

ORDINANCE NO. 3-2009

**AN ORDINANCE REGARDING THE REGULATION OF PEDDLERS, SOLICITORS,
AND VENDORS CONDUCTING BUSINESS IN THE TOWN OF FLEMING**

WHEREAS, pursuant to C.R.S. § 31-15-501(1)(g), the Town is authorized to adopt regulations concerning peddlers, solicitors, and vendors; and

WHEREAS, the Town Council desires to enact certain prohibitions on door-to-door solicitations as necessary to protect the health, safety and welfare of residents and citizens of the Town; and

WHEREAS, the Town Council desires to exempt from such prohibitions activities of persons distributing information in the exercise of their First Amendment rights; persons representing bona-fide religious, charitable, school and civic organizations, or other organizations eligible for exemption under Section 501(c) of the Internal Revenue Code; and businesses engaged in selling and delivering goods or service by vehicle over a fixed route from previous orders or on a regular schedule;

**NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF FLEMING, COLORADO:**

Section 1. The Town of Fleming hereby adopts the following provisions regarding peddlers, solicitors, and vendors, which provisions may be referred to as the "Peddlers, Solicitors, and Vendors Ordinance of the Town of Fleming":

PEDDLERS, SOLICITORS, AND VENDORS

Section 1	Purpose of provisions; interpretation.
Section 2	Uninvited solicitations prohibited.
Section 3	All solicitations prohibited by posting of "No Solicitation" or "No Trespassing" sign.
Section 4	Attempt to obtain.
Section 5	Notice prohibiting solicitors.
Section 6	Town Council approval.
Section 7	Violation; penalty.

Section 1 Purpose of provisions; interpretation.

The purpose of this Ordinance is to protect the health, safety and welfare of the citizens and residents of the Town through regulation and appropriate prohibitions of certain activities of peddlers, solicitors, and vendors. The Ordinance shall be interpreted liberally so as to effect, to the extent permitted by law, the prohibitions set forth herein.

Section 2 Uninvited solicitations prohibited.

A. No person shall enter or remain upon any private premises or office building in the Town, not having been requested or invited by the occupant thereof, for the purpose of contacting said occupant to solicit the immediate or future purchase or sale of goods, services, or any other thing of value.

B. Subsection A of this Section 2 shall not apply to bona fide religious, charitable, school, and civic organizations or other organizations eligible for exemption under Section 501(c) of the Internal Revenue Code.

C. Subsection A of this Section 2 shall not apply to the solicitation of newspaper subscriptions, milk deliveries, food deliveries, trash collection services, or linen services by persons who are engaged in selling and delivering such goods or services within the Town by vehicle over a fixed route from previous orders or on a regular schedule; however, such persons shall be subject to Section 3 of this Ordinance.

D. Subsection A of this Section 2 of this Ordinance shall not apply to any person engaged in the distribution of non-commercial information in the exercise of such person's First Amendment rights under the United States Constitution.

E. No person shall sell or offer for sale any goods, services, or any other thing of value from or upon any street, alley, sidewalk, park, or property owned or controlled by the public or by the Town, except as may be authorized by the Town Council or its designee.

Section 3 All solicitations prohibited by posting of "No Solicitation" or "No Trespassing" sign.

No person shall enter or remain upon any public or private premises or in any office building in the Town, not having been requested or invited by the occupant thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, services, or any other thing of value, or for the purpose of soliciting any gift or donation, when a "No Solicitation" sign or "No Trespassing" sign is posted at or near the entrance to such premises. This provision shall apply to all solicitations, including without limitation, those that are by a bona fide religious, charitable, school, and civic organization or other organization eligible for exemption under Section 501(c) of the Internal Revenue Code.

Section 4 Attempt to obtain.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence or other private or public premises or office building within the Town 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.

Section 5 Notice prohibiting solicitors.

Every resident and business within the Town shall have the right to post a notice or notices upon the private property of such resident or business to the effect that peddlers, solicitors, and vendors shall not enter the premises or solicit or attempt to solicit orders or sales from the owners or occupants thereof. Any person who shall go in or upon any place so posted without previous invitation to do so from the occupant thereof is guilty of an unlawful act.

Section 6 Town Council approval.

The Town Council shall have the power to grant the privilege of conducting the activities described in Section 2.E. pursuant to request, competitive bid, or otherwise as the Town Council may from time to time determine. Such privilege shall be upon such terms and conditions as the Town Council deems appropriate to avoid an excess of vendors, derive revenue for the Town, address public health and safety concerns, and to serve the public need.

Section 7 Violation; penalty.

A. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300.00) or incarcerated for a period not to exceed ninety (90) days, or both.

B. Each and every day during any portion of which any violation of any provision of this Ordinance is committed, continued, or permitted by any such person shall be deemed a separate offense.

Section 2. If any portion of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

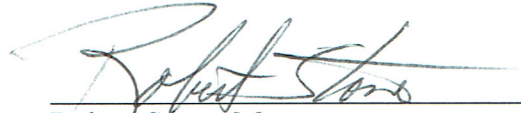
Section 3. The repeal or modification of any provision of any Town ordinance or resolution by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED POSTED IN FULL IN THE FOLLOWING THREE PLACES THIS 6th day of October, 2009:

Fleming Town Hall
First National Bank of Fleming
Fleming Post Office

TOWN OF FLEMING, COLORADO


Robert Stone, Mayor

ATTEST:


Kim Harms, Town Clerk

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