

ORDINANCE 2020-13

**AN ORDINANCE AMENDING CHAPTER 806 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF COMMERCIAL POINT (PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS) AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Village of Commercial Point has experienced an increase in itinerant merchant, peddling, and solicitation activity within the Village, particularly at unreasonably late or early hours; and

**WHEREAS**, Chapter 806 of the Codified Ordinances of the Village of Commercial Point presently provides limited penalties for a violation of said Chapter; and

**WHEREAS**, the Village Council desires to adopt an updated system of license application for itinerant merchants, peddlers, and solicitors seeking to do business within the Village.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, OHIO, BY A VOTE OF TWO-THIRDS OF THE MEMBERSHIP THEREOF, THAT:**

**SECTION 1.** Chapter 806 of the Codified Ordinances of the Village of Commercial Point is hereby amended in accordance with Exhibit A, attached hereto and incorporated herein by reference, and all previous legislation inconsistent with said Exhibit A is hereby repealed and replaced.

**SECTION 2.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that result in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 3.** Due to the increased volume of solicitation and peddling activity within the Village and need for penalties for violations of Chapter 806 of the Codified Ordinances of the Village of Commercial Point, this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the Village of Commercial Point and, therefore, shall take immediate effect upon passage.

Vote on Suspension of the Readings:

Motion by: Tracy Joiner

2<sup>nd</sup>: Ryan Mitchem

Roll Call:

Yes Bruce Moore

Yes Tracy Joiner

Yes Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

N/A Laura Wolfe

Vote on Passage of the Ordinance:

Motion by: Tracy Joiner

2<sup>nd</sup>: Ryan Mitchem

Roll Call:

Yes Bruce Moore

Yes Tracy Joiner

Yes Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

N/A Laura Wolfe

Adopted this 20<sup>th</sup> day of July, 2020.

  
Allan D. Goldhardt, Mayor

  
Wendy Hastings, Fiscal Officer

Approved as to Form:

  
Josh Cartee, Law Director

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**EXHIBIT A**

**CHAPTER 806**

**Peddlers, Itinerant Merchants, and Solicitors**

**§ 806.01 DEFINITIONS.**

For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**GOODS.**

Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

**ITINERANT MERCHANT.**

Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the Village and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the Village.

**PEDDLER.** Any person, not an itinerant merchant, who:

- (1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or
- (2) Without traveling from place to place, sells or offers goods for sale from any public place within the Village.

**SOLICITOR.**

Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

**§ 806.02 LICENSE REQUIREMENT.**

- (a) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the Village.
- (b) The fee for the license required by this chapter shall be fifteen dollars (\$15.00) plus five dollars (\$5.00) for each individual who will be conducting business within the Village under such license. . This fee shall be known as the License Application Fee, which may be amended from time to time, as determined by Resolution of the Village Council.
- (c) No license issued under this Chapter shall be transferable.
- (d) All licenses issued under this Chapter shall expire ninety (90) days after the date of issuance thereof.

**§ 806.03 APPLICATION PROCEDURE.**

- (a) All applicants for licenses required by this Chapter shall file an application with the Village Mayor. This application shall be signed by the applicant. The applicant may be requested to provide information concerning the following items:
  - (1) The name and address of the applicant;
  - (2) The name of each individual that will be conducting business under the license within the Village.
  - (3) The name and contact information of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the Village;
  - (4) The name and address of the business, corporation, or person for whose purpose the business will be carried on;
  - (5) The time period or periods during which it is proposed to carry on applicant's business;
  - (6) The nature, character, and quality of the goods or services to be offered for sale or delivered;
- (b) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (a) above:
  - (1) A description of all individuals who will be conducting business under the license within the Village;
  - (2) A description of any vehicle proposed to be used in the business, including its registration number, if any.
- (c) Each applicant for a license shall attach credentials to the application for each individual that will be conducting business under the license within the Village , authorizing the individual to act as a representative of the applicant.

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**EXHIBIT A (continued)**

**§ 806.04 STANDARDS FOR ISSUANCE.**

- (a) The applicant shall submit an application, all information requested under § 806.03(a), License Application Fee, and background check obtained through the Ohio Bureau of Criminal Investigation (BCI) for each individual that will be conducting business within the Village. Upon receipt of all of the foregoing, the Mayor shall issue the applicant a license, unless the BCI background check demonstrates the applicant or an individual named on the application as an individual who will be conducting business under the license within the Village has been convicted of any of the following:
- (1) A felony;
  - (2) An offense under Ohio Revised Code Chapter 2907 or any similar municipal ordinance;
  - (3) Attempt under Ohio Revised Code § 2923.02 if the principal offense is an offense listed under Ohio Revised Code Chapter 2907;
  - (4) Complicity under Ohio Revised Code § 2923.03 if the principal offense is an offense listed under Ohio Revised Code Chapter 2907;
  - (5) Any felony or misdemeanor involving a victim over the age of sixty (60); or
  - (6) An offense under Ohio Revised Code Chapter 2913 or any similar municipal ordinance.
- (b) No person shall engage in business under this Chapter without submitting a BCI background check to the Mayor. The cost of such background check(s) shall be borne by the applicant.
- (c) No person shall engage in business under this Chapter without obtaining a license.

