

ORDINANCE 2022-30

AN ORDINANCE REPEALING AND REENACTING CHAPTER 5.04 OF THE FRUITA MUNICIPAL CODE TO COMPLY WITH COLORADO LAW ON SALES AND USE TAX LICENSE EXEMPTIONS, AND UPDATE OUTDATED PROVISIONS REGARDING BUSINESS LICENSES AND FEES

WHEREAS, the State of Colorado adopted HB 22-032, which amended statewide law on business licensing to expedite collection of sales/use tax; and

WHEREAS, HB 22-032 adopted by the State of Colorado, states that on and after July 1, 2022, the City of Fruita cannot charge a fee for a business license to make retail sales in Fruita if the retailer has a state standard retail license but lacks a permanent physical presence in Fruita; and on an after July 1, 2023, by state law, the city of Fruita cannot require a separate license application for these retailers; and

WHEREAS, Chapter 5.04 concerning business licenses has a number of duplicative sections and outdated language and needs to be updated to clarify the provisions as they relate to retail businesses without a physical location in the City, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, AS FOLLOWS:

Section 1. Recitals. The above recitals are hereby incorporated as findings of the City Council in support of the enactment of this Ordinance.

Section 2. Repeal and Replace. The City Council hereby repeals Chapter 5.04 of the Fruita Municipal Code in its entirety and replaces it as set forth in Exhibit A, attached hereto.

Section 3. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final adoption in accordance with Article 2.13(G) of the Fruita City Charter.

Section 6. Publication. The City Clerk shall publish notice of this Ordinance in accordance with Article 2.13(F) of the Fruita City Charter.

PASSED and ADOPTED by the Fruita City Council on this ___ day of _____, 2022

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

Chapter 5.04

BUSINESS LICENSES

Sections:

5.04.010	Purpose
5.06.015	Definitions
5.04.020	Business License Required
5.04.030	Business License Application
5.04.040	Business License Fee
5.04.050	Exemptions
5.04.060	Issuance and Conditions of Business Licenses
5.04.070	Enforcement - City right to recover all sums due
5.04.080	Violations – Penalty designated

5.04.010 PURPOSE. The purpose of this Chapter is the regulation and registration of businesses operating in the City for the health, safety and welfare of the citizens of the City.

5.04.015 DEFINITIONS. Whenever in this chapter the words hereinafter defined or construed in this section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

"Business" means any business, trade, occupation, profession, avocation or calling of any kind, including the operation of recreation vehicle parks.

"Employees" means persons working for remuneration under the control and direction of an employer.

"Engaged in business" means to carry on or take a part in the operations of the business as owner, operator or agent.

"Person" includes any individuals, partnerships, associations, organizations or corporations.

5.04.020 BUSINESS LICENSE REQUIRED. Every person must obtain a business license from the City before operating, conducting or carrying on any retail trade, profession or business within the City unless exempt under the provisions of this Chapter. "Person" means any individual, partnership, association, organization, corporation or other entity of any type conducting business within the City. Business licenses granted pursuant to this Chapter shall expire on December 31 of each year.

5.04.030 BUSINESS LICENSE APPLICATION. Every person engaged in business, unless exempt from this license by law, shall submit a business license application with the Licensing Officer on a form provided by the City. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license. The application shall include

the name and address of the place of business, the person(s) operating the business, the number of employees, together with such other information as may be required. The application shall be submitted along with the fee prior to the starting of the business and renewed annually thereafter pursuant to the provisions of Section 5.50.050 of this Title.

5.04.040 BUSINESS LICENSE FEE. Every person required to be licensed by the provisions of this Chapter shall pay a fee as set forth in the Annual Fees and Charges Resolution adopted by the City Council. If a business commences doing business within the City on or after August 1st of any calendar year, or is in operation for less than six months, the business license fee shall be one-half of the annual fee. Every person doing business in more than one store, stand or other place of business, shall pay a separate fee for each place of business, unless such places of business are contiguous to each other, communicate directly with and open into each other, and are operated as a unit.

5.04.050 EXEMPTIONS. The following persons shall be exempt from obtaining a business license:

- A. Any business operating under a franchise agreement with the City.
- B. Charitable, religious and benevolent organizations.
- C. An individual conducting not more than one yard or garage sale in any one-year period.
- D. Any person exempt by federal or state law including businesses conducting retail sales and holding a state standard retail license if the retailer does not have a physical presence, or only an incidental physical presence, within the City pursuant to 39-26-802.9 C.R.S.

5.04.060 ISSUANCE AND CONDITIONS OF BUSINESS LICENSES. The provisions of Chapter 5.50 for the Issuance and Conditions of Licenses are applicable to this Chapter.

5.04.070 ENFORCEMENT - CITY RIGHT TO RECOVER ALL SUMS DUE. The City shall have the right to recover all sums due by the terms of this Chapter by judgment and execution thereon in a civil action in any court of competent jurisdiction; such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Chapter.

5.04.080 VIOLATIONS – PENALTY DESIGNATED. It shall be unlawful for any person to operate, conduct or carry on any retail trade, profession or business within the City without first obtaining the license required herein. Any person, owner, lessee, occupant, or otherwise, who knowingly violates any of the provisions of this Chapter is subject to the General Penalty provisions of Chapter 1.28.