

ORDINANCE NO. 09-14

AN ORDINANCE OF THE CITY OF FORT MEADE, FLORIDA; CREATING A TRANSIENT MERCHANT ORDINANCE; PROVIDING A SHORT TITLE; PROVIDING POLICY AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR THE REGULATION OF TRANSIENT MERCHANTS; PROHIBITING CERTAIN ACTIVITIES; REPEALING PORTIONS OF PRIOR ORDINANCES AND RESOLUTIONS; PROVIDING FOR CODIFICATION AND INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FORT MEADE, FLORIDA:

SECTION 1. SHORT TITLE. This Ordinance shall be entitled and may be referred to as the "Fort Meade Transient Merchant Ordinance."

SECTION 2. DECLARATION OF POLICY AND INTENT. In order to protect the health, safety, and welfare of the citizens of the city, it is hereby declared to be the policy and intent of the city to require canvassers, solicitors, peddlers, and transient merchants to obtain a permit from the city prior to engaging in any buying, selling, or other transfer of goods or services within the city. As set forth in more detail herein below, certain prohibitions are also hereby enacted by the city.

SECTION 3. DEFINITIONS. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser or solicitor means any person moving from place to place without a permanent place of business taking, or attempting to take, orders for the sale or purchase of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. The term shall include any person who for himself or others hires, leases, uses, or occupies any building, structure, room thereof, motor vehicle, or any other place within the city for the purpose of exhibiting samples or taking orders for future delivery of goods, wares and merchandise.

Peddler means any person moving from place to place without any permanent or fixed place of business, carrying or transporting goods, wares, food and beverages, services, and merchandise and offering them for sale or making sales.

Transient merchant means any person without a permanent business location within the city engaging in the business of selling and delivering goods, wares, food and beverages, services, or merchandise within the city, or purchasing goods, wares, food and beverages, services or merchandise and receiving such goods within the city, and in furtherance of such purpose who hires, leases, uses, or occupies any building or structure, or room thereof, or any other place within the city, for the exhibition or sale or purchase of goods, wares, food and beverages, services, or merchandise of whatever type, form, or characteristic. The unit cannot be located in any landscape or parking area. All electric connections to the unit must meet the National Electric Code.

A particular transient merchant shall not be permitted to engage in sales or purchases within the city more than twice a year, nor for more than two weeks at a time. A particular premises within the city may not be utilized for transient merchant sales or purchases more than twice a year. "Premises" shall include all contiguous lands owned by the owner of the site of transient merchant sales or purchases. Transient merchant sales include but are not limited to the following: goods, services, food, beverages, fireworks sales, boat or camper sales, automobile, recreational vehicle or motorcycle sales, produce sales, or the like.

SECTION 4. PERMIT REQUIRED. No person shall engage in business within the city as a canvasser, solicitor, peddler, or transient merchant without having first (i) paying a permit fee which has been established by the City Commission and which may be changed from time to time, and (ii) been issued a permit by the city manager. In addition to any business tax receipt required in Article VI, Chapter 22, of the Code of Ordinances of City of Fort Meade, Florida, all persons must apply for and obtain from the city manager a written permit to conduct business as such within the city. In addition, those businesses which sell fruit, vegetables, farm products, beverages, or other foodstuffs must have a minimum of \$100,000.00 liability insurance with a 90-day prior notification to the city of policy cancellation.

SECTION 5. APPLICATION.

(a) Any person desiring to secure a permit pursuant to this article shall first submit a written, sworn application to the chief of police on forms provided by the city, which shall include the applicant's name, home and business addresses and telephone numbers of both, name of corporation or firm with which associated if applicable, type of permit sought, where business is to be conducted and for what period of time, and type of goods or services involved. Such application shall be accompanied by credentials and other identification as may be reasonably required by the city manager, including fingerprinting and photographing of those not being bonded by an acceptable surety company.

(b) All applicants for food service business must first be approved by the state and/or county health department. Mobile, non-stationary units for food service or sale of food or beverages are prohibited.

(c) If any individual requiring a permit pursuant to this article is canvassing, soliciting, peddling, or otherwise involved in a business subject to this ordinance on behalf of or pursuant to the sponsorship or control of another person or entity, that person or entity may submit an application and fee for each individual subject to this article and acting on behalf of the person or entity submitting the application. The information required by subsection (a) of this section and the business tax receipt required by chapter 22 of the Code of Ordinances shall be submitted for each person for whom a permit is applied. The person submitting the application may submit a joint application for more than one person.

(d) If any individual requiring a permit pursuant to this article desires to display for sale or sell farm products as a transient merchant, he must attach the following documents to his permit application:

(1) The landowner's written permission to utilize the site on which the merchandise is displayed or sold, unless such seller of farm products is also the landowner.

(2) Written designation of available restroom facilities for use during the hours of operation.

SECTION 6. PERMIT ISSUANCE. Upon receipt of a complete, executed, sworn application and payment of the fee and obtaining of the business tax receipt required by chapter 22, Code of Ordinances, the city manager may issue a permit to the applicant indicating the permit number, name, business name and address, type of permit issued, and dates of issuance and expiration. Such permit shall be carried at all times by the applicant to whom issued when conducting business in the city and shall be exhibited by any such applicant whenever requested by any police officer or any person solicited.

SECTION 7. HOURS OF SOLICITATION. No person shall canvass, solicit, peddle, or engage in the business of a transient merchant at any residence prior to 9:00 a.m. or after 5:00 p.m. on any day.

