

CURRENT ORDINANCE IN EFFECT

ORDINANCE NO.: 13-17
INTRODUCED BY: Mr. Clark

AN ORDINANCE
**ENACTING NEW CODIFIED ORDINANCE CHAPTER 721 REGARDING PEDDLERS,
SOLICITORS, AND CANVASSERS AND DECLARING AN EMERGENCY.**

WHEREAS, the City amended Chapter 721 concerning peddlers and solicitors on June 25, 2012 by the adoption of Ordinance No. 12-46, and

WHEREAS, since the effective date of Ordinance No. 12-46 there have been numerous discussions concerning the scope of this chapter, and the city has determined to modify this chapter,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BAY VILLAGE OHIO,

SECTION 1. That Codified Ordinance Chapter 721 which presently reads as follows:

CHAPTER 721
Peddlers and Solicitors

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| 721.01 Definitions. | 721.07 Excess noise; hours regulated. |
| 721.02 License required. | 721.08 License exceptions. |
| 721.03 License application and requirements. | 721.09 Employee peddlers to be licensed. |
| 721.04 License fees and term. | 721.10 Renewal of license. |
| 721.05 Appeals. | 721.11 Revocation of license. |
| 721.06 Carrying and exhibiting license. | 721.12 Resident prohibition by notice. |
| | 721.99 Penalty. |

721.01 DEFINITIONS.

(a) "Peddler" means any person who carries with him for the purpose of sale at retail and immediate or future delivery, goods, wares, food or merchandise, or any person who in person as principal or agent canvasses, sells or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food or merchandise, or services.

(b) "Solicitor" means any person who obtains or seeks to obtain funds for any cause whatsoever by means of canvassing from place to place. (Ord. 70-159. Passed 11-16-70.)

721.02 LICENSE REQUIRED.

No person, firm or corporation shall engage in the business or activity of peddler or solicitor in this City without first obtaining a license as provided in this chapter. (Ord. 70-159. Passed 11-16-70.)

721.03 LICENSE APPLICATION AND REQUIREMENTS.

(a) Applications for licenses for peddlers or solicitors shall be filed with the Division of Police under the Chief of Police on a form to be furnished by the Division which shall require, at least, the following information:

- (1) The name of the applicant and his physical description.
- (2) The home address of the applicant, social security number or the tax identification number of the employer.
- (3) The name and address of the person by whom the applicant is employed or for whom they are soliciting.
- (4) The length of the applicant's service with such employer or person for whom they are soliciting.
- (5) All places of residence of the applicant and all employment during the preceding year.
- (6) The nature and character of the goods to be sold or services to be furnished by the applicant or the purpose for which funds are being solicited.
- (7) The names of other towns in which the applicant has recently conducted activities for which license is herein required.
- (8) For incorporated businesses, a copy of the State of Ohio's Certificate of Good Standing.

(b) The applicant shall furnish a recent photograph of himself taken not more than one year ago and which is to be approximately 3" x 3" square. Such application shall be made at least ten days before the license is issued.

(c) If the Chief of Police determines after an investigation, that the applicant proposes to engage in a lawful commercial or professional enterprise and neither the applicant nor the enterprise upon which the applicant proposes to engage constitutes a clear and present danger to the residents of the City, he shall issue a license to the applicant.

721.04 LICENSE FEES AND TERM.

For the license to be issued under the provisions of this chapter, each applicant shall pay to the City twenty-five dollars (\$25.00). For renewal of a license to be issued under the provisions of this chapter, each applicant shall pay to the City fifteen dollars (\$15.00). All licenses issued hereunder shall be for a period of one year or less which period shall end on December 31 of the calendar year in which they are acquired, regardless of the date such license is issued.

721.05 APPEALS.

Any applicant who has applied for a license in accordance with this chapter and to whom the Chief of Police has, after an investigation, denied a license may appeal to the Safety Director. Notice of such appeal shall be filed with the Director within five days after the denial by the Chief. The Director, on appeal, may grant or reject the application for a license.

(Ord. 70-159. Passed 11-16-70.)

721.06 CARRYING AND EXHIBITING LICENSE.

The license issued under the provisions of this chapter shall be carried by any peddler or solicitor at all times when peddling or soliciting and shall be exhibited to any person being solicited and, on request, to any police officer. (Ord. 70-159. Passed 11-16-70.)

