

Ordinance #1584

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FERNDALE REVISING FERNDALE MUNICIPAL CODE CHAPTER 5.20 PEDDLERS AND SOLICITORS

Whereas, the City Council desires to revise and update its rules regarding Peddlers and Solicitors perating in the City to be consistent and enforceable with state law.

Now therefore, the City Council of the City of Ferndale do hereby ordain as follows:

Section 1. FMC Section Chapter 5.20 Peddlers and Solicitors is hereby revised to read as follows:

Chapter 5.20 PEDDLERS AND SOLICITORS

Sections:

- 5.20.010 Definitions.
- 5.20.020 License – Required.
- 5.20.030 License – Application – Fee.
- 5.20.040 License – Investigation and Issuance.
- 5.20.050 License – Fees.
- 5.20.060 License – Exhibition.
- 5.20.070 License – Revocation.
- 5.20.080 Restrictions on time and place.
- 5.20.090 Exemptions.
- 5.20.100 Violation – Penalty.

5.20.010 Definitions.

A. Peddler is defined as any person, either as principal or agent, who travels about from place to place, offering for sale, or soliciting consumers to purchase, goods which are carried for delivery at time of sale or services which are offered to be performed at that time.

B. Solicitor is defined as any person, either as principal or agent, who moves or travels about within the City of Ferndale in any manner, moving from house to house or place to place, contacting or communicating with any person or party within the City for the purpose of taking or attempting to take orders or the solicitation of orders in any manner for the sale of any products, goods, wares, or personal property of whatever nature to be left with the person or party at the time of soliciting, or taking such order for future delivery and/or the solicitation or taking of orders for any services of any type to be furnished or performed at the time of solicitation or at some time in the future, whether or not such person carries samples, and whether or not such person collects any money or advance payments therefore. In addition, this definition of Solicitor includes any person, either as principal or agent, that is soliciting and taking orders for the sale of any product, goods, wares, or personal property of whatsoever nature and/or the solicitation and taking orders for any services of any nature to be furnished as above provided, where the solicitation activity is in a fixed location, whether within a stand, building, or other structure of any kind for present or future delivery of the same. (Ord. 714 §§ 2,3,1983)

C. Charitable is defined to mean dividing or contributing to the relief of the poor, the distressed, the underprivileged; advancement of religion, education or science; support for public purposes such as police, fire, library and community functions and other governmental and local community purposes; erecting or maintaining public buildings, monuments or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; combating community deterioration; and support for public and private school facilities, programs and school-sponsored activities including educational, sporting and extra-curricular activities and youth programs that generally benefit the youth or juveniles within the community.

D. Charitable organization is defined as an association, entity or other group of persons that solicits or collects contributions from the general public for charitable purposes where the total contribution is used to support the particular charitable activity. The term "total contribution" as used herein means that no part of the charitable organization's money collected may inure to the benefit of any private person, member, shareholder, or other individual or inure to the benefit of any person or party having connection or influence with the charitable organization.

E. Nonprofit organization is defined as an entity registered as a non-profit corporation under Title 24 of the Revised Code of Washington (RCW); or an entity exempt from federal income tax under section 501 (c) of the Federal Income Tax Code.

F. Religious organization is defined as an entity duly organized and operating in good faith and entitled to receive a declaration of current tax exempt status for religious purposes from the United States government, and the duly organized branches or chapters of those organizations.

G. Serious Offense is defined as any offense defined in RCW 9.41.010 (16) (a) – (o).

5.20.020 License – Required

It is unlawful for any peddler or solicitor, as defined in this chapter, to engage in such activity within the City without first obtaining a license to do so in compliance with the provisions of this chapter. (Ord. 714 §1, 1983)

5.20.030 License – Application – Fee.

A. Each person required to be licensed under this chapter must file with the Treasurer an application in writing, on forms provided, giving the following information:

1. Name, physical description, date of birth and Social Security Number of the applicant;
2. Permanent home address and local address of applicant;
3. Brief description of the nature of the business and goods or services to be sold or performed;
4. The name and address of employer or parent organization that applicant is representing, together with credentials or other documents verifying the relationship;
5. If goods or services are for future delivery, the place where such goods are produced, their location at time of sale, and the method of delivery;
6. Information regarding applicant's criminal history, if any, including felony, misdemeanor and criminal traffic convictions;
7. Names of two personal or business references;
8. Signature of applicant authorizing the Police Department to take applicant's fingerprints and conduct an investigation of the applicant in accordance with the provisions of this chapter;
9. Description and license plate number of any vehicle used by the applicant when peddling or soliciting.

B. At the time of filing the application, the fee as contained in the current unified fee schedule for the City of Ferndale shall be paid to the Treasurer to cover the costs of investigating the facts stated in the application, including costs associated with fingerprint and criminal database checks. (Ord. 714 § 4, 1983)

5.20.040 License – Investigation and Issuance.

A. Upon receipt of such application, the original shall be referred to the Chief of Police, or designee, who shall cause such investigation of the applicant to be made as is deemed necessary for the protection of the public good.

