



Board of Aldermen Request for Action

MEETING DATE: 8/28/2023

DEPARTMENT: Administration/Finance

AGENDA ITEM: Bill No. 2999-23, Amending Chapter 640 Peddlers, Solicitors and Canvassers – 2nd reading.

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2999-23 for Second Reading by Title Only Amending Chapter 640 concerning Peddlers, Solicitors and Canvassers.

SUMMARY:

The City has regulated Peddlers, Solicitors and Canvassers since 1996, with amendments in 2004, 2011 and 2014. It was recently identified that the current ordinance requires ID cards (not permits to operate) for Peddlers and Solicitors, and make ID cards available for Canvassers, but only charges Peddlers for such cards. The current ordinance also includes provisions for background checks of all ID card holders (paid for by the City) but only gets any reimbursement for Peddlers ID's. As a result of the unfunded activity, staff evaluated other cities Peddler's ordinances to identify how other communities address the fee discrepancy. It was identified that Parkville's version was very similar to our ordinance in most respects, but handled how certain issues were to be addressed. The proposed ordinance would end the ID portion of the City's ordinance and in its' place convert the process to one of permit, with specific standards.

Most of the standards are the same, but the changes would include requiring the applicant to obtain a background check at its' own cost from the MSHP (the same service the city currently uses) and provide that document for review by staff, provide copies of government issued ID's and any name tag for the business. The proposed ordinance would also require both Peddlers and Solicitors to pay the same amount (\$50.00) for the permit. Canvassers would no longer be able to have the city make an ID for them, and still, no permit would be necessary for canvassing.

PREVIOUS ACTION:

The original ordinance (Ord. 1683 – 6-18-1996) was amended in 2004, 2011 and the current version (Ord. 2893-14) on May 20, 2014.

POLICY ISSUE:

Streamlines city processes and services.

FINANCIAL CONSIDERATIONS:

Would not impact the city's revenue in any significant amount, but may reduce some expenses.

ATTACHMENTS:☒ Ordinance☐ Resolution☐ Staff Report☐ Other: [Click or tap here to enter text.](#)☐ Contract☐ Plans☐ Minutes

**AN ORDINANCE AMENDING CHAPTER 640 OF THE CODE OF ORDINANCES
PERTAINING TO PEDDLERS, SOLICITORS AND CANVASSERS**

WHEREAS the City of Smithville currently allows peddlers, solicitors and canvassers to obtain an identification card to operate within the City for thirty (30) days; and

WHEREAS peddlers, solicitors and canvassers each have different definitions and standards to meet, including the payment of different fee amounts; and

WHEREAS the Board seeks to equalize the rules for the various classifications of persons who conduct door to door services, issue permits to operate instead of issuing identification cards and amend the application requirements.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF SMITHVILLE, MISSOURI AS FOLLOWS:**

Section 1. That Chapter 640 of the Code of Ordinances of the City of Smithville is hereby deleted in its entirety and replaced with a new section to be read and numbered as follows:

CHAPTER 640: PEDDLERS, SOLICITORS AND CANVASSERS

SECTION 640.010: DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated:

CANVASS or CANVASSING

Attempting to make personal contact with a resident at his/her residence without prior specific invitation for the primary purpose of:

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate; or
2. Distributing a handbill or flyer advertising a non-commercial event or service; or
3. Opinion sampling or poll taking.

CANVASSER

Any person who engages in canvassing in person for himself or any other person, even if incidental to the canvassing the canvasser accepts the donation of money for or against a cause.

CHARITABLE

Any activity represented as carried on from unselfish, civic or humanitarian motives or for the benefit of others and not for private gain, and may include, without limitation,

patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, scientific, historical, athletic, medical or religious activities, either actual or implied.

CITY

The City of Smithville, Missouri.

CITY CLERK

The holder of the office described in Chapter 105 of the Municipal Code of the City of Smithville, Missouri, or his or her designee.

HANDBILL

1. Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper booklet or any other printed or otherwise reproduced original or copies of any matter of literature which:

- a. Advertises for sale merchandise, products, or commodities; or
- b. Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- c. Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; or
- d. Directs attention to any charitable activity.

2. Exemption for mail and newspapers. For purposes of this Chapter, the term "handbill" does not include mail delivered by the United States Postal Service or newspapers duly entered with the Post Office Department of the United States and newspapers filed and recorded with any recording officer, as provided by general law, or any periodical or current magazine regularly published at least annually and sold to the public.