721.07 EXCESS NOISE; HOURS REGULATED.

(a) No peddler shall use any whistle, bell, horn or other mechanical device for the purpose of advertising his goods, wares and merchandise or services, or of attracting customers, and he shall not call his goods, wares, foods, merchandise or services in a loud voice for such purposes.

(b) All peddling or soliciting done under a license issued by virtue of this chapter shall be conducted between the hours of 9:00 a.m. and 8:00 p.m. or sunset whichever is earlier, Monday through Saturday. No soliciting on Sunday or any Legal State or Federal Holiday.

721.08 LICENSE EXCEPTIONS.

No license shall be required of a peddler or solicitor for the following:

(a) Soliciting only the purchase of or subscription for newspapers having their principal sale or distribution in this City or in Cuyahoga County.

(b) Soliciting only for wholesale delivery to merchants, manufacturers or other businessmen at their offices, places of business or factories, the sale of equipment or articles

(c) Peddling or soliciting at the invitation or request of the person contacted.

(d) Soliciting or peddling on behalf of and for locally recognized religious, educational, civic or charitable organization, without compensation to the solicitor or peddler. However, all 501(C) 3 organizations shall be required to provide to the City their entity's IRS determination letter.

721.09 EMPLOYEE PEDDLERS TO BE LICENSED.

No person shall be hired by another to sell goods, wares, food, merchandise or services in the City as a peddler unless such person so hired has been duly licensed as hereinbefore provided. (Ord. 70-159. Passed 11-16-70.)

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721.10 RENEWAL OF LICENSE.

The Chief of Police may at his option renew a license previously issued without fulfillment of some or all of the license application requirements set forth in Section 721.03 hereof. (Ord. 70-159. Passed 11-16-70.)

721.11 REVOCATION OF LICENSE.

Any license issued under the provisions of this chapter may be revoked at any time, by the Chief of Police, if the licensee is guilty of any fraud, misrepresentation or unlawful act in connection with his business, or otherwise; is found to be a person not fit to be engaged in such business; or if the licensee violates any of the provisions of this chapter.

(Ord. 70-159. Passed 11-16-70.)

721.12 RESIDENT PROHIBITION BY NOTICE,

Notwithstanding any other provisions of this chapter, no peddler, solicitor or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the door bell of

any residence, house, apartment or other dwelling in the City upon which there is posted at the entrance a notice which reads "No Peddlers, Solicitors or Canvassers Allowed" or words of similar import, which clearly prohibit peddlers, solicitors and canvassers on the premises, unless such peddler, solicitor or canvasser has previously been invited upon the premises by the owner, lessee or an adult occupant thereof. (Ord. 95-136. Passed 11-20-95.)

721.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor on the first offense and shall be guilty of a fourth degree misdemeanor for the second or subsequent offenses. Each day on which sales are conducted in violation of this chapter shall be held to constitute a separate offense. (Ord. 95-136. Passed 11-20-95.)

be and the same is amended to read:

AN ORDINANCE

CHAPTER 721

Peddlers, Solicitors and Canvassers

721.01 Definitions.

721.05 Restrictions; Hours; Conduct.

721.02 License or Notification.

721.06 Resident Prohibition By Notice.

721.03 Application; Fee; License; Notification.

721.07 Excess Noise

721.04 Street Peddling; Adult Attendant Required.

721.08 Do Not Knock Registry

721.99 Penalties.

721.01 DEFINITIONS.

As used in this Chapter:

(a) "Peddler" or "Solicitor" means any person traveling either by foot, automobile, truck, or any other type of conveyance from place to place, door to door or from street to street, taking or attempting to take orders for profit by the sale of goods, wares, and merchandise or personal property of any nature whatsoever for immediate or future delivery or for services to be furnished or performed in the future;

(b) "Canvasser" means any person traveling either by foot, automobile, truck, or any other type of conveyance from place to place, door to door or from street to street who obtains or seeks to obtain or influences the opinions of the residents of the City, upon the private residences including any house, apartment or other dwelling in the City, who also may or may not obtain or seek to obtain funds for any cause whatsoever.

721.02 LICENSE OR NOTIFICATION REQUIRED.

(a) No peddler or solicitor shall peddle or solicit within the City, unless he or she is the holder of a valid license issued pursuant to this Section 721.03(f).

(b) No canvasser shall obtain or seek to obtain or influence the opinions of the residents of the City until he or she gives notification to the Division of Police pursuant to this Chapter.