B. Upon completion of investigation of the applicant, the Chief of Police, or designee, shall approve or disapprove the application. The disapproval of an application must be for good cause directly related to the fitness of the applicant to solicit or peddle within the City of Ferndale. The Chief of Police, or designee, will disapprove any application for (1) fraud, misrepresentation, or false statement contained in the application for license; (2) conviction of a serious offense as defined herein; (3) conviction for offenses related to (a) larceny; (b) assault; (c) fraud; (d) sex crimes; (e) felony drug crimes; and (f) crimes against children and/or vulnerable adults.

C. If, as a result of such investigation, the applicant is disapproved by the Chief of Police, or designee, the reasons for the disapproval shall be made a matter of official record and disclosed to the applicant upon request.

D. Upon approval of the application and background investigation by the Chief of Police, or designee, and upon payment of the prescribed license fee as contained in the current unified fee schedule, a license shall be issued.

E. The license shall contain the name, physical description, photograph and/or fingerprint impression of the applicant; the name and address of the business; the kind of goods to be sold; the date the license was issued and its expiration date, and the description and license plate number of any vehicle used in such business. The Police Department shall keep a record of all license issued per State of Washington General Records Retention Schedule for Law Enforcement. (Ord. 714 § 5, 1983)

5.20.050 License – Fees

A. Upon approval of the application, the applicant shall pay a license fee as established by the current unified fee schedule for the City of Ferndale according to the approved licensing period, as follows:

1. Yearly license valid for one year from the date of issuance; (Ord. 714 § 6, 1983)
2. Bi-Yearly license valid for six months from the date of issuance; (Ord. 714 § 6, 1983)
3. Temporary license valid for a period of thirty-one days from the date of issuance. (Ord. 714 § 6, 1983)

5.20.060 License – Exhibition

Peddlers and solicitors are required to display their license on their person and in plain view, and to offer it for examination and inspection at the request of any citizen or police officer. (Ord. 714 § 7, 1983)

5.20.070 Restrictions on the time and place

A. A peddler or solicitor shall not engage or attempt to engage in activity at any home, residence, apartment complex or business that displays a "No Solicitors" or other similar sign; or otherwise provides notice to peddlers and solicitors that the occupants do not desire contact.

B. A peddler or solicitor shall not engage in business on a Sunday.

C. A peddler or solicitor shall not engage in business between the hours of 8:00 p.m. and 9:00 a.m.

D. A peddler or solicitor shall not intentionally obstruct vehicular or pedestrian traffic.

5.20.080 License – Revocation

A. Licenses issued under the provisions of this chapter may be revoked by the action of the City Council, after notice and hearing, and for good cause directly related to the fitness of the licensee to solicit or peddle within the City of Ferndale, including, but not limited to:

1. Fraud, misrepresentation, or false statement contained in the application for license;
2. Fraud, misrepresentation, or false statement made in the course of carrying on business as a peddler or solicitor;
3. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;
4. Conviction of any offense set forth in 5.20.040 B, *supra*;
5. Any violation of this Chapter.

B. Any person aggrieved by denial of a license pursuant to Section 5.20.040, or revocation of a license pursuant to Section 5.20.070 may file an appeal with the City Clerk within 14 days from the date written notification of the denial or revocation was placed in the mail to the applicant's/licensee's last know address.

5.20.090 Exemptions

This chapter shall not apply to:

- A. The sale of farm produce by farmers and gardeners, or other persons who have raised or gathered such produce as specified in RCW 36.71.090;
- B. The vending and sale of goods by veterans as specified in RCW 73.04.050 and 060;
- C. Non-profit, charitable or religious organizations as defined herein, with the exception of Section 5.20.080;
- D. Candidates for political office, campaign workers, members and representatives of political committees or political organizations campaigning on behalf of ballot issues or soliciting signatures of registered voters on petitions to be submitted to any governmental agency;
- E. Representatives of the United States Census Bureau going door to door; (Ord. 714 § 9, 1983)
- F. Vendors operating within and during community events and organizations on public property which have been authorized by the Ferndale City Council, including but not limited to the Ferndale Farmers Market, Ferndale Street Festival, and the Old Settlers Picnic, provided that such vendors have current and valid written permission from the official event organizer(s) to participate.

5.20.100 Violation – Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed \$250.00. Each day that each violation occurs or is allowed to continue shall constitute a separate and independent violation. (Ord. 714 § 10, 1983)

SECTION 2. 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 legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION 3. Effective Date.

This Ordinance shall take effect five days after publication.

PASSED by the City Council of the City of Ferndale at a regular meeting thereof on the 21st day of June, 2010

CITY OF FERNDALE

ATTEST:

Gary S. Jensen, MAYOR

Linda Knutson, CITY CLERK