

**CITY OF HARRINGTON
ORDINANCE NO. 17-06**

**AN ORDINANCE ADDING CHAPTER 280, PEDDLERS AND SOLICITORS, TO
THE CODE OF THE CITY OF HARRINGTON**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
HARRINGTON IN COUNCIL MET:

Section 1. That the Code of the City of Harrington shall be amended by
adding a new chapter to read as follows:

Chapter 280, Peddlers and Solicitors

§ 280-1. Purpose.

The City Council of the City of Harrington has deemed it necessary to establish regulations regarding peddlers and solicitors in order to ensure the safety and welfare of residents and offering the opportunity for residents to request peddlers and solicitors not enter a resident's property.

§ 280-2. Definition.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

PEDDLER

Any person selling or offering for sale any goods, wares, merchandise, or services for immediate delivery which the person selling or offering for sale carries with him/her in traveling or has in his possession or control upon any of the streets or sidewalks or from house to house within the City.

PERSON

Any individual, firm, corporation, company, partnership, or joint venture.

PUBLIC PROPERTY

Any parcel of land or any street, sidewalk, alley, or right-of-way owned or controlled by the City of Harrington.

ROADWAY

Any public street that has more than two main travel lanes or a speed limit of twenty-five (25) miles per hour or greater.

SOLICITOR

Any person seeking or taking contracts or orders for any goods, wares, merchandise, or services for future delivery or for subscriptions or contributions upon any streets or sidewalks or from house to house within the City.

§ 280-3. License required.

No person shall peddle or solicit within the boundaries of the City of Harrington without having first obtained a peddlers/solicitors license issued by the City.

§ 280-4. Exemptions.

The provisions of this chapter shall not apply to the following:

- A. Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy, or other public officers selling goods, wares, and merchandise according to law;
- B. Individuals selling fruits or vegetables which were produced on land that is owned or controlled by the individual;
- C. An attempt to enlist support for or against a particular religion, political party, candidate, cause, or issue;
- D. Solicitations, sales, or distributions made by a charitable organization recognized as tax exempt under the Internal Revenue Code, a religious organization recognized as such under the laws of the State of Delaware, or an organization authorized by any school within the Lake Forest School District;
- E. Individuals leaving written information, including flyers, leaflets, and brochures, or other forms of advertising, for non-commercial purposes; and
- F. Individuals under sixteen (16) years of age.

§ 280-5. License application.

- A. Applications for peddler/solicitor licenses shall be made at least twenty-four (24) hours, excluding weekends and holidays, prior to the date a peddler or solicitor seeks to begin peddling or soliciting.
- B. Applications for peddler/solicitor licenses shall be upon forms provided by the City which shall include the following information:

(1) The applicant's name and address;

- (2) The name and address of the person for whom the applicant works, if any;
- (3) The type or types of article, device, subscription, contribution, service or contract which he/she desires to sell or for which he/she wishes to solicit within the City;
- (4) The type of vehicle the applicant uses, if any, and its registration number;
- (5) The name, address, and title of a company officer upon whom process or other legal notice may be served, if the applicant is a corporation or company or is associated with a corporation or company;
- (6) A statement as to whether or not the applicant has been convicted of a felony or misdemeanor within five years preceding the date of the application and the nature of the offense or violation (excluding traffic offenses);
- (7) A statement as to whether or not the applicant has had a civil judgment for fraud, deceit, or misrepresentation entered against him or her within five years preceding the date of the application;
- (8) A statement that the application has received a copy of the "no solicitation registry" and that he/she understands that it is unlawful for any peddler to enter upon any private property when such property is included in the town's "no solicitation registry" or has a sign posted stating "no peddlers allowed" or "no solicitations allowed" or other words to such effect; and
- (9) Any such other information as deemed necessary by the City Manager, and/or his/her designee.

B. The application shall be verified by the oath or affirmation of the individual licensee applying for a peddler/solicitor license.

C. The following documents shall accompany the application:

- (1) A copy of a government-issued photo I.D. issued to the applicant;
- (3) A passport compliant photograph of the applicant;
- (4) A state and federal criminal background check conducted on the applicant by the State Bureau of Identification within the last year;
- (4) A letter authorizing the applicant to represent the firm the applicant purports to represent, if any; and

(5) A copy of the applicant's State of Delaware Salesperson Identification Card, if the applicant intends to conduct door-to-door peddling or soliciting.

D. The proper license fee shall accompany the application.

§ 280-6. Issuance; expiration; records; form.

