

AN ORDINANCE REGULATING THE HOURS OF RESIDENTIAL DOOR-TO-DOOR PEDDLING AND SOLICITING WITHIN THE CITY OF BYRAM, MISSISSIPPI, AND PROVIDING THE PENALTY FOR VIOALTION OF SUCH PROHIBITION, AND FOR RELATED PURPOSES

WHEREAS, the City of Byram, Mississippi became a City on or about June 26, 2009 and is a City governed by the Mayor and Board of Aldermen (governing body); and

WHEREAS, there is no prohibition at the present time restricting the time of house to house soliciting or house to house peddling; and

WHEREAS, the governing body does find that such activities by such solicitors and peddlers without restriction as to time of such activities creates a hazard to the public safety, particularly as to such activities carried on near and after sunset and before sunrise; and

WHEREAS, the governing authority, while without authority to entirely prohibit transient vendors from making sales in the municipality, does have the authority to adopt reasonable ordinances for the regulation of transient vendors not inconsistent with the provisions of Sections 75-85-1 through 75-85-19 of the Mississippi Code of 1972, as amended;

WHEREAS, the governing body finds that in order to protect and preserve the public safety it is necessary to limit the time of residential door-to-door soliciting and peddling within the city. NOW THEREFORE,

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF BYRAM, MISSISSIPPI, AS FOLLOWS:

SECTION 1. Definitions:

- a. Solicitor. A solicitor is any person, whether a resident of the City of Byram, Mississippi, or not, traveling either by foot, motor vehicle or any other type of conveyance, from place to place, from house to house, from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever, for future delivery, or for services, whether or not such individual has, carries, or exposes for sale a sample of the object of such sale, or whether he is collecting advance payment on such sales or not.
- b. Peddler. A peddler is any person, whether a resident of the City of Byram, Mississippi, or not, traveling either by foot, motor vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, products or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers.

SECTION 2. Applicability

The provisions of this article shall apply to those entities who are exempt under the provisions of MCA 1972, § 75-85-3, who solicit business by going door-to-door within the city, referred to in this article as "peddlers." The provisions of this article shall not apply to residents of the city.

SECTION 3. Prohibited Time for Residential Door-to-Door Soliciting or Peddling

The practice of going in and upon private residences in the City of Byram, State of Mississippi, by solicitors, peddlers and transient vendors of merchandise or services, not having first requested or invited to do so by the owner or occupant(s) of the private residence, for the purpose of soliciting orders for the sale of goods, wares, merchandise, newspapers, books, pictures, periodicals, magazines, insurance, or services, or for the purpose of demonstrating or advertising the same or for the purpose of disclosing or peddling or hawking the same from 3:00 p.m. to 10:00 a.m., Monday through Saturday, or at any time when a sign has been posted on a building stating "No solicitors or peddlers," or words to that effect, is hereby prohibited. Door-to-door soliciting or peddling is prohibited on Sundays.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the premises and not to return may be deemed guilty of a misdemeanor.

SECTION 4. Activity in roadways

It shall be unlawful for any person to peddle any goods, wares, merchandise, or services, or to solicit any contributions of any kind for any charitable, educational, or other purposes, standing or being otherwise located within the boundaries of the right-of-way of any city street, road, or highway.

SECTION 5. Permit

- a. Applicants for a permit under this article shall file a sworn application with the city clerk on a form to be furnished by the city clerk.
- b. The employer as well as ALL salespersons shall file a permit application.
- c. A filing fee of \$50.00 shall be submitted with the sworn permit application.
- d. A permit application shall contain, as a minimum, the following information:
 - 1) Name and description of the applicant
 - 2) The address, legal and local of the applicant

- 3) A brief description of the nature of the business and the goods to be sold
 - 4) If employed, the name and address of the employer, together with credentials establishing the exact relationship
 - 5) If a vehicle is to be used, a description of the vehicle, together with the license number or other means of identification of such vehicle.
 - 6) Driver's license number of the applicant
- e. Upon receipt of such application, there shall be a three working day waiting period during which time the chief of police may investigate the applicant's business and business responsibilities. If, as a result of such investigation, the business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse his approval on the application. The application will be returned to the city clerk, and the city clerk shall deliver the permit to the applicant. Such permit shall contain the signature of the issuing officer, and show the name and address of the permit, the kinds of goods to be sold under such permit, the date of issuance and the length of time the permit shall be operative. If, as a result of such investigation, the business or business responsibility is found to be unsatisfactory, the chief of police shall endorse his disapproval on the permit application and his reasons for disapproval, and return the application to the city clerk, who shall notify the applicant that the application has been disapproved and that no permit will be issued.
 - f. All peddlers who are provided with a permit shall have said permit available upon request of any person at all times during the operation of the peddler's door-to-door solicitations.
 - g. No peddler's permit shall be used at any time by any other person other than the one to whom it was issued.
 - h. No peddler's permit shall be altered or defaced pursuant to this ordinance.

Section 6. Expiration or revocation

- a. Permits issued under this article shall expire on the date specified in the permit. No permit shall be issued for a period longer than six months.
- b. Permits issued under this ordinance may be revoked by the Mayor and Board of Aldermen after notice and hearing, for any of the following causes:
 - 1) Fraud, misrepresentation or any false statement made in the course of carrying on the business as a peddler, concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same, or in the application for a permit of such business.
 - 2) Conviction of any crime or misdemeanor involving moral turpitude.

- 3) Conducting the business of a peddler in an unlawful manner, or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

Notice of the hearing for revocation of the peddler's permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by regular US mail to the permittee at his last known address, at least 15 days prior to the date set for the hearing.

Section 7. Penalty

Any person who violates the provisions stated in this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than \$1000.00, or imprisonment of not more than ninety (90) days, or shall be prohibited from conducting business within the city.

Section 8. Effective Date

It being necessary and in the best interest of the public health, safety and welfare, and to alleviate the danger posed by and to uninvited peddlers, solicitors and other transient vendors going onto private residential property, especially after sunset, in an attempt to solicit sales or peddle merchandise or services, and the immediate preservation of public health, safety, and welfare requiring it, this Ordinance shall take effect and be in force from and after its adoption; but notice shall nevertheless be given as provided by law, and this Ordinance shall be enrolled in the Ordinance Book of the City as required by law.

The above and foregoing Ordinance was introduced by Alderman Marble who moved its adoption. Alderman White seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

Alderman Kent Alday	<u>nay</u>
Alderman Amy Douglas	<u>aye</u>
Alderman D. L. Ford	<u>nay</u>
Alderman Theresa Marble	<u>aye</u>
Alderman Richard White	<u>aye</u>
Mayor Nick Tremonte	___

Whereupon the Mayor declared the Motion carried and the ordinance approved and adopted.

The foregoing ordinance was approved this the 13th day of October, 2011.

CITY OF BYRAM

By/S: NICK TREMONTE, Mayor

ATTEST: By/s: ANGELA RICHBURG, City Clerk

Duly recorded in Minute Book 1 Page 366