

## NOTICE OF PUBLIC HEARING

Notice is hereby given, in accordance with Idaho Code 63-1311A, of a public hearing to be held by the Fruitland City Council at Fruitland City Hall, 200 S. Whitley Drive, Fruitland, ID on April 11, 2022 at 7:00 P.M., or as soon thereafter as may be heard, to consider public comment regarding a proposal to amend Title 3, Chapter 6 of Fruitland City Code requiring criminal background checks on peddlers and solicitors, and implementing a new fee. The purpose of the fee is to reimburse the fees incurred from the Idaho State Police with an additional \$10.00 City administrative fee. Citizens are encouraged to provide written and oral testimony. The proposal may be reviewed at Fruitland City Hall during regular business hours, 8AM-5PM, Monday-Friday or online at [www.fruitland.org](http://www.fruitland.org).

Suzanne Percy, City Clerk

ORDINANCE NUMBER 691

AN ORDINANCE OF THE CITY OF FRUITLAND IN PAYETTE COUNTY, IDAHO, AMENDING TITLE 3, CHAPTER 6, FRUITLAND CITY CODE; WHICH PROVIDES REGULATIONS FOR PEDDLERS AND SOLICITORS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, the Fruitland City Council has determined that it is in the public's best interest to provide additional regulations for peddlers and solicitors to protect the health and safety of the public; and,

WHEREAS, the City Council desires to amend Title 3, Chapters 6, to provide for such regulations.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Fruitland, Idaho:

**SECTION 1.** That the following revisions be made to Title 3, Chapter 6 of the Fruitland Municipal Code, a new subsection E. shall be added to Code Section 3-6-5, to read as follows:

E. Prior to issuing the license for a peddler or solicitor, the City shall conduct a background check to determine if the applicant's criminal record, if any, presents a danger to the public. The applicant shall be required to pay for the background check by reimbursement of the fees incurred from the Idaho State Police with an additional \$10.00 City administrative fee.

**SECTION 2. REPEALER CLAUSE.** All City of Fruitland ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of Fruitland this 11th day of April, 2022.

CITY OF FRUITLAND, IDAHO

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Brian Howell, Mayor

ATTEST:

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Suzanne Percy  
City Clerk

## CHAPTER 6

### PEDDLERS AND SOLICITORS

#### SECTION:

#### 3-6-1: Definitions

#### 3-6-2: Applications

#### 3-6-3: License Required

#### 3-6-4: License Nontransferable

#### 3-6-5: License Fees

#### 3-6-6: Violation, License Seizure

#### 3-6-7: Prohibited Acts

#### 3-6-8: Right To Cancel Purchases

#### 3-6-9: Penalty

#### 3-6-1: DEFINITIONS:

**PEDDLER:** Any person who goes from house to house, from business to business, from street to street, without invitation, carrying, conveying, selling or transporting any merchandise, wares, goods, services, products or provisions, including any food products, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same from a motor vehicle or a temporary or transportable platform. The word "peddler" shall include itinerant merchant or itinerant peddler.

**SOLICITOR:** Any person who goes from place to place, from house to house, from business to business, from street to street, taking or attempting to take orders, without invitation, for sale of wares, merchandise or any personal property of any nature whatsoever, for future delivery, or for services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sales or whether he is collecting advance payment on such sales or not.

The words peddler and solicitor include any agent, employee, trainee, or any other person who acts on behalf of, either directly or indirectly, a person who is a peddler or a solicitor. (Ord. 602, 8-10-2015)

#### 3-6-2: APPLICATIONS:

Applications for licenses by solicitors and peddlers shall be made to the city clerk or to his designee, and shall be sworn in writing and shall contain the following information:

- A. Name of applicant;
- B. Permanent address of applicant;
- C. Temporary address of applicant, if any;
- D. A brief description of the nature of the business to be conducted and the goods to be sold, and if the goods are farm or orchard products, a statement as to the point of origin for the product;