A. Upon proper application and payment of the prescribed fees as established in Chapter 180, Municipal Fees, the City shall have twenty-four (24) hours, excluding weekends and holidays, to determine whether to issue a license.

B. Each such license shall be valid and effective from the first day of July each year, or the date of issuance, to June 30 at 11:59 p.m. of the fiscal year in which it was issued.

C. A record of all licenses issued and license fees paid shall be maintained at City Hall.

D. Each license issued shall be in the form of an identification badge provided by the City Manager, and/or his/her designee, which shall set forth the following information:

(1) The licensee's name, employer, and signature;

(2) The license number and expiration date;

(3) A passport compliant photograph of the licensee; and

(4) Any such other information as deemed necessary by the City Manager, and/or his/her designee.

§ 280-7. Denial of license.

A. The City may refuse to issue a license for a specific applicant for the following reasons:

(1) An applicant provided false information in the application;

(2) An applicant has been convicted of a felony or misdemeanor involving a sex offense, trafficking in controlled substances, burglary, theft, or any violent acts against person or property, within five years preceding the application date; or

(3) A civil judgment for fraud, deceit, or misrepresentation was entered against the applicant within five years preceding the date of application.

- B. The City Manager, and/or his/her designee, shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance by the applicant pursuant to the application.
- C. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not engage in the business for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering it.

§ 280-8. License fees; refunds.

- A. No license shall be issued under this chapter except upon payment of a fee as established in Chapter 180, Municipal Fees, and the full fee shall be required irrespective of when during the year a license is issued.
- B. No prorating, rebate, or refund of any license fee or part thereof shall be made by reason of nonuse of the license. The City Manager, and/or his/her designee, shall have the authority to refund a license fee only if the license fee was collected through an error.

§ 280-9. Display of license.

A peddler or solicitor issued a license under the provisions of this chapter shall, at all times while engaged in peddling or soliciting in the City, display upon his/her person such license and shall exhibit such evidence upon request to all police officers, city officials, and citizens.

§ 280-10. Transfer of license.

Each peddler/solicitor license granted under this chapter shall be for the sole use and benefit of the person to whom it is issued and shall not be transferable.

§ 280-11. Duplicate license.

A duplicate license shall be issued by the City Manager, and/or his/her designee, to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public of this state attesting to that fact, a passport compliant photograph of the licensee being provided, and payment of the fee as set forth in Chapter 180, Municipal Fees.

§ 280-12. Criminal background check required.

The applicant shall not have any convictions of a felony or misdemeanor within five years preceding the date of the application. The City Manager may waive the background check requirement upon written request.

§ 280-13. Entrance to premises restricted.

It shall be unlawful for any peddler or solicitor to enter upon any private property when such property is included in the City's "no solicitation registry" or has a sign posted stating "no peddlers allowed" or "no solicitations allowed" or other words to such effect.

§ 280-14. Hours of operation.

It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting within the City between the hours of 7:00 p.m. and 9:00 a.m., except by specific appointment with or invitation from the prospective customer.

§ 280-15. Refusing to leave premises.

Any peddler or solicitor 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 same and not return to such premises shall be subject to a penalty.

§ 280-16. False or fraudulent statements.

It shall be unlawful for any peddler or solicitor to make false or fraudulent statements concerning the goods, wares, merchandise, or services for the purpose of inducing another to purchase the same.

§ 280-17. Noise.

No person engaged in soliciting or peddling shall hawk or cry his goods, wares, merchandise, articles, contracts, or services upon any of the streets or sidewalks or sidewalks of the City, nor shall he/she use any loudspeaker or horn or any other device on public property for announcing his presence by which members of the public are annoyed.

§ 280-18. Vehicles.

No person engaged in soliciting or peddling shall park any vehicle upon any of the streets or alleys of the city in order to sort, rearrange, or clean any of his/her goods, wares, or merchandise or any samples, order books, contracts, circulars, literature, or advertising matter pertaining thereto, nor may any such person place or deposit any refuse upon any such street or alley, or peddling or soliciting office by parking any vehicle upon any street or alley in the City for longer than necessary in order to solicit from or peddle to person residing in the immediate vicinity.

§ 280-19. Sales at public functions on City property.

Notwithstanding any other provision, no person shall sell merchandise at any public function held in the City, on lands owned by the City, without first obtaining written permission therefor from the City Manager, and/or his/her designee.

§ 280-20. Prohibited areas.