721.03 APPLICATION; FEE; LICENSE; NOTIFICATION.

(a) Any person wanting a license shall obtain an application for same from the Division of Police, and shall submit the completed application, along with the appropriate fee, to such office, on a form supplied by the Division of Police which shall contain the following information:

- (1) Name and address of the applicant;
- (2) Name and address of the organization represented;
- (3) Names, addresses and social security numbers of all individual peddlers or solicitors;
- (4) A description of the proposed peddling or soliciting activities; and
- (5) Dates, times and particular locations where the peddling or solicitation is to be performed.

Such application shall also be accompanied by a copy of the Internal Revenue Service Federal Income Tax Exemption Letter and State of Ohio Letter of Registration under Ohio Revised Code Chapter 1716 in effect at the time of application hereunder, if the applicant and/or organization represented has been issued either or both of said Letters.

(b) All license applications shall be referred to the Division of Police who shall, within five (5) days after receipt of the completed application, issue licenses to the solicitors or peddlers unless he finds that:

- (1) The applicant has provided false, misleading or deceptive information in his application; and/or
- (2) The applicant or any solicitor or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving fraud or moral turpitude within the past five years.

(c) Each applicant shall pay a fee of Twenty-five (\$25.00) for the initial annual license, and a fee of Fifteen Dollars (\$15.00) for the annual renewal of that license, which fee shall be paid at the time the application is submitted. All licenses shall be valid for one year from the date of issuance. Applicants who are agents for charitable, religious or educational organizations that meet the definition thereof as contained in the Ohio Revised Code 2915.01(H), (I), or (J), or have duly registered with the State of Ohio under the provisions of Ohio Revised Code Chapter 1716, shall be required to obtain a license, but shall be exempt from the payment of any fee as required hereunder.

(d) Once issued, a license may be used only in conformity with the laws of the City and the State of Ohio; may not be assigned or transferred; must be carried by the licensee at all times; and may be revoked or suspended by the Division of Police for any of the following causes:

- (1) The licensee or person preparing the application on behalf of the licensee provided false, misleading or deceptive information in the license application.
- (2) The licensee is convicted of a felony or of a misdemeanor involving fraud Or moral turpitude.
- (3) The licensee violates any provision of this Chapter or peddles or solicits in an unlawful manner.

(e) Any applicant who has applied for a license in accordance with this chapter and to whom the Division of Police has, after an investigation, denied a license may appeal to the Safety Director. Notice of such appeal shall be filed with the Director within twenty days after the denial by the Division of Police. The Director, on appeal, may grant or reject the application for a license.

(f) Any canvasser is encouraged to notify the Division of Police before obtaining or seeking to obtain or influencing the opinions of the residents of the City. Any canvasser shall provide the Division of Police in writing with his or her name and address, the name and address of organization represented and the dates, times and particular locations where canvassing is to be performed. No fee shall be charged for the notification of any canvasser. Any notification hereunder shall be valid for not more than one year.

(g) Upon issuance of the permit, the peddler and/or solicitor shall be issued a current copy of the City's Peddler and Solicitors "Do Not Knock Registry" as established by Section 721.08 below, together with a copy of Section 721.12 "Resident Prohibition by Notice." Failure to be in actual possession of said registry while peddling or soliciting in the City of Bay Village shall constitute a violation of this section.

721.04 STREET PEDDLING; ADULT ATTENDANT REQUIRED.

No person shall vend or peddle from a vehicle in public streets and public places in the City without a license issued under this Chapter, and in pursuit of such business or activity when children under age eighteen (18) collect, congregate, assemble or gather about such vehicle for the purpose of making purchases therefrom or in response to such person's actions, such person so vending or peddling shall be required to be accompanied by an adult attendant whose sole duty and occupation shall be to protect and safeguard such children from injury or hazards of vehicular traffic using such streets and public places. The attendant shall maintain a constant lookout for approaching vehicles and shall warn and guard children from injury therefrom.

721.05 RESTRICTIONS; HOURS; CONDUCT.

Every person to whom a license to peddle or solicit is issued and every canvasser under the terms of this Chapter shall be governed by the following rules and regulations:

(a) Canvassers subject to the provisions of this Chapter may canvass only between the hours of 9:00 a.m. and 9:00 p.m. Monday through Saturday, and between the hours of 12:00 p.m. and 5:00 p.m. on Sunday; no such person shall canvass on any legal State or Federal Holiday.