SECTION 8. REVOCATION. Any permit issued as provided in this ordinance may be revoked by the city manager for any violation by the holder of any ordinance of the city or whenever there is a violation by the holder of any condition, provision or qualification as set forth in the application for such permit.

SECTION 9. LITTER AND HAZARDS BY VEHICLES PROHIBITED. It shall be the responsibility of all vendors to assure that no litter is left in the immediate vicinity where sales are made or orders solicited. Vendors shall when

necessary provide a convenient and clearly marked receptacle for the collection of trash for the use of patrons. No vehicle shall be stopped in any location which creates a hazard to pedestrians or vehicular travel.

SECTION 10. PEDDLING IN STREET PROHIBITED. It shall be unlawful for any person to solicit, sell or canvass for the sale of any goods, wares, merchandise or services upon the paved portions and medians of the street in the city.

SECTION 11. BUSINESS BEING CONDUCTED ON STREETS OR SIDEWALKS. It shall be unlawful for any person to engage in or carry on any business, trade or occupation either wholly or partially upon, under or over any sidewalk, parkway, street or other public property in this city, or to place thereon any booth, stand, instrument, machine, tool or other object or device. Repairs to vehicles as may be necessary before such vehicle can be removed may be made. This section shall not apply to service stations for dispensing air, water, gas and oil, or to vehicles working on installations, wire lines or other objects permanently located within the street.

SECTION 12. USE OF STREETS, SIDEWALKS AND ADJACENT PROPERTIES.

(a) It is unlawful for any person to obstruct, or impede the free, convenient, and normal use of any public street within the city by acting, thereon, to approach a motor vehicle, or otherwise linger, remain or loiter thereon, thereby endangering themselves and compromising the safe or efficient movement of a vehicle or pedestrian traveling thereon.

(b) "Public street within the city" shall mean that part of the roadway intended for vehicular traffic (including medians and traffic islands) and within the outer curb lines or, in the absence of curbs, within the outer boundaries of the traversable roadway.

(c) Exceptions:

(1) Pedestrians lawfully traversing the public street within the city at a designated crosswalk.

(2) Public safety personnel engaged in customary activities for the purpose of protecting and providing for the safety and welfare of the public using the public street within the city.

(3) People in the public street for purposes of improving, making repairs to, or maintaining infrastructure, acting for or on behalf of the city or any other government entity having ownership, possessory or use rights to the public street.

(4) Persons unable to remove themselves from the public street.

(5) Persons present in the public street with the permission or consent of the city (e.g., special events, parades, etc.).

(d) A transient merchant shall not display goods, wares or merchandise or exhibit services upon a public street within the city nor, in any event, closer than within 15 feet of the curblines thereof.

SECTION 13. PENALTY FOR VIOLATION OF ORDINANCE. Any person violating any of the provisions or prohibitions of this ordinance, or who shall violate or fail to comply with any notice of violation, order and regulation made hereunder or under chapter 162, Florida Statutes, shall be punished as provided in section 162.09, Florida Statutes.

SECTION 14. EXEMPTIONS. The following shall be exempt from the terms and provisions of this ordinance:

(a) All persons expressly invited by the owner or tenant to come to the house to engage in selling, soliciting, and/or displaying merchandise of any kind or nature.

(b) Persons participating in traditional holiday activities, i.e., Halloween trick or treating and Christmas caroling.

(c) Any child under the age of 18 soliciting on behalf or for the benefit of a school or a non-profit organization.

(d) Any community event, chamber of commerce event, civic program, or school organization conducting an occasional sale.

(e) Any religious group or representatives thereof offering or soliciting orders for periodicals or publications of such religious group, or communicating or otherwise conveying ideas, views or beliefs of a religious nature.

(f) Any person representing a political candidate, political party or ballot issue.

SECTION 15. CODIFICATION. The provisions of this ordinance shall be codified and incorporated into the Code of Ordinances of the City of Fort Meade, Florida.

SECTION 16. SEVERABILITY. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

SECTION 17. REPEAL OF PRIOR RESOLUTIONS AND ORDINANCES. All provisions of any ordinance or resolution previously adopted by the City Commission that are inconsistent with or at variance with the provisions of this Ordinance are hereby repealed. Ordinance No. 77-4, currently codified as chapter 20, Code of Ordinances of City of Fort Meade, Florida is hereby repealed.

SECTION 18. EFFECTIVE DATE. This Ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING this 13th day of October, 2009.

PASSED ON SECOND READING this 10th day of November, 2009.

CITY OF FORT MEADE, FLORIDA


Robert Elliott, Mayor

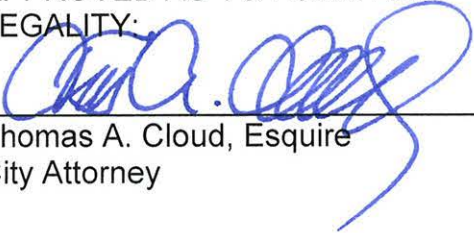
ATTEST:


Phyllis Kirk, Deputy City Clerk

APPROVED:


Fred Hilliard, City Manager

APPROVED AS TO FORM AND LEGALITY:


Thomas A. Cloud, Esquire
City Attorney

**FOR THE CITY OF FORT MEADE,
A COALITION PARTNER**



Bob Elliott, Mayor

Attest: Deputy City Clerk



Phyllis Kirk

Date: September 9, 2009