- E. If the products are imported into the state from an area outside the state, the person receiving the application may require a certificate that the product is disease free, insect free, properly fumigated and will in no way spread any disease, fungi, bacteria, insect or animal illnesses or diseases of any kind;
- F. A statement as to whether the applicant is self-employed or working for an employer;
- G. If the applicant is selling goods for another, a statement as to whom the owner of the goods are;
- H. A statement that in the event that the product causes any damage to any resident of the city, the applicant acknowledges the jurisdiction of the Idaho courts to resolve any disputes;
- I. The length of time for which the license requested shall be needed;
- J. A description of the vehicle to be used in the solicitation or peddling, together with the license number thereof;
- K. A statement as to whether or not the applicant or applicant's employer has been convicted of any crime in violation of any consumer protection laws or of any peddler's or solicitor's ordinances. (Ord. 602, 8-10-2015)

### **3-6-3: LICENSE REQUIRED:**

No person shall engage in, prosecute or carry on any business, as defined by section 3-6-1 of this chapter, either as a principal, an agent of, an employee of, a trainee of, or either directly or indirectly on behalf of a person who is defined as a "peddler" or "solicitor", without first obtaining a license and paying the required fee. The following organizations are exempt from payment of license fees:

- A. Nonprofit organizations soliciting funds on their own behalf wholly for charitable or nonprofit purposes.
- B. Any for profit organization which is peddling or soliciting for profit and sharing that profit with a nonprofit organization shall be subject to this section. (1984 Code § 3-6-3)

### **3-6-4: LICENSE NONTRANSFERABLE:**

No license issued or granted by the city shall in any manner be assignable or transferable or authorize any person other than the one therein named to do business or authorize any other business than is therein mentioned to be done or authorize the transaction of such business at any other place than is specified in the license. (1984 Code § 3-6-5)

### **3-6-5: LICENSE FEES:**

- A. A license will be issued for a specified period and a license fee will be charged as set in accordance with a fee schedule enacted by a resolution adopted by the city council, as the same may be changed from time to time by future resolutions of the city council. Payment for the licenses shall be made upon filing of the application with the proper authority and shall be made in lawful currency of the United States. (Ord. 602, 8-10-2015)
- B. By accepting a fee and issuing a license, the city does not assume any liability for any actions or any conduct engaged in by the licensee. The city, nor any of its employees, shall endorse any products or services sold by any licensees and the city, employees of the city and any licensees shall not represent to any person that the city has any interest in any business carried on by the licensee.
- C. All applicants for licenses shall post with the city clerk at the time of application, a general liability bond, a peddler's bond, a permit bond or an itinerant peddler bond in the amount of two

thousand five hundred dollars (\$2,500.00), to cover any and all damages which may be incurred by the city or members of the public, but for the presence of the licensee.

D. Transient auctioneers or auctioneers holding nonrecurring sales who have been hired to conduct an auction for a private homeowner shall not have to post a general liability bond, a peddler's bond, a permit bond or an itinerant peddler bond. (Ord. 573, 10-14-2013)

### **3-6-6: VIOLATION, LICENSE SEIZURE:**

In the event that the licensee shall violate any of the terms or conditions of the license, or in the event that any product offered by the licensee is a stolen item, or in the event that the licensee violates any municipal ordinance in reference to the business, the city police shall be authorized to seize and confiscate the license and hold the same pending a hearing before the city council. No business shall be conducted without a license. (1984 Code § 3-6-6)

### **3-6-7: PROHIBITED ACTS:**

A licensee, or any person acting on behalf of a licensee, or any agent of a licensee, shall not:

A. Blow a horn, ring a bell or use any sound device or musical instrument, including any sound amplifying system, on any of the streets, alleys, parks or other public places of the city, or on any private premises within the city, where sound of sufficient volume is emitted or produced therefrom, to be capable of being plainly heard on the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. 602, 8-10-2015)

B. Have any mechanical devices in human or animal form or otherwise designed to create lights, sound or motion to attract passersby.

