CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2005-177

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING SAMMAMISH MUNICIPAL CODE SECTION 5.05.090 TO MAKE CERTAIN VIOLATIONS BY PEDESTRIANS A CIVIL INFRACTION; AMENDING SAMMAMISH MUNICIPAL CODE SECTION 5.05.030 TO REQUIRE PEDESTRIANS TO SHOW THEIR BUSINESS LICENSE PRIOR TO SALE; AND AMENDING SAMMAMISH MUNICIPAL CODE SECTION 5.05.040 TO EXEMPT FUNDRAISING SALES CONDUCTED BY NONPROFIT AND NOT FOR PROFIT ORGANIZATIONS FROM LICENSING FEES

WHEREAS, Chapter 5.05 of the Sammamish Municipal Code ("SMC") provides for the regulation and licensing of businesses operating within the City, including door-to-door salespeople who are defined as "peddlers" under SMC Chapter 5.05; and

WHEREAS, a number of unlicensed peddlers currently operate within the City; and

WHEREAS, SMC 5.05.090 currently makes all violations of Chapter 5.05 a criminal misdemeanor; and

WHEREAS, the purpose of regulating businesses within the City, as stated in SMC 5.05.010, is to maintain "current information with respect to business, trade, service, commercial and professional activities carried on within the City" for the purpose of protecting the public health, safety, and welfare; and

WHEREAS, the City Council finds that imposing a civil infraction, rather than a criminal misdemeanor, on unlicensed peddlers who are able to provide identification to the investigating officer, would serve the purpose of SMC Chapter 5.05 while allowing for more efficient allocation of law enforcement resources; and

WHEREAS, the City Council finds that requiring peddlers to show a valid City of Sammamish business license to prospective customers would help the public identify unlicensed peddlers; and

WHEREAS, the City currently exempts nonprofit and not-for-profit organizations from paying a business licensing fees for most of their activities, but SMC Chapter 5.05 does require them to pay the licensing fee to conduct fund raising sales, such as the sale of cookies, candy, and other similar items; and

WHEREAS, the City Council finds that fund raising sales conducted by nonprofit and not-for-profit organization should be exempt from business licensing fees,
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. SMC 5.05.090 Amended. Section 5.05.090, Enforcement, of the Sammamish Municipal Code is hereby amended to read as follows:

5.05.090 Enforcement.

1. Collection. The license fee and all penalties imposed under this chapter shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other existing remedies. Any judgment entered in favor of the City shall include an award to the City of all court and collection costs including attorney’s fees. Amounts delinquent more than 90 days may be assigned for collection, in which case the amount of any collection charges shall be in addition to all other amounts owed.

2. Criminal Penalties. It shall be a misdemeanor when any person:

   a. It shall be a misdemeanor for any person to engages in non-peddler business within the City without first obtaining or renewing a business license or to fails to comply with any provision of this chapter;

   b. It shall be a misdemeanor for any person to makes any false representation in connection with an application for a business license.

   c. Except as set forth in subsection (2)(e), below, it shall be a misdemeanor for any peddler to engage in business within the City without first obtaining or renewing a business license or for any peddler to fail to comply with any provision of this chapter.

   d. A second or subsequent violation of subsections (2)(a), (b), or (c) of this section offenses shall be a gross misdemeanors.

   e. It shall be a civil infraction with a penalty of up to $1000.00 for a peddler to conduct business without a valid business license or license application in his or her possession as required under SMC 5.05.030(2) if that peddler has in his or her possession federal, state, or local government-issued identification from which an officer can ascertain the peddler’s identity. A second or subsequent violation of this subsection within one year of a first violation shall be a gross misdemeanor.

   f. Persons employing or supervising peddlers who violate subsection (2)(c) or (2)(e) of this section shall be deemed to be in violation of those subsections as well.
Section 2. SMC 5.05.030 Amended. Section 5.05.030, License required - Exceptions, of
the Sammamish Municipal Code is hereby amended to read as follows:

5.05.030 License required - Exceptions.

1. Except as provided in subsection (3) (4) of this section, every person who
engages in business within the City, and who is required to register with the state
of Washington as outlined in WAC 458-20-101, shall apply for and obtain from
the director a license for each calendar year or portion thereof; provided,
organizations meeting the requirements of SMC 5.05.040(3)(a) are not required to
obtain a business license, but instead shall register with the City Clerk.

2. Every business shall post the license issued to the business pursuant to this
chapter on the premises of the business. Every transient merchant, peddler or
street peddler shall have in his or her possession at all times, while conducting
business as such, the license issued pursuant to this chapter or a copy of the
completed license application with proof of payment.

3. Every peddler shall produce the license issued pursuant to this chapter or a
copy of the completed license application with proof of payment prior to
conducting any sale or solicitation.

3-4. The following shall be exempt from the licensing provisions of this chapter:

a. The performance of governmental or proprietary functions by
any instrumentality of the United States, the state of Washington,
or any political subdivision thereof;

b. Sales by farmers or gardeners of their own farm products raised
and grown exclusively upon lands owned or occupied by them;

c. Casual and isolated sales, including garage sales conducted on
residential premises in compliance with this code; provided, that
not more than four such sales are made during the calendar year;

d. The delivery of goods by vehicle to a customer or client by a
business where the sale occurred on a business premises outside of
the City and the only event occurring within the City is a delivery;

e. Taxi, limousine, airporter, or similar services where the
business operates from premises located outside the City;

f. Sales of goods or services by mail, telephone, Internet or similar
means where the seller operates from premises located outside the
City and the only event occurring within the City is receipt of such
goods and services;
g. Provision of Internet or wireless phone services where the provider operates from premises located outside the City and the only event occurring within the City is receipt of such services;

Section 3. SMC 5.05.040 Amended. Section 5.05.040, License fee, of the Sammamish Municipal Code is hereby amended to read as follows:

5.05.040 License fee.

1. A business license fee shall be paid to the City in an amount set by resolution of the City council.

2. The license fee shall be in addition to any license fee or tax imposed or levied under any law or other ordinance of the City, except as otherwise expressly provided.

3. The following shall be exempt from payment of fee:
   a. Nonprofit and not-for-profit activities and fundraising sales carried on by religious, charitable, educational, benevolent, fraternal or social organizations which have been determined by the Internal Revenue Service (IRS) of the United States to be exempt from the payment of income tax and whose charitable contributions would be deemed tax deductible; provided, that the organization shall file a true and correct copy of a current IRS 501(c) or 501(d) exemption certificate. Such organizations shall register with the City clerk.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19th DAY OF APRIL 2005.

CITY OF SAMMAMISH

[Signature]
Mayor Donald J. Gerend
ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk: March 25, 2005
First Reading: April 5, 2005
Passed by the City Council: April 19, 2005
Date of Publication: April 23, 2005
Effective Date: April 28, 2005