

BAY CITY ORDINANCES

ORDINANCE NO. 417

AN ORDINANCE AMENDING BAY CITY ORDINANCE 8-3, REGULATING SOLICITORS, HAWKERS AND PEDDLERS

THE CITY OF BAY CITY ORDAINS AS FOLLOWS: Section 1. Definitions.

(a) The term "person" shall be deemed to mean and include any natural person, firm, corporation, association or copartnership.

(b) The term "solicitor" shall be deemed to mean and include an and every person who goes from house to house or from place to place in Bay City selling or taking orders and/or offering to sell or take orders for goods, wares, merchandise, insurance or any article for future delivery or for services to be performed in the future or for making, manufacturing or repairing of any article or thing whatsoever for future delivery. The term "solicitor" shall not be deemed to mean or include any commercial traveler soliciting orders for goods at wholesale from merchants.

(c) The term "hawker" shall be deemed to mean and include every person who offers for sale goods, wares or merchandise, or any article from a stand or wagon or on the streets with or without outcry.

(d) The term "peddler" shall be deemed to mean and include every person who sells or offers for sale goods, wares, merchandise or other articles carried with him as he travels from place to place or from house to house, whether such goods, wares, merchandise or other articles so sold or offered for sale are sold directly to the customer from a conveyance or vehicle or whether such goods are sold by sample or order to be afterwards delivered from said conveyance or vehicle.

Section 2. Application for Licenses. It shall be unlawful for any solicitor, hawker or peddler to engage in business or to do any of the acts described in Section 1 without first making application for and obtaining a license as provided by this ordinance.

Section 3. Fees. The license fee for solicitors, hawkers and peddlers hereunder shall be \$50.00 per fiscal year or fraction thereof, payable in advance, for each person so engaged as defined in Section 1.

Section 4. Application. Any person or firm desiring to secure such license shall apply in writing, with his or her signature to the city recorder or forms provided by the city; and such application shall state as to each solicitor the following:

- (1) The name and address of each solicitor.
- (2) The name and address of the person, firm or corporation by whom employed.
- (3) The length of service of each such solicitor with such employer.
- (4) The place of residence and nature of the employment of each solicitor during the last preceeding year.
- (5) The nature or character of the goods, wares, merchandise or services to be offered by each solicitor.
- (6) The personal description of each solicitor.
- (7) The application shall be accompanied by such credentials and other evidence of the good moral character and identity of each solicitor as may be reasonably required by the recorder.

Section 5. Issuance of License. The city recorder shall determine, within 30 days investigation, that the facts set forth in the application are true, such applicant is of good moral character, and that he proposes to engage in lawful and legitimate commercial or professional enterprise, he shall then approve the application; and the city recorder may issue the license applied for. Such license shall expire on June 30 in the fiscal year in which such license shall have been issued. Except as hereinafter provided, no license shall be issued until the conclusion of the investigation.

Section 6. Carry License. Such license shall be carried at all times by each solicitor to whom issued, when soliciting or canvassing in the city, and shall be exhibited by any such solicitor wherever he or she shall be requested to do so by any police officer or any person solicited.

Section 7. Revocation. Any such license may be revoked by the city council for the violation or any violation by the employer or employee of any of the ordinances of the city or of any state or federal law, or whenever such person shall, in the judgment of the city council, cease to possess the character and qualification required by this ordinance for the issuance of such permit. The applicant shall have a right to a public hearing, with adequate prior public notice of the meeting.

Section 8. Bond. Any applicant for a license shall deposit with the city recorder of the city of Bay City a cash undertaking with one sufficient surety, or a commercial surety bond in the sum of \$2,500.00. The bond or undertaking shall be conditioned upon the making of final delivery of the goods ordered or sold or services performed or to be performed in accordance with the terms of the order of the sales order, or, failing that, the advance payment on a sales order shall be refunded. Any person aggrieved by the actions of any solicitor, hawker, or peddler shall have the right of action on the bond for the recovery of the money or damages or both. Such bond shall remain on deposit for a period of 180 days after the expiration of the license. A surety shall qualify in accordance with Oregon Rules of Civil Procedure 82.

Section 9. Orders. All orders taken by licensed solicitors shall be in writing in duplicate, stating the name as it appears on the license and address of both the solicitor and his employer, the terms thereof, and the amount paid in advance; and one copy shall be given the purchaser.

Section 10. Penalty.

Any person found guilty of any violation of this ordinance shall be punishable as a Class A violation, for each violation, as determined by the Tillamook County Justice Court, plus court costs.

Modified 05/08/01 by Ordinance 591

Section 11. Law. The provisions of ORS 83.710 to 83.750 (Home Solicitation Sales) are incorporated and made a part of this ordinance. Violation of the Home Solicitation Sales Law will be a violation of this ordinance.

Section 12. Exceptions. This ordinance shall not apply to residents of Tillamook County soliciting or selling merchandise on behalf of a recognized youth, school, church, or civic and charitable organization.

Section 13. Constitutionality. If any section, sentence, clause, phrase or other part of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts thereof.

Section 14. Repealed Ordinances. All ordinances or parts of ordinances of the city of Bay City in conflict herewith be and the same are hereby repealed and Ordinance 276 is hereby repealed.

Passed by the Council this 14th day of June, 1983
Approved by the Mayor June 14th day of June, 1983.

/s/ Virgil M. Simmons
Virgil Simmons, Mayor

ATTEST:
/s/ William A. Batusic
William Batusic, City Recorder