**§ 806.05 REVOCATION PROCEDURE.**

Any license or permit granted under this Chapter may be revoked by the Mayor after notice and hearing, pursuant to the standards in § 806.06. Notice of hearing for revocation 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 mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

**§ 806.06 STANDARDS FOR REVOCATION.**

A license granted under this Chapter may be revoked for any of the following reasons:

- (a) Any fraud or misrepresentation contained in the license application; or
- (b) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (c) Any violation of this Chapter; or
- (d) Conviction of the licensee of any offense listed in § 806.04(a); or
- (e) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public.

**§ 806.07 APPEAL PROCEDURE.**

- (a) Any person aggrieved by a decision under §§ 806.04 or 806.06 shall have the right to appeal to the Village Council. The appeal shall be taken by filing with the Village Council, within fourteen (14) days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Village Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 806.05.
- (b) The order of the Village Council after the hearing shall be final.

**§ 806.08 EXHIBITION OF IDENTIFICATION.**

- (a) Any license issued to an itinerant merchant under this Chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the Village shall be used to conduct the business licensed, separate licenses shall be issued for each place.
- (b) The Mayor shall issue a license to each peddler or solicitor licensed under this Chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the

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**EXHIBIT A (continued)**

license. The license shall be kept with the licensee during such time as he or she is engaged in the business licensed and shall be displayed at all times in a conspicuous manner.

**§ 806.09 VILLAGE POLICY ON SOLICITING AND PEDDLING.**

It is hereby declared to be the policy of the Village that the occupants of the residences in the Village shall make the determination of whether solicitors or peddlers shall be, or shall not be, invited to their respective residences.

**§ 806.10 NOTICE REGULATING SOLICITING AND PEDDLING.**

(a) Notice of the refusal of invitation to solicitors or peddlers, to any residence, shall be stated on a weatherproof card, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO SOLICITORS OR PEDDLERS INVITED"

(b) The letters shall be in legible typeface of at least 24 points.

(c) The card so exhibited shall constitute sufficient notice to any solicitor or peddler of the determination by the occupant of the residence of the information contained thereon.

**§ 806.11 DUTY OF SOLICITORS AND PEDDLERS TO ASCERTAIN NOTICE.**

(a) It shall be the duty of every solicitor or peddler upon going onto any premises in the Village upon which a residence is located to first examine the notice provided for in § 806.10 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS OR PEDDLERS INVITED," then the solicitor or peddler, whether licensed or not, shall immediately and peacefully depart from the premises.

(b) Any solicitor or peddler who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. Refusal to depart after a request to do so by the occupant shall constitute a violation of this Chapter.

**§ 806.12 PROHIBITED SOLICITATION AND PEDDLING.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting or peddling in defiance of the notice exhibited at the residence in accordance with the provisions of § 806.10 above.

**§ 806.13 HOURS FOR SOLICITATION AND PEDDLING.**

Solicitation and peddling is permitted only between the hours of 9:00 a.m. and 9:00 p.m. Solicitation or peddling by a person or business outside those hours, whether or not that person or business is licensed to do business under this Chapter, shall constitute a violation of this Chapter.

**§ 806.99 PENALTIES.**

Violations of this Chapter shall be punished as follows:

(a) A first violation of this Chapter shall be classified as a minor misdemeanor and punishable by up to a \$150 fine and, if the person or business is licensed to do business as provided under this Chapter, immediate revocation of the license of such person or business.

(b) A second violation of this Chapter shall be classified as a fourth-degree misdemeanor and punishable by up to a \$250 fine, and, if the person or business is licensed to do business as provided under this Chapter, immediate revocation of the license of such person or business.

(c) A third violation of this Chapter, if committed within one (1) year of a second violation, shall be classified as a third degree misdemeanor and punishable by up to a \$500 fine and thirty (30) days in jail, and, if the person or business is licensed to do business as provided under this Chapter, immediate revocation of the license of such person or business.