No peddler or solicitor shall peddle, solicit, or do business of any nature whatsoever in the following areas:

- A. Public property in any commercial zone of the City as defined and described in Chapter 440, Zoning, and the zoning map of the City;
- B. Any location on private property except at the property's primary entrance;
- C. Private property located in any commercial zone as defined in this section without obtaining prior written approval of the private property owner;
- D. Within two hundred (200) feet of any church or place of worship, or any place occupied exclusively as a public or private school or for school purposes;
- E. Upon any of the streets, alleys, or sidewalks for the City, with or without any stand or counter;
- F. In a roadway, roadway median, or the shoulder of a roadway anywhere within the City to solicit money or to distribute any material to the occupant of any motor vehicle.

§ 280-21. No solicitation registry.

- A. Any resident or business of the City may place his/her/its address on the City's "no solicitation registry" by completing a form provided by the City.
- B. The "no solicitation registry" will be provided to peddlers and solicitors upon their receiving a license.

§ 120-22. Code compliance.

A peddlers and solicitors operating in the City shall at all times be in compliance with all city codes and ordinances. Each licensee shall refrain from peddling or soliciting after expiration of his/her license and during the period his/her license is revoked.

§ 280-23. Enforcement; revocation of license.

- A. The City Manager, and/or his/her designee, shall make or have made all investigations reasonably necessary to the enforcement of this chapter.
- B. The City Manager may order a peddler or solicitor to cease operations in the City and suspend his/her license (if a license has been obtained) for any of the following reasons:
 - (1) The peddler or solicitor is found to be operating in violation of the terms of this chapter.
 - (2) The peddler or solicitor is in violation of any regulations of the Code of the City of Harrington or the laws of the State of Delaware.
 - (3) Any public safety authority having jurisdiction has requested that the business activities cease until certain conditions have been remedied.
- C. The City shall provide the peddler or solicitor with written notice of the violation(s), which notice shall state that the peddler or solicitor shall be ordered to cease operations and his/her license (if applicable) shall be revoked without further notice if within ten business days of the date of the notice the peddler or solicitor fails to remedy the violations or file an appeal with the City Council. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the peddler or solicitor. If the peddler or solicitor does not remedy the violations or appeal the determination of the City Manager within the prescribed time period, the peddler or solicitor shall not be permitted to operate in the City until such violations have been remedied. Notwithstanding the foregoing, notice shall not be required to order a peddler or solicitor to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

§ 280-24. Appeals.

- A. Any person aggrieved by any decision of the City Manager, and/or his/her designee, shall have the right to appeal to the City Council by filing a written appeal with the City Council within ten days following the date of the notice of violation or decision complained of. The appeal shall set out a copy of the notice of violation or decision appealed from and shall include a statement of facts relied upon to avoid the order.
- B. The City Council shall fix a time and place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing him of the hearing. The hearing may be held as part of a regularly scheduled City

Council meeting. The findings of the City Council shall be final and conclusive and shall be served upon the person who requested the appeal.

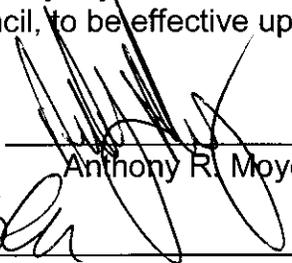
§ 280-25. Violations and penalties.

- A. Any peddler or solicitor operating within the City without a valid peddler/solicitor license will be subject to penalties for failure to obtain a license as established in Chapter 180, Municipal Fees.
- B. A notice of violation issued by the City Manager, and/or his/her designee, will stay in effect until the peddler or solicitor complies with all conditions associated with the issuance of a valid peddler/solicitor license, including annual license and penalty fees.
- C. Continued violation of any provision of this chapter is subject to fines in accordance with Chapter 180, Municipal Fees.
- D. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
- E. The amount of any unpaid penalty, including the unpaid license fee, shall constitute a debt owed to the City, and the City may institute a civil suit or use any other lawful methods authorized by the City Charter or the laws of the State of Delaware to recover any unpaid fee.

Repealer. All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Effective Date. The Clerk of Council shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval by Council.

SO ORDAINED by the majority of Council Members present at a regular session of Harrington City Council, to be effective upon signing.



Anthony R. Moyer, Mayor

Attest: 

Kelly Blanchies, Clerk of Council

Date of Adoption: June 19, 2017

SYNOPSIS

This Ordinance adds Chapter 280, Peddlers and Solicitors, to require that peddlers and solicitors obtain a license, to establish a "no solicitation registry," and to regulate the hours and activities of peddlers and solicitors.

First Reading: May 15, 2017

Public Hearing: June 19, 2017

Second Reading: June 19, 2017