehensive liability to cover any and all potential claims. Said insurance shall be an amount not less than five hundred thousand dollars (\$500,000.00) to one million dollars (\$1,000,000.00) in coverage.
- D. Applicants who require cash deposits or advance payments for future delivery of goods or for services to be performed in the future or who require an agreement to finance the sale of goods for future deliver or for services to be performed in the future, shall furnish to the city in addition to liability insurance a bond in the amount of ten thousand dollars (\$10,000.00), signed by a surety company authorized to do business in the state and conditioned that the applicant shall comply fully with all the ordinances of the city and guaranteeing any citizen of the city that the property purchased will be delivered according to the representations of the solicitor. Action on such bond may be brought in the name of the city for use by the city for aggrieved person or persons.
- E. Neither the city nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages or liabilities of any kind arising from or relating to any errors or omissions that may occur in the issuance of a door to door solicitation permit to an applicant.
- F. No person licensed under this chapter shall imply that having such permit constitutes an endorsement or recommendation of the city.

(Ord. No. 939, § 10, 8-26-2013)

5.20.100 - Commercial permit holder responsibilities.

- A. Any person seeking to engage in door-to-door commercial solicitation must obtain a door-to-door solicitation permit from the city and pay the permit fee as provided in this chapter before commencing any such solicitation.
- B. All door-to-door solicitation permits shall be issued in the name of the applicant. Upon issuance of each permit, the city shall create and maintain a list of all persons authorized to engage in commercial solicitation under the permit. It shall be the sole responsibility of the permit holder to:
- 1. Provide a copy of the permit to each person authorized to engage in solicitation under the permit;
 - 2. Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and with the provisions of this chapter;
 - 3. Notify the city clerk in writing of any persons added to or deleted from the list of authorized solicitors; and,

4. Submit to the city clerk, for each person to be added to such list, the information required under Section 5.20.090(b)(11).
- C. The city shall, within ten (10) business days of the city's receipt of a complete application for a permit under this chapter, issue such permit, together with identification badges for all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the city determines that the permit application is denied under the criteria stated in Section 5.20.100. The identification badges shall contain a photograph of the solicitor, bearing the words "permitted solicitor," include the names of the employer and solicitor, and the expiration date of the permit. Should solicitor misplace such identification badge, the city will not reissue a badge and solicitor will not be authorized to engage in door-to-door commercial solicitation under the permit.
- D. Applicant shall agree to hold the city harmless and indemnify city from and against all claims, demands, costs, losses, damages, injuries, litigation and liability arising out of or related to activity of the applicant, or applicant's agents, employees, or contractors related to such permit.

(Ord. No. 939, § 11, 8-26-2013)

5.20.110 - Persons prohibited.

A person shall not be eligible for issuance of a permit nor be authorized under a permit under this chapter if:

- A. A permit previously issued to such person by the city under this chapter has been revoked by the city under Section 5.20.120 herein; or
- B. Such person and/or applicants have been convicted of a felony or high misdemeanor under the laws of the state, or an equivalent offense under any federal, state, county or municipal law.

(Ord. No. 939, § 12, 8-26-2013)

5.20.120 - Denial or revocation of a permit.

The city shall deny an application for a permit, refuse to renew a permit or revoke a permit issued under this chapter if the city determines that the applicant has:

- A. Made any material misrepresentation or false statement in the application for the permit or any renewal application, including, without limitation representations made as to the criminal history of any person to be authorized to solicit under the permit;
- B. Failed to notify the city if any person authorized to solicit under the permit, including the applicant, becomes a prohibited person as outlined in Section 5.20.110 herein, after the issuance of the permit.
- C. Failed to obtain necessary licenses as required by the state or city, including but not limited to a state sales and use tax license, or a city contractor's license;

- D. Been convicted of a felony or high misdemeanor under the laws of the state or an equivalent offense under any federal, state, county or municipal law.
- E. Failed to conduct and/or supervise solicitation activities under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this chapter; or,
- F. Authorized, condoned or knowingly tolerated any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

(Ord. No. 939, § 13, 8-26-2013)

5.20.130 - Permit term.

Unless otherwise revoked under Section 5.20.120 herein, a door-to-door solicitation permit shall be valid for one (1) year, effective from the date of issuance.

(Ord. No. 939, § 13, 8-26-2013)

5.20.140 - False or deceptive representation prohibited.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement.

(Ord. No. 939, § 14, 8-26-2013)

5.20.150 - Transfer of permits prohibited.

No permit issued pursuant to this chapter shall be transferred to any person.

(Ord. No. 939, § 15, 8-26-2013)

5.20.160 - Appeal.

An applicant may appeal any decision relating to his or her permit by the city to the council. The council's decision shall be final and nonappealable.

(Ord. No. 939, § 16, 8-26-2013)

5.20.170 - Violations and penalties.

In addition to the revocation, suspension or denial of a permit or identification badge issued by the city, it is a misdemeanor for any person to violate any of the provisions of this chapter, and upon conviction thereof shall, if a penalty is not otherwise specified, be punished by a fine of not more than seven hundred fifty dollars (\$750.00), to which court costs shall be added. In situations found appropriate by the trial court restitution may also be required.

(Ord. No. 939, § 17, 8-26-2013)