

ORDINANCE NUMBER
2014-01

An Ordinance to Amend
the City Code of the City
of Petersburg Regarding
Peddlers and Solicitors

WHEREAS, each year, the City of Petersburg Police Department receives complaints regarding door-to-door solicitation; and

WHEREAS, Section 11-42-5 of the Illinois Municipal Code (65 ILCS 5/11-42-5) authorizes corporate authorities to license, tax, regulate, or prohibit peddlers; and

WHEREAS, the City Council of the City of Petersburg deems it to be in the best interest of the City of Petersburg and in the interest of the City's health, safety, and welfare to adopt this ordinance.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Petersburg, Menard County, Illinois, as follows:

Section 1: The City Code of the City of Petersburg is amended by adding Chapter 16 as follows:

Section 16-1 Findings and intent

This ordinance is intended to regulate door-to-door sales by requiring persons engaging in door-to-door sales and solicitation to register and obtain a license from the City and by promulgating reasonable time and manner restrictions on door-to-door solicitation.

Section 16-2 Definitions

The following words and phrases shall have the following meanings:

DOOR-TO-DOOR SALES - The in-person Solicitation by a person (1) by entry upon residential property, including multifamily or duplex residential property, or (2) from the public right-of-way near residential property, or (3) by seeking to draw attention to the person's presence by using audio sounds from mobile units.

DOOR-TO-DOOR SALES APPLICATION FEE - A non-refundable fee as established and adjusted from time to time by the City Council, which shall be charged at the time an application is submitted for a Door-To-Door Sales Permit.

DOOR-TO-DOOR SALES PERMIT - A permit issued to a Salesperson authorizing him or her to engage in Door-To-Door Sales in accordance with this ordinance and/or authorizing a Sales Supervisor to direct or supervise a Salesperson.

SALES ORGANIZATION – Any individual, sole proprietorship, partnership, association, group, firm, corporation, or other entity engaged in the supervision, recruitment, retention, or employment of a salesperson or salespersons, including any person or representative thereof for Door-To-Door Sales .

SALESPERSON – Any person engaged in Door-To-Door Sales.

SALES SUPERVISOR – Any person who directs or supervises a Salesperson.

SOLICITATION/SOLICITING – Any one or more of the following: (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever; or (2) seeking to obtain prospective customers for application or purchase of insurance of any type or character; or (3) seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or (4) seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any association, organization, corporation, or project that is not otherwise exempt under this Chapter; or (5) seeking to obtain immediate sales of foodstuffs by drawing attention to their presence by using audio sounds from mobile units.

Section 16-3 Administration

The City of Petersburg Door-To-Door Sales Permit process shall be administered by the City of Petersburg Police Department's Chief of Police or his duly authorized designee.

Section 16-4 Door-to-Door Sales Regulations

A. It shall be unlawful for any individual, sole proprietorship, partnership, association, group, firm, corporation, or other entity to engage in Door-To-Door Sales without having first obtained a Door-To-Door Sales Permit therefore as provided in this Chapter.

B. No Sales Organization shall allow any Salesperson to engage in Door-To-Door Sales who has not applied for and received a City of Petersburg Door-To-Door Sales Permit.

C. No Sales Supervisor shall direct, supervise, or allow any Salesperson to engage in Door-To-Door Sales who has not applied for and received a City of Petersburg Door-To-Door Sales Permit.

D. Each Salesperson shall wear affixed to their outer clothing the City of Petersburg Door-To-Door Sales Permit at all times while engaged in Door-To-Door Sales.

E. No Salesperson or Sales Supervisor shall use any vehicle to transport persons or materials for Door-To-Door Sales unless said vehicle is identified in the Door-To-Door Sales Permit application and the exterior of said vehicle is marked with the name of the Sales Organization and/or the words "Door-To-Door Sales." All required information shall be in letters a minimum of four inches in height on both sides of the vehicle.

F. All Door-To-Door Sales Permits shall be returned to the Chief of Police on or prior to the permit's expiration date.

G. Door-To-Door Sales shall be restricted to the hours of 10:00 A.M. to 5:00 P.M., Monday through Saturday. Door-To-Door Sales shall be prohibited on Sundays and national holidays.

Section 16-5 Application Requirements

A. Each Salesperson and Sales Supervisor must apply individually to the Petersburg Police Department during posted administrative hours by submitting a completed application upon a form provided by the Chief of Police and filing it with such Chief or his designee.

B. The application shall be made in writing, under oath, and by responding in full the information requested on the application, to-wit:

1. Name, including all previous and other names used;
2. Present address and length of residence at such address, as well as mailing address if different;
3. Date of birth;
4. Driver's license number or State issued identification card number;
5. Permanent residential addresses during the past three (3) years if different than the present address;
6. Current home and cellular phone number;
7. Temporary local address (if any);
8. Name and address of the individual, sole proprietorship, partnership, association, group, firm, corporation, or other entity with whom the applicant is employed or represents, including a current copy of the IBT (Illinois Business Tax) form, if any, and length of time of employment or representation by the applicant;
9. The identity of the applicant's supervisor and contact information;
10. Name, address, and telephone number of all employers during the past three (3) years, if different than the present employer;
11. Nature of the business for which solicitation will be performed, including description of any and all goods and/or services being offered, and a current copy of the applicant's food permit, if selling food;
12. Make, model, color, and registration number of any vehicle(s) used to transport the applicant, his/her supervisor, and/or sales materials, together with a copy of the driver's license of the individual responsible for driving the applicant;
13. The date or the approximate date of the latest previous City of Petersburg Door-To-Door Sales Permit application by the applicant;
14. Whether the applicant has ever had a solicitation, Solicitor's, peddler's, hawker's, or other sales license or permit revoked by this or any other municipality;
15. Whether the applicant has ever been convicted of a violation of any regulations of any other municipality regarding soliciting, and, if so, an identification of the municipality and approximate date of the conviction;
16. Whether the applicant has ever been convicted of the commission of a felony or misdemeanor under the laws of the State of Illinois or any other state or federal law of the United States;
17. The name and state of the last three (3) municipalities where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.
18. Such other identifying information as may be reasonably required, including, but not limited to:
 - a. Government-issued photographic identification, such as a driver's license; or

b. In the case of a minor who does not possess government-issued photographic identification, an original birth certificate or an affidavit signed under the penalties of perjury by the minor's parent or guardian attesting to the minor's date of birth; or

c. If a government-issued photographic identification is not available, submission of two (2) "passport" type photographs, i.e., a color photo printed on photo quality paper, 2x2 inches in size, sized such that the head is between 1 inch and 1 3/8 inches from the bottom of the chin to the top of the head, taken within the last 6 months to reflect the applicant's current appearance, with a plain white or off-white background, taken directly facing the camera with a neutral expression and both eyes open, along with satisfactory identification that does not contain a photo.

19. If applying as a Sales Supervisor, such Sales Supervisor shall additionally list all Salesperson's names and addresses and shall acknowledge that the individuals are individually known to the Sales Supervisor, that such persons will be supervised in their Door-To-Door Sales by the Sales Supervisor, and that such Sales Supervisor will be responsible for their conduct.

C. No application shall be received or reviewed without payment in full of the Door-To-Door Sales Application Fee. The Door-To-Door Sales Application Fee shall accompany each application.

Section 16-6 Background Check

A. The Chief of Police shall conduct such investigation of the matters set forth in the application as the Chief determines reasonable and necessary, which investigation shall include a criminal records check of each applicant for a City of Petersburg Door-To-Door Sales Permit. A criminal records check shall not be necessary for individuals under the age of eighteen (18) if a Sales Supervisor for the individual(s) has filled out an "Affidavit of Supervision" listing all participants' names and addresses, attesting that the individuals are individually known to the Sales Supervisor, and stating that such minors will be supervised in their Door-To-Door Sales by the Sales Supervisor, who will be responsible for their conduct.

Section 16-7 Issuance, Denial, and Revocation

A. The Chief of Police or designee may deny issuance or revoke any Door-To-Door Sales Permit after notice for any of the following causes:

1. Fraud, misrepresentation, or any false or incomplete statements made in completing the application required herein or otherwise furnished to the Chief of Police upon request.
2. Any violation of this ordinance.
3. Conviction of the permit holder of any felony within the past 10 years of the date of application.
4. Conviction of the permit holder of any misdemeanor within the past 5 years of the date of application.
5. Conducting Solicitation in an unlawful manner or in such a manner as to constitute a breach of the peace or to be a menace to the health, safety, or general welfare of the people of the City of Petersburg.
6. A determination that the applicant/Salesperson has not yet attained his or her 18th birthday.

B. Notice of denial or revocation of a permit shall be given in writing, stating the reasons. Such notice shall be hand-delivered to the permit seeker or holder or mailed to them at the address given in the application.

C. The Door-To-Door Sales Permit shall expire 30 days after issuance.

D. A \$20.00 cash deposit shall be required after approval and prior to issuance of a Door-To-Door Sales Permit and shall be returned to the Salesperson if the said permit is returned to the Petersburg Police Department on or prior to the permit's expiration date.

Section 16-8 Transfer; Use By Other Person

A Door-To-Door Sales Permit issued pursuant to this ordinance shall not be assigned or transferred. A Door-To-Door Sales Permit shall not be used by any person other than the person to whom the permit was issued.

Section 16-9 Signs Prohibiting Solicitation; Compliance

Every person desiring to secure the protection intended to be provided by this section shall comply with the following directions:

A. Notice of the determination by the occupant refusing invitation to solicitors to any residence shall be given by exhibiting signage at least three inches by four inches (3" x 4") in size upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, such as "No Solicitors" or "No Solicitors Invited" or "No Trespassing". The letters shall be at least one-third inch (1/3") in height. For purposes of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

B. Such card so exhibited shall constitute sufficient notice to any Salesperson of the determination by the occupant of the residence of the information contained thereon.

C. It is the duty of every Salesperson upon going onto any premises in the City of Petersburg upon which a residence is located to first examine the notice provided for in this section, if any is exhibited, and be governed by the statement in the notice.

D. It shall be unlawful for any Salesperson, whether registered or not, to enter the premises or remain on property displaying the signage as described in this section, or to not immediately and peacefully depart from the premises.

E. It shall be unlawful for any Salesperson, whether registered or not, to ignore a no Solicitation directive or to remain on private property and not immediately and peacefully depart upon request to do so by the occupant or after an occupant has otherwise indicated that the Salesperson is not welcome.

F. It is 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 to create any sound in any other 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 as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of this section.

Sec. 16-10 "Do Not Knock Registry".

A. The Chief of Police or his designee shall prepare a list of addresses of those premises where the owner and/or occupant has notified the Chief of Police or his designee, that a Salesperson is not permitted on the premises (hereinafter referred to as the "Do Not Knock Registry"). Every person desiring to secure the protection intended to be provided by this section shall complete a form provided by the Chief of Police and available at the Police Department.

B. The Chief of Police or his designee shall distribute the current "Do Not Knock Registry" to every Salesperson prior to or at the time that such Salesperson is provided a Door-To-Door Sales Permit. It shall be unlawful for any Salesperson, whether registered or not, to enter any premises identified on the then current "Do Not Knock Registry".

Section 16-11 Special Additional Regulations For Door-To-Door Sales From Mobile Units

A Salesperson or a Sales Organization engaging in Solicitations by seeking to draw attention to the Salesperson's or Sales Organization's presence by using audio sounds from mobile units shall observe the following additional regulations:

A. Door-To-Door Sales may only occur in the vehicle identified on the application for the Door-To-Door Sales Permit.

B. Door-To-Door Sales may occur only on public ways within residential districts.

C. Any vehicle used for Door-To-Door Sales may not be stopped at any time in an area where parking is prohibited or in any area posted as a no parking zone.

D. Any vehicle used for Door-To-Door Sales may not be stopped for more than 15 minutes in a single location.

E. Any vehicle used for Door-To-Door Sales shall pull as far as practicable to the side of the right-of-way when stopping for the purpose of making sales and shall operate four-way flashers when so stopped. Any vehicle used for Door-To-Door Sales may not be stopped in a manner that prevents passage of other motor vehicles on the right-of-way.

F. Prior to leaving each stop, the Salesperson shall remove any litter left at the stop by customers.

G. No vehicle used for Door-To-Door Sales may use music or other sounds or be stopped except between the hours of 10:00 A.M. and 5:00 P.M. in the months of May, June, July, August and September.

Section 16-12 Exceptions

No permit shall be required under this ordinance for the following:

A. Persons going door-to-door for the purpose of advocating any religious, political, social, or other position or belief protected by the federal or state constitution, provided however that this exemption does not apply and such person is required to obtain a permit if the exercise of the person's constitutional rights are merely incidental to a commercial activity.

B. Persons dealing only with merchants, businesses, or professional consumers and not residential consumers.

E. Local (Menard County) merchants or farmers making sales, or taking orders for farm products produced or raised by that merchant or farmer.

F. Officers, members, agents, or representatives acting on behalf of nonprofit, charitable, or religious organizations recognized as such by the Internal Revenue Service, who are able to produce written confirmation of such exempt status by the Internal Revenue Service and who are not paid for their services.

G. Candidates for elected government positions and their campaign workers or volunteers.

H. Route delivery persons who only incidentally solicit additional business or make special sales (i.e. Schwan's).

Section 16-13 Violations and Penalties

Each violation of any provision of this ordinance shall be punished by a fine of not less than \$200.00 and not more than \$750.00. Each day upon which a violation occurs or continues shall be considered a separate offense.

Section 2: In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

Section 3: This ordinance shall be in full force and effect upon its passage and publication as provided by law.

Passed: 3/4/2014
Date


Mayor

Attest: Dorothy Morgan
Clerk

First Reading: 3-4-14

Second Reading: _____

Ayes: 6

Nays: 0

Abstaining 0