PEDDLE

1. Attempting to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service; or
2. Operation from a temporary stand, display or similar facility for the purpose of attempting to sell a good or service; or
3. Traveling from house to house, door to door, street to street or from place to place for the primary purpose of attempting to sell a good or service.

PEDDLER

A person who peddles for himself or for any other person.

PERSON

Any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, director, member, partner, officer, receiver, assignee, employee, agent or similar representative thereof.

PERSONAL GAIN

Direct or indirect financial or commercial benefit of any person or company.

SOLICIT and SOLICITATION

1. Attempting to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of:
 - a. Requesting the contribution of funds or anything of value or advertising or selling or offering for sale or taking or attempting to take orders for any service, merchandise, product, commodity, meeting, performance or event, of any kind, in character or description, for political, philanthropic, charitable, religious, commercial or any other purposes, while traveling from house to house, door to door, street to street or from place to place in the City; or
 - b. Distributing a commercial handbill or advertising a commercial event or service.
2. A "solicitation," as defined herein, shall be deemed completed when the request or distribution is made, whether or not the person making the solicitation receives any contribution or makes any sale. "Solicitation," as defined herein, shall not include the activity of children going door-to-door to trick or treat for the yearly celebration of Halloween.

SOLICITOR

A person who solicits for himself or any other person.

SECTION 640.020: EXCEPTIONS

This Chapter shall not apply to a Federal, State or local government employee or a public utility employee in the performance of his or her duty to his or her employer.

SECTION 640.030: SOLICITATION AND PEDDLING PERMITS REQUIRED.

1. Every solicitor or peddler must obtain a permit from the City before soliciting or peddling within the City. To obtain a permit to solicit or peddle, an applicant must furnish the information required under this Chapter to the City Clerk.
2. Notwithstanding any other provisions of this Chapter, students attending elementary through college-level schools who are acting in their capacity as students affiliated with a local or nationally recognized educational institution or youth organization may peddle or solicit for charitable purposes without obtaining a permit.
3. Notwithstanding any other provisions of this Chapter, any person or organization may peddle or solicit in conjunction with promotion of a special event without obtaining a permit, provided that the person or organization has a valid special event permit from the City.

4. Solicitors and peddlers are not required to obtain a general business license as required under Section 610.020 of the Municipal Code of the City of Smithville.

5. An organization may apply for a permit, but a separate permit shall be issued to each person soliciting or peddling on behalf of that organization. A separate application shall be submitted for each person. A separate fee for each person shall be paid pursuant to Section 640.040 of this Chapter.

SECTION 640.040: FEES

The fee for the issuance of each permit shall be as contained in the Comprehensive Schedule of Fees, as approved by the Board of Aldermen from time to time.

SECTION 640.050: CONTENTS OF APPLICATION

An applicant for a solicitation or peddling permit shall furnish to the City Clerk an application containing the following information:

1. The name and address of the principal office of the person applying for the permit (including both local and non-local principal offices, where such exist);
2. If the applicant is not an individual, the names and addresses of the applicant's principal officers and executives;
3. The purpose of the solicitation or peddling activity;
4. The name, address, photograph, and physical description of the person or persons soliciting or peddling;
5. The time when the solicitations or peddling will occur, giving the expected dates for commencement and termination of the solicitation or peddling, subject to the limitations on time for solicitations contained in this Chapter;
6. A copy of a State or Federal government-issued identification card of the solicitor or peddler, if the applicant is legally able, by age, to obtain this identification;
7. A copy of a criminal background check issued by the Missouri Highway Patrol within seven (7) days of the time of application, but in any event before the activity occurs, that demonstrates the qualification of the applicant under **Section 640.060(3)**;
8. The motor vehicle make, model, year, color, and license plate State and number of any vehicle that will be used for solicitation or peddling;
9. statement to the effect that if a permit is granted:
 - a. It will not be used or represented in any way as an endorsement by the City or by any department or officer thereof; and
 - b. That during the period specified in the permit, if there is any change in fact, policy or method that would alter the information given in the application, the applicant will notify the City Clerk in writing thereof within forty-eight (48) hours after that change; and
 - c. That at no time during the period of solicitation or peddling will the applicant or his or her agents solicit or peddle at any business or residence within the City where there is clearly and visibly posted any sign requesting "No Solicitation" or "No Trespassing" or words of similar meaning; and

d. That at no time during the period of solicitation or peddling will the applicant or his or her agents solicit or peddle at any residence or business within the City, the property owner or resident of which has signed the City's "No Visit" list; and

e. That the applicant and all persons for whom application is made will carry on their person a copy of the solicitation or peddling permit issued by the City; and

f. That at no time during the period of validity of the permit will the solicitor or peddler solicit or peddle without carrying a State or Federal government-issued identification card, if the solicitor or peddler is legally eligible, by age, to obtain such an identification card; and