(b) Solicitors or Peddlers subject to the provisions of this Chapter may solicit or peddle only between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday respectively; no such person shall peddle or solicit on Sunday or any legal State or Federal Holiday.

(c) No peddler, solicitor or canvasser shall enter or attempt to enter a residence, house, apartment or other dwelling in the City without an express invitation from an adult occupant of the residence, house, apartment or other dwelling.

(d) No peddler or solicitor shall engage in any peddling or solicitation other than that specified in the license application.

(e) No peddler, solicitor or canvasser shall by any device make unlawful noises, nor shall any peddler, solicitor or canvasser remain at the residence, house, apartment or other dwelling in the City without the consent of an adult occupant of the residence, house, apartment or other dwelling in the City.

(f) No peddler or solicitor shall peddle or solicit at any residence on the "Do Not Knock Registry".

721.06 RESIDENT PROHIBITION BY NOTICE.

Notwithstanding any other provision of this Chapter, no peddler, solicitor, or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the door bell of any residence, house, apartment or other dwelling in the City upon which there is posted at the entrance a notice which reads "No Peddlers, Solicitors or Canvassers Allowed", or words of similar import, which clearly prohibit peddlers, solicitors and canvassers on the premises, unless such peddler, solicitor or canvasser has previously been invited upon the premises by the owner, lessee or an adult occupant thereof.

721.07 EXCESS NOISE..

No peddler shall use any whistle, bell, horn or other mechanical device for the purpose of advertising his goods, wares and merchandise or services, or of attracting customers, and he shall not call his goods, wares, foods, merchandise or services in a loud voice for such purposes.

721.08 "DO NOT KNOCK REGISTRY".

(a) The Division of Police shall separately establish and maintain a Peddlers and Solicitors' "Do Not Knock Registry".

(b) (1) Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling in the City may require the City to place and maintain his or her residence, house, apartment or other dwelling in the City's Peddlers and Solicitors' "Do Not Knock Registry" by submitting a request to be placed thereon on a form supplied by the Division of Police. This form shall be made available at City Hall, the Police Department and on the City's website. The completed form may be turned in at any of the above-referenced locations or online and must contain the following information:

- A. The name of the person completing the form(s);
- B. The complete address of the residence, house, apartment or other dwelling to be placed on the registry;
- C. The date the form was completed; and
- D. A statement that no peddlers and solicitors shall knock, ring the doorbell or otherwise call at this address, or words of similar import, on the applicable form.

(2) The Division of Police shall update these lists on a bi-weekly basis.

(c) Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling in the City may require the City to remove his or her residence, house, apartment or other dwelling from the list set forth in division (b), above, by submitting a separate "Notice of Removal" from said registry on a form supplied by the Division of Police, which shall contain the following information:

(1) The name of the person completing the form(s);

(2) The complete address of the residence, house, apartment or other dwelling to be removed from the registry;

(3) The date the form was completed;

(4) A statement that the residence, home, apartment or other dwelling be removed from the City's Peddlers and Solicitors' "Do Not Knock Registry", or words of similar import, on the applicable form; and

(5) Such other information that verifies the identity of the person completing the form(s) as a lawful possessor and occupant as may be required by the Division of Police

(d) The decision whether to place a residence, house, apartment or other dwelling on the City's Peddlers and Solicitors' "Do Not Knock Registry" shall be solely that of the lawful possessor and occupant thereof, and no official, employee or other agent of the City shall interfere with said decision.

(e) A residence, house, apartment, or other dwelling, after being lawfully placed on the City's Peddlers and Solicitors' "Do Not Knock Registry" shall remain on such Registry until the earliest of any of the following:

(1) The City receives a Notice of Removal pursuant to division (c) above;

(2) The City receives notice that the person who submitted the form pursuant to division (b) above is not or is no longer a lawful possessor or occupant of the premises; or

(3) The expiration of five calendar years, expiring on December 31 of the fifth full calendar year from the date of the form submitted pursuant to division (b) above.

(f) A copy of the City's Peddlers and Solicitors' "Do Not Knock Registry" shall be made available for public inspection at all times on the internet website of the City and at any time at the Police Department.

721.99 PENALTIES.

Whoever violates any provision of this Chapter shall be guilty of a minor misdemeanor on the first offense and shall be guilty of a fourth degree misdemeanor for the second or subsequent offenses.

and present 721 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason to modify solicitation hours, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR