

ORDINANCE 1316

**AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING SECTIONS 5.15.030 (E), and ADDING A NEW SUB-SECTION (H), AND SECTION 5.16.040 TO ALLOW FOR THE MANDATORY BACKGROUND CHECKS OF ITINERANT MERCHANTS OR TEMPORARY/MOBILE FOOD SERVICE VENDORS, AND TO PROVIDE FOR THE LICENSE HOLDER TO DISPLAY THE LICENSE AND PHOTO ID UPON REQUEST; SETTING AN EFFECTIVE DATE; PROVIDING FOR THE ORDINANCE TO BE PUBLISHED IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; ESTABLISHING A PENALTY**

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO, AS FOLLOWS;

**Section 1.** Chapter 5.15.030 of the Payette Municipal Code is hereby amended to read as follows:

**5.15.030: APPLICATION:**

Applications for license under this chapter, whether signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, shall be filed with the city clerk, showing:

- A. The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed it will be carried on in the city; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated;
- B. The place or places in the city where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;
- C. The place or places, other than the permanent place of business of the applicant where applicant within the six (6) months next preceding the date of said application conducted a mobile or temporary food service business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
- D. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the city clerk, copies of all said advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto;
- E. ~~Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, felony or misdemeanor, or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor;~~

**E. The city clerk shall refer the application to the chief of police, who shall**

make a criminal history background investigation of the applicant. Upon completion, the chief of police, or his representative, shall forward the results of the investigation to the city clerk. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the city clerk shall, upon payment of the prescribed fee, and approval of the City Council, issue the license to the applicant. The city clerk shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;
2. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;
3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the occupation of peddler, solicitor or street vendor and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
4. Been charged with a misdemeanor or felony of the type defined in subsection (E) (3) of this section, and disposition of that charge is still pending;
5. Ever been charged of any crime involving sexual abuse against a child;
5. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and
6. Made any false or misleading statements in the application.

F. Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and

G. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of applicant's business or the method or plan of doing such business as the city clerk may deem proper to fulfill the purpose of this chapter in the protection of the public good.

H. Every licensee shall be required to carry the license and display it along with photo identification upon request by a prospective customer or law enforcement officer.

**Section 2.** Chapter 5.16.040 of the Payette Municipal Code is hereby amended to read as follows:

**5.16.040: LICENSE; APPLICATION; REQUIRED INFORMATION; BOND:**

- A. Any person desiring to engage in the business of an itinerant merchant or peddler shall apply in writing to the city clerk at least ten (10) days prior to the time that he desires to commence such business. Such application shall state the name and residence of the applicant; the nature of the business, kind of goods to be sold and where the sales are to be made, the length of time for which the license is desired, the place where the goods are grown, manufactured or produced, and the firm or corporation, and its address, represented by the applicant.
- B. Such application shall be accompanied by a bond in the penal sum of one thousand dollars (\$1,000.00), executed by a surety company or by two (2) freeholders of real estate within the city whose financial responsibility to the amount of the bond is approved by the city clerk, or that sum may be deposited with the clerk. Upon filing such bond and payment of the license fee provided for in section 5.16.050 of this chapter, the city clerk shall give a license to the applicant for the period and purpose requested. The bond shall be required to be effective for a period of at least one year from the date of license, or the sum of one thousand dollars (\$1,000.00) shall remain on deposit for a period of one year from the date of license.
- C. The city clerk shall refer the application to the chief of police, who shall make a criminal history background investigation of the applicant. Upon completion, the chief of police, or his representative, shall forward the results of the investigation to the city clerk. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the city clerk shall, upon payment of the prescribed fee, and approval of the City Council, issue the license to the applicant. The city clerk shall deny the applicant the license if the applicant has:
1. Committed any act consisting of fraud or misrepresentation;
  2. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;
  3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the

occupation of peddler, solicitor or street vendor and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

4. Been charged with a misdemeanor or felony of the type defined in subsection (E) (3) of this section, and disposition of that charge is still pending;

5. Ever been charged of any crime involving sexual abuse against a child;

5. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and

6. Made any false or misleading statements in the application.

D. Every licensee shall be required to carry the license and display it along with photo identification upon request by a prospective customer or law enforcement officer.

**Section 3.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 4.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

**Section 5.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 6.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

**Section 7.** Any violation of this Ordinance shall be a misdemeanor punishable by fine and/or imprisonment up to but not exceeding the maximum penalties set forth in Idaho Code § 50-302, as amended. Each day during which a violation takes place or is allowed to continue shall constitute a separate violation of this chapter.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 7 day of June, 2010.

CITY OF PAYETTE, IDAHO

by [Signature]  
Jeffrey T. Williams, Mayor

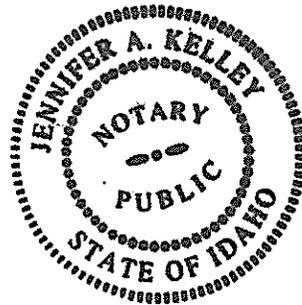
ATTEST

[Signature]  
Mary Cordova, City Clerk

State of Idaho                    )  
  ) ss.  
County of Payette                )

On this 7<sup>th</sup> day of June, in the year of 2010, personally appeared MARY CORDOVA and JEFFREY T. WILLIAMS, personally known to me to be the persons whose name is subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of the City of Payette in their official capacities as Mayor and City Clerk.

Jennifer A Kelley  
Notary Public for Idaho  
Residing at: Payette Id  
Commission expires: 12-11-2018



SUMMARY OF ORDINANCE 1316

Ordinance 1316 is an ordinance of the City Of Payette, Idaho, adopted June 7, 2010. The ordinance may be descriptively known as the background check for itinerant merchant or temporary/mobile food service vendors. The ordinance provides for mandatory background checks when people apply for itinerant merchant or temporary/mobile food service vendor permits. The ordinance disqualifies people who have been convicted of certain crimes or charged with crimes involving sexual abuse to children from obtaining a permit or working for a permittee. The ordinance requires a license holder to display the license and provide photo identification upon request. The ordinance sets up a procedure for handling an application. Ordinance 1316 provides a severability clause, provides for publication by summary, sets an effective date, and establishes a repealer.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1316 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 9th day of June, 2010.



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Bert L. Osborn

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I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1316 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 9th day of June, 2010.



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Bert L. Osborn