10. A sample of the identification badge or card that each peddler or solicitor shall wear or carry, indicating that person's name and the name of the organization for which he or she is soliciting. The badge or card shall be furnished by the organization and must be approved by the City Clerk.

SECTION 640.060: Standards for Issuance.

The following are the standards for issuance of the solicitation or peddling permit:

1. Upon receiving a completed application from the applicant or applicant's representative and upon making all the following findings, the City Clerk shall issue a solicitation or peddling permit provided by this Chapter.

2. The City Clerk may defer issuance of any solicitation or peddling permit for the period of time as is reasonably necessary, not to exceed seven (7) days, to verify the accuracy of information required to be provided in the application for a solicitation or peddling permit.

3. The City Clerk shall not issue a solicitation or peddling permit to any person who has:

a. Been convicted of a felony;

b. Been convicted of a misdemeanor or other violation of the laws of the United States or of any State or City of the United States where that conviction was for an offense involving force, threat of force, theft, burglary, dishonesty, fraud, sexual misconduct or moral turpitude within the past seven (7) years; or

c. Been charged with a felony, misdemeanor or other violation of the laws of the United States or of any State or City of the United States and an arrest warrant has been issued therefor by the jurisdiction in which the crime is alleged and remains outstanding.

4. Any person who is aggrieved by the refusal of the City Clerk to issue a solicitation or peddling permit may appeal that refusal, as well as any revocation after issuance to the City Administrator. On refusal or revocation, the City Clerk shall notify the applicant by hand delivery or United States mail, postage prepaid, of the refusal to issue a solicitation or peddling permit or revocation of the same and informing the applicant that the applicant may appeal that decision to the City Administrator by requesting of the City Clerk to have a hearing before the City Administrator not later than five (5) days following receipt of the notice of refusal or revocation. The notice of refusal or revocation shall contain a statement of the facts upon which the City Clerk acted in refusing to issue a permit or revoking an issued permit. On receipt of the request for hearing before the City Administrator, the City Clerk shall schedule the matter to be heard before the City

Administrator not more than ten (10) days following receipt, unless the applicant shall request that the hearing be scheduled at a later date. At the hearing, the applicant may offer evidence to support any contention that a permit should be issued or not revoked. In the event the City Administrator sustains the denial of issuance of the permit or revocation, the applicant may appeal that decision to the District Court of Clay County, Missouri.

SECTION 640.070: REVOCATION OF PERMIT

1. In addition to the denial of a permit, a permit may be revoked for any of the following reasons:

a. Any violation of this Chapter by the applicant or by the person for whom the particular card was issued.

b. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.

c. Conviction of any felony or a misdemeanor involving moral turpitude within the last seven (7) years.

d. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

2. Any revocation hereunder shall be subject to the review and appeal process as contained in Section 640.060 above.

SECTION 640.080: GENERAL PROHIBITIONS

The following acts are unlawful and prohibited:

1. It shall be unlawful for any solicitor or peddler or canvasser to ring the bell or knock on the door, or otherwise attempt to gain admittance, for the purpose of soliciting, peddling or canvassing at a residence, dwelling or apartment at which a sign bearing the words "No Solicitors," "No Trespassers," or words of similar meaning indicating that those persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view, provided that this prohibition shall not apply to any solicitor, peddler or canvasser who gains admittance to a residence at the invitation, permission or consent of the occupant thereof. It shall be unlawful for any solicitor, peddler or canvasser to conduct soliciting, peddling, and canvassing on the premises of any business that has posted a sign exposed to public view bearing the words "No Solicitors" or words of similar meaning indicating that those activities are not allowed on the premises.

