

ORDINANCE NO. 2015-16

AN ORDINANCE OF THE CITY OF FRUITA, COLORADO REPEALING AND REENACTING SECTION 9.01.034 OF THE FRUITA MUNICIPAL CODE CONCERNING PEDDLING AND SOLICITATION; AND REPEALING SECTION 9.01.037 OF THE FRUITA MUNICIPAL CODE CONCERNING LOITERING.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. That Section 9.01.034 of the Fruita Municipal Code concerning peddling and solicitation is hereby repealed and reenacted to read as follows:

9.01.034 Peddling and Solicitation

A. Definitions. Words used in this Section shall have the following meanings ascribed to them:

1. A “peddler” is any individual, whether a resident of the City or not, who engages in the itinerant or transient sale or bartering of any goods, merchandise or services directly to the consuming public, whether or not the goods, merchandise or services are actually delivered at the time of sales. A peddler engages in such activities as selling from place to place, from house to house, or from street to street, hawking of items at public events, and selling or canvassing by means of carrying goods or samples around from place to place in order to encounter consumers who will purchase or order the goods.
2. “Peddling” includes all activities ordinarily performed by a peddler but does not include the following:
 - a. Any sales efforts by telephone, mail, or electronic media where there is no face to face encounter with the purchaser at the time of sale, delivery or provision of goods, merchandise or services;
 - b. Any sales by sales persons selling goods or merchandise or providing services exclusively to commercial, industrial or business accounts;
 - c. Newspaper and magazine sales;
 - d. The sale of food by food peddlers or operators of mobile food units including push carts;
 - e. Sales from push carts and similar vending devices located in public rights-of-way;
 - f. Sales from a stationary but temporary source, such as a road side fruit stand, located totally upon private property, to the extent such activities are permitted and regulated under the City’s Land Use Code contained in Title 17 of the

FruitaMunicipal Code; and

- g. Sales in City parks to the extent such activities are permitted.
3. A “solicitor” is any person, whether resident of the City or not, traveling either by foot or vehicle or any other type of conveyance, from place to place, or from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery or for services to be performed or furnished in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sale or not.
- B. Business License and Sales Tax License-Required. A. Any peddler or solicitor working either individually or for a corporation, partnership or other legally recognized organization shall individually obtain a business license pursuant to Chapter 5.4 of the Fruita Municipal Code and sales tax license if required under Section 3.12 of the Fruita Municipal Code.
1. The following types of organizations and individuals selling goods, merchandise or services on their behalf are not required to obtain a license but shall otherwise comply with the applicable requirements of this Section:
 - a. State and local governmental departments, agencies and subdivisions, including public schools;
 - b. State accredited private schools and academies;
 - c. Charitable, civic, patriotic, religious, educational, recreational, fraternal or cultural organizations which are tax exempt pursuant to Section 501(C) of the Internal Revenue Code as amended; and
 - d. Person promoting a political candidate, political party, or ballot issue.
- C. Prohibited Activities. It shall be unlawful for any peddler or a solicitor to:
1. Make any false statement of misrepresentation of fact, or otherwise engage in fraud, in the course of carrying out the activities permitted under this Section, or to fail to fulfill the obligations and representations which the peddler or solicitor makes to a consumer.
 2. In peddling any goods, merchandise or services to be delivered or provided at a future date, refuse or fail to give to a purchaser at the time of sale a written and signed receipt which shall accurately set forth name, address and telephone number of the peddler or solicitor; a brief description of the goods, merchandise or services to be delivered or provided; the anticipated date and manner of delivery or provision of such goods, merchandise or services; the amount paid by the consumer; the balance due on purchases; and the terms or any payment;

3. Fail or refuse to leave peacefully private property immediately when told to do so by the land owner, the land owner's agent or representative, or the occupant of the premises, or to attempt to solicit business at any place which maintains a sign or other visible and legible indication that such solicitation of business is not desired or is prohibited, unless the permission of the owner, agent, representative or occupant of the premises has been previously obtained;
4. Engage in door-to-door sales at residences from a half hour after sunset until 8:00 a.m. the next day; or
5. Obstruct, impede or otherwise interfere with the public's use of public streets, sidewalks, ways or places, other than as authorized by other provisions of the Fruita Municipal Code.

D. Juvenile Peddlers and Solicitors.

1. No person under the age of eighteen (18) years of age shall be permitted to engage in peddling or soliciting except as provided in this subsection. Except as provided in subsection (B) above, pursuant to Section 5.04 of the Fruita Municipal Code a business license shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or soliciting business involving, in whole or in part, a sales force of one (1) or more persons under eighteen (18) years of age. Any person eighteen (18) years of age or older peddling or soliciting for a sponsor shall obtain an individual business license as provided in subsection (B) above. The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's license. This responsibility shall extend to the prohibited activities set forth in subsection (C) above. The sponsor shall maintain visual contact with all juveniles at all times sponsored juveniles are peddling or soliciting.
2. The sponsor shall be limited to peddling or soliciting, through its sales force, food products, such as candies and snacks, which are pre-packaged by the manufacturer and not requiring refrigeration; inexpensive household and novelty items; items hand crafted or prepared by members or beneficiaries of the sponsor.
3. Peddling or soliciting under this subsection shall be limited to between the hours of 3:00 p.m. and one half (1/2) hour after sunset on school days, as scheduled by the School District. During any other time of the year, peddling or soliciting under this Section shall be limited to the hours set forth subsection (C) above.
4. No juvenile under the age of twelve (12) shall be permitted to engage in peddling or soliciting unless accompanied by his or her parent or guardian.

E. Enforcement and Penalties. Any person, firm, association or corporation knowingly violating any of the provisions of this Section commits a Class A municipal offense. Such person, firm, association or corporation shall be guilty of a separate offense for each and

every day during any portion of which a violation of this Section is committed or continued.

Section 2. That Section 9.01.037 of the Fruita Municipal Code, concerning loitering, is hereby repealed in its entirety.

INTRODUCED, READ, PASSED, AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS _____ DAY OF _____, 2015

CITY OF FRUITA, COLORADO

By: _____
Lori Buck, Mayor

ATTEST:

Margaret Sell, City Clerk