C. Have any exclusive right to any location in the public streets, shall not be permitted a stationary location and shall not be permitted to operate in any congested area where licensee's operations might impede or inconvenience the public. For purposes of enforcement of this chapter, the judgment of any police officer, exercised in good faith, shall be deemed conclusive as to whether or not an area is congested or the public is impeded or inconvenienced by the presence of the licensee.

D. Sell or offer for sale goods, wares or merchandise from vehicles on any of the public streets of the city. Licensees shall not be allowed to double park or in any way impede the normal flow of traffic or create a hazard or a nuisance upon any public roadway. (1984 Code § 3-6-7)

E. Be allowed to solicit or peddle from eight o'clock (8:00) P.M. to nine o'clock (9:00) A.M., or at any time when a sign has been clearly posted on a fence, driveway, front, back or side yard, or doorway which clearly informs a licensee that there shall be no solicitors or no peddlers, either using those words or in words to that effect. Providing, however, that a licensee may call upon the occupant of a residence at other times when he has expressed prior permission from such occupant to do so. (Ord. 602, 8-10-2015)

F. Make any representation that he or she is soliciting or peddling for any nonprofit organization or for charitable or religious purposes if he or she in any way shall personally benefit by the funds or properties solicited. (1984 Code § 3-6-7)

G. Cast, throw, distribute, deposit, scatter, pass out, give away, circulate or deliver any commercial or business handbills, or other advertising materials or devices to any residents or businesses, or leave the same upon any porch, doorstep, entryway, vestibule or in any yard or public hallway, or in any vacant lot or upon other private property in the city, without first having obtained the expressed consent of the owner or lessee, or without the written or expressed request of any adult resident or occupant thereof. (Ord. 602, 8-10-2015)

H. Make any false statement or claims as to the quality, value, origin, condition, durability, or purpose as to any product.

I. Make false representations as to any product which he is soliciting for or peddling.

No licensee shall distribute, sell or hand out as a sample any consumable food products which have not been properly approved by the state health district, the Southwest health district, the federal trade commission or any other state or federal agency which has jurisdiction as to the quality or wholesomeness of any foodstuffs designed for human consumption. (1984 Code § 3-6-7)

### **3-6-8: RIGHT TO CANCEL PURCHASES:**

Any person purchasing from any solicitor or peddler or salesperson pursuant to any home solicitation shall have three (3) business days from the day of sale to cancel any sale or any security or any contract created during the consummation of the sale. Any licensee, salesperson, solicitor or peddler shall have an affirmative duty to inform any purchaser of that person's right of cancellation. In the event of cancellation, the purchaser must make the product available to the seller at the purchaser's residence in as good a condition as the product was when it was received for a period of twenty (20) days after the notice of cancellation. If the salesperson does not retrieve the product within twenty (20) days from the date of notice of cancellation, the purchaser may retain or dispose of the products without any further obligation. If, however, the purchaser fails to make the goods available to the seller during regular business hours, or if the purchaser agrees to return the goods to the seller at an agreed upon location and fails to do so, then the purchaser will remain liable for performance of all of the obligations under the contract. To cancel any transaction pursuant to this section, a purchaser must mail or deliver a signed and dated copy of the cancellation to the seller at the seller's place of business, not later than twelve o'clock (12:00) midnight of the third business day following the consummation of the sale. "Business days" are defined as Monday through Friday from nine o'clock (9:00) A.M. to five o'clock (5:00) P.M. Notice of cancellation shall not be required to carry the specific words "cancel or cancellation", but shall simply be worded in such a manner that any reasonable person would be on notice that the transaction has been absolutely and unequivocally canceled. (1984 Code § 3-6-8)

### **3-6-9: PENALTY:**

Any person who shall do any act, or transact any business, exercise or engage in or carry on, directly or indirectly as principal, agent or employee, within the city limits, any trade, business, occupation, vocation or employment for which a license is required to be paid, without first obtaining or procuring said license or any bonds required hereunder, shall be guilty of a misdemeanor and, upon conviction thereof, may be subject to penalty as provided in section 1-4-1 of this code. (1984 Code § 3-6-9; amd. 2014 Code)