

ORDINANCE NO. 11-03

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA AMENDING ARTICLE II, DIVISION 2 OF CHAPTER 19 ENTITLED "PEDDLERS, SOLICITORS, ETC." OF THE BAY COUNTY CODE TRANSFERRING THE REGULATION AND PERMITTING OF PEDDLERS FROM THE CLERK OF COURT AND THE BAY COUNTY SHERIFF TO BAY COUNTY; DELETING PROVISIONS REQUIRING AN INVESTIGATION OF UNETHICAL CONDUCT OR CIVIL UNFAIR TRADE PRACTICES; DELETING PROVISIONS DESIGNATING THE CLERK AS THE APPLICANT'S AGENT FOR SERVICE OF PROCESS; DELETING PROVISIONS GOVERNING RECORD KEEPING BY THE CLERK; PROVIDING PROOF OF MOTOR VEHICLE DEALER LICENSE FOR CERTAIN PEDDLERS; DELETING THE REQUIREMENTS FOR FINGERPRINTS; INCREASING FEES; PROVIDING FOR APPEALS; DELETING PROVISIONS ON JURISDICTION; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT BY THE CODE ENFORCEMENT OFFICER; PROVIDING FOR CRIMINAL ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 17, 1986 the Board of County Commissioners of Bay County, Florida adopted Ordinance No. 86-06, entitled the "Bay County Peddlers Ordinance", which has been amended from time to time; and

WHEREAS, the Peddlers Ordinance involved the Clerk of Court and the Bay County Sheriff in the process to issue permits to peddlers; and

WHEREAS, the effective and efficient implementation of the Peddlers Ordinance will be achieved by transferring such duties from the Clerk of Court and Sheriff to Bay County.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida as follows:

SECTION 1. Article II, Division 2 of Chapter 19 entitled "Peddlers, Solicitors, Etc." of the Bay County Code is amended with additions being represented by underlines and deletions by strikethroughs as follows:

Division 2. Permit.

Sec. 19-51. - Required.

It shall be unlawful for any person to engage in business as a peddler within the county without first obtaining a permit to do so.

Sec. 19-52. - Contents of application.

Applicants for a permit under this division shall file with the ~~County clerk of the circuit court~~ a sworn application in writing, ~~in duplicate~~, on a form prepared by the County to be furnished by the clerk, which shall give the following information:

- (1) The name and a description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold or for which orders are taken for sale are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant taken within 60 days immediately prior to the date of filing of the application. The picture shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) A statement as to whether or not the applicant has been convicted, plead no contest, or had adjudication withheld of any crime, misdemeanor or violation of any municipal or county ordinance, the nature of the offense, and the punishment or penalty assessed therefor;
- (9) Whether the applicant, upon any sale or order, will demand, accept or receive payment or deposit of money in advance of final delivery;
- (10) The state, county and municipalities wherein the applicant has worked before coming to this county; and
- (11) A description, including the color, year, make, model, and license number of all motor vehicles utilized by the applicant in such business; and
- (12) A good faith estimate of the value of all high cost items, including motor vehicles, to be offered for sale, and
- (13) Peddlers of motor vehicles shall provide a proof of a current motor vehicle dealer license issued by the State of Florida.

(14) Such other relevant information, ~~which shall include information on all co-workers,~~ as may be required by the County for the investigation of the applicant.

Sec. 19-53. - Applicant to present driver's license.

At the time of filing ~~his~~ an application for a permit required by this division, the applicant shall present ~~his~~ their driver's license, ~~if he has one,~~ or another acceptable form of identification, ~~to the clerk.~~

~~Sec. 19-54. - Applicants to be fingerprinted.~~

~~At the time of making application for a permit required by this division, the applicant shall submit to fingerprinting, by the sheriff.~~

Sec. 19-54 - Application fee.

At the time of filing the application for a permit required by this division, a fee of ~~\$15.00~~ 50.00 shall be paid to the County clerk to cover the cost of the investigation and review of the ~~facts stated in the~~ application. In addition to the ~~\$1550.00~~ 50.00 fee, peddlers applying for permits to offer high cost items for sale within Bay County shall also pay a \$500.00 fee to cover the cost of enforcing this article.

Sec. 19-556. - Giving false information in application.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this division, including failing to make a good faith estimate of the value of a high cost item, including a motor vehicle, offered for sale under the bond provisions of section 19-567, below.

Sec. 19-567. - Bond.

(a) Every applicant for a permit required by this division who is not a resident of the county, or who is a resident of the county and represents a firm whose principal place of business is located outside the state, shall file with the County clerk a cash bond or a surety bond running in favor of the eCounty in the amount of \$5,000.00, with a surety acceptable to and approved by the ~~b~~Board of eCounty eCommissioners or its designee, conditioned that the applicant shall comply fully with applicable provisions of this Code, the ordinances of the county, and state law regulating and concerning the business of peddling, and guaranteeing to any citizen of the county doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. The cash bond or surety bond given pursuant to the requirements of this section shall remain on deposit or in full force and effect for five (5) years after the termination of the permit until the limitation period set forth in F.S. ch. 95, as amended, has run or terminated.

(b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the fictitious name act of the state, such corporation or fictitious name business may furnish one bond in the amount of \$5,000.00 for any and all of its agents, employees, canvassers or solicitors.

(c) If the applicant is offering high cost items for sale within Bay County, the \$5,000.00 bond noted in subsections (a) and (b) of this section shall be replaced by a bond in the amount of the greater of \$25,000.00 or 20 percent of the estimated fair market value of the total number of high cost items, including motor vehicles, the peddler intends to offer for sale within Bay County during the duration of the permit. The ~~b~~Board of ~~e~~County ~~e~~Commissioners may use said bonds to reimburse, in whole or part, any consumer defrauded or damaged by a peddler of high cost items, including motor vehicles.

~~Sec. 19-58. — Appointment of clerk as applicant's agent; service of process.~~

~~Before any permit shall be issued under this division, there shall also be filed with the clerk an instrument in writing, signed by the applicant under oath, nominating and appointing the clerk of the circuit court his true and lawful agent with full power and authority to acknowledge service of process for and on the behalf of such applicant. Service of summons in any action brought upon the applicant's bond shall be deemed made when served on the clerk.~~

Sec. 19-579. - Investigation of applicant.

~~Upon receipt of an application for a permit required by this division, the County clerk shall submit the application to the sheriff, who shall investigate the applicant's background for charges of criminal or unethical conduct or civil unfair trade practices. At the time of filing the application, each applicant shall provide a photograph taken by the County to be used for a criminal background investigation through the Florida Department of Law Enforcement. The County sheriff shall complete ~~it's~~ his review of the application and investigation of the applicant within ten (10) days of receiving a complete the application.~~

Sec. 19-5860. - Denial.

If, as a result of investigation, the applicant for a permit required by this division is found to have been convicted of any felony three years prior to the date of the application, or convicted of any felony or misdemeanor involving a crime of moral turpitude, or fraud, ~~or if found to have committed any unethical conduct or civil unfair trade practice,~~ the application for permit shall be denied by the sheriff. The County sheriff shall provide in writing endorse on the application or as an attachment thereto the specific reasons for the denial and shall inform the applicant and clerk of the denial and the applicant's right to appeal the denial to the ~~b~~Board of ~~e~~County ~~e~~Commissioners pursuant to Section 206 of the Bay County Land Development Regulations.

Sec. 19-~~596~~1. - Issuance.

If, as a result of investigation and review of the application, the County concludes that the application is complete and there is no basis for denial as set forth above ~~character and business responsibility of the applicant for a permit required by this division are found to be satisfactory~~; the County ~~sheriff shall endorse his approval on the application and return the application to the clerk, who shall issue~~ execute a permit addressed to the applicant for the carrying on of the business applied for and, upon payment of any required fee and filing any required bond, deliver the permit to the applicant. ~~Copies of all permits issued under this division shall be forwarded for filing in the office of the clerk of the circuit court.~~

Sec. 19-~~60~~2. - Contents.

Each permit issued under this division shall ~~contain the signature and seal of the issuing officer and~~ shall show the name, address and photograph of the permittee stating that the permit is issued by Bay County pursuant to this Ordinance, ~~the class of permit issued and describing~~ the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance of the permit, and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

Sec. 19-~~63~~. - ~~Records.~~

~~The clerk of the circuit court shall keep a permanent record of all permits issued under this division.~~

Sec. 19-~~61~~4. - Display.

Every peddler having a permit issued under the provisions of this division and doing business within the county shall display his permit upon the request of any person.

Sec. 19-~~62~~5. - Duration.

Every permit issued under the provisions of this division shall be valid for ~~the period of time stated in the permit, but in no event shall any such permit be issued for a period of time in excess of 12 months.~~

Sec. 19-~~63~~6. - Revocation.

Any permit issued under the provisions of this division may be revoked by the County clerk for the violation by the permittee of any applicable provision of this Code, state law, or city or county ordinance, rule or regulation.

Sec. 19-647. - Appeals.

~~The denial or revocation of a permit under this division may be appealed to the Board of County Commissioners pursuant to Section 206 of the Bay County Land Development Regulations by serving a notice of appeal upon the sheriff and the clerk of circuit court of the 14th judicial circuit within 30 days after such denial or revocation. Such appeal shall be heard and resolved by the board of county commissioners in such a manner as to afford due process within 30 days after the filing of the notice. Notwithstanding any provisions of this section to the contrary, the board of county commissioners may grant the issuance of a peddler's license to the applicant if, in its sole discretion, the board finds that the applicant has sufficiently rehabilitated himself or herself to the extent that he or she has become a productive member of society.~~

Sec. 19-658. — Jurisdiction.

~~This article shall be effective throughout Bay County, unless inconsistent with a municipal ordinance, in which case the terms of the municipal ordinance shall control within the incorporated boundaries of that municipality. Municipalities may impose more stringent requirements within their incorporated boundaries.~~

Sec. 19-659. — Enforcement.

~~This article shall be enforced by the Sheriff of Bay County and any other law enforcement officers within Bay County or by any county employee duly designated as a county code enforcement officer.~~

Sec. 19-65— Administration and civil enforcement.

(1). This article shall be administered by the code enforcement officer who shall make all administrative decisions, interpretations and determinations.

(2) This article shall be enforced by a code enforcement officer pursuant to chapter 7 of the Bay County Code of Ordinances as amended from time to time.

Sec. 19-66- Criminal Enforcement.

All violations of this article shall be investigated, cited, processed, adjudicated and punished in the same manner as a misdemeanor, in accordance with F.S. § 125.69(1), by the Bay County Sheriff and his deputies or by other sworn law enforcement officers. Upon conviction, a violator may be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days, or by both fine and imprisonment, for each violation.

SECTION 2. SEVERABILITY.

It is hereby declared to be the intent of the Board of County Commissioners of Bay County, Florida that if any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 3. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners of Bay County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Bay County, Florida: that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention: and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

SECTION 4. EFFECTIVE DATE.

A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect immediately in accordance with Section 125.66 (2), Florida Statutes.

DULY ADOPTED in regular session this 18th day of January 2011.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA

Bill Kinsaul
Bill Kinsaul, Clerk

William T. Dozier
William T. Dozier, Chairman

By Kim Rodgers
Deputy Clerk
Approved as to form.

Joni R Craig
Office of County Attorney