2. It shall be unlawful for any solicitor, peddler or canvasser to solicit, peddle or canvass prior to 9:00 A.M. or after 8:00 P.M., Central standard time, and prior to 9:00 A.M. or after 9:00 P.M., Central daylight saving time, of any day, except that this Section shall not apply when the peddler, solicitor, or canvasser has an express invitation from the resident, occupant, or owner of a dwelling or business allowing him/her to enter upon the property outside of the designated times.

3. It shall be unlawful for any solicitor, peddler or canvasser to engage in soliciting, peddling or canvassing upon any premises or in any dwelling house, apartment or other

residence after having been asked by the owner or occupant thereof to leave the premises or residence.

4. It shall be unlawful for any solicitor or peddler to make more than one (1) appearance for purposes of soliciting or peddling at the same residential premises for identical goods, services or contributions within any consecutive sixty-day period, without receiving prior permission therefor from the occupants of the premises. This provision shall be construed to include solicitation and peddling upon the same premises by employees, agents or other persons acting on behalf of the same person more than once during the aforesaid period without prior permission, as herein provided.

5. It shall be unlawful for any solicitor, peddler or canvasser to fail to provide, at the request of the purchaser or donator, a written receipt for purchases or donations exceeding five dollars (\$5.00) in cash or tangible property, which receipts shall be signed by the person making the sale or accepting the donation and shall set forth:

- a. The brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or
- b. For any donation or charitable solicitation, a written receipt acknowledging that contribution and personally signed by the person accepting the contribution.

6. It shall be unlawful for any solicitor, peddler or canvasser to fail at the outset to disclose to the prospective buyer, donor or canvasee his/her name and the name of the company, product or organization he/she represents.

7. It shall be unlawful for any solicitor, peddler or canvasser to make any assertion, representation or statement that misrepresents the purpose of his/her call or use any plan or scheme that misrepresents that purpose.

8. It shall be unlawful for any solicitor, peddler or canvasser to conduct his/her business in a way that would restrict or interfere with ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay, or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.

9. It shall be unlawful for any solicitor, peddler or canvasser who has: been convicted of a felony; been convicted of a misdemeanor or other violation of the laws of the United States or of any State or City of the United States, where that conviction was for an offense involving force, threat of force, theft, burglary, dishonesty, fraud, sexual misconduct or moral turpitude within the past seven (7) years; or been charged with a felony, misdemeanor or other violation of the laws of the United States or of any State or City of the United States and an arrest warrant has been issued therefor by the jurisdiction in which the crime is alleged and remains outstanding, to solicit, peddle or canvass within the City.

10. It shall be unlawful for any person to solicit, peddle or canvass or attempt to solicit, peddle or canvass at a place of residence at any entrance other than the main entrance of the residence.

11. It shall be unlawful for any solicitor or peddler to solicit or peddle or attempt to solicit or peddle without carrying upon his/her person a copy of the permit issued by the City authorizing solicitation or peddling and an identification badge or card as described in Section 640.050(10) of this Chapter.

12. It shall be unlawful for any solicitor or peddler to solicit or peddle or attempt to solicit or peddle without carrying upon his/her person a State or Federal government identification card, if the solicitor or peddler is legally able, by age, to obtain this form of identification.

13. It shall be unlawful for any solicitor, peddler or canvasser to leave a handbill attached to any sign, utility pole, transit shelter, tree, bridge, public building or appurtenance or other structure within the public right-of-way. No handbill shall be attached to any privately owned property in a manner that causes damage to such property. No handbill shall be left in a manner as to be blown away. No handbill shall be left on premises that are temporarily or continuously uninhabited. No handbill shall be placed upon any automobile or other vehicle. The City may remove and destroy any handbills in violation of this Section.

14. It shall be unlawful for any solicitor or peddler to use public property, including but not limited to parks, streets, medians, sidewalks, parking lots, and other rights-of-way, for soliciting or peddling unless that use is part of a special event approved by the City.

SECTION 640.090: VIOLATION TO BE PROSECUTED AS TRESPASS

Any person violating any part of this Chapter shall have committed a trespass on such property and shall be prosecuted under the general trespass ordinances of the City. The penalty for such violation shall be the same as for any other trespass.

SECTION 640.100: EACH DAY IS AN OFFENSE

Every day any violation of this Chapter or of any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

Section 2. This Ordinance shall take effect and be in full force from and after its passage according to law.

PASSED THIS 28th DAY OF AUGUST, 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: 07/18/2023
Second Reading: 08/28/2023