

**CITY OF PARK HILLS, KENTUCKY**

**ORDINANCE NO. 7, 2014**

**AN ORDINANCE OF THE CITY OF PARK HILLS, KENTUCKY, REPEALING ORDINANCE NOS. 9-1982 AND 10-1982 AND CREATING A CHAPTER IN THE MUNICIPAL CODE TO REGULATE COMMERCIAL SOLICITATION.**

**WHEREAS**, the City desires to protect its citizens against criminal activity, minimize the disturbances of citizens and the disruption of privacy and to otherwise preserve the health, safety, and welfare of its citizens by regulating commercial solicitation;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY:**

**Section I**

Ordinance No. 9-1982 (An Ordinance Defining Regulating and Licensing Solicitors and Canvassers and Providing Penalties for the Violation thereof), passed August 9, 1982, is repealed in full.

**Section II**

Ordinance No. 10-1982 (An Ordinance Defining, Regulating and Requiring registration of Charitable Solicitors and Providing Penalties for the Violation thereof), passed August 9, 1982, is repealed in full.

**Section III**

That Chapter 118 of the Code of Ordinances of the City of Park Hills is hereby created and shall provide as follows:

**CHAPTER 118: COMMERCIAL SOLICITATION**

**§118.01 DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the content clearly indicates or requires a different meaning.

"BUSINESS." The business carried on by any person who is an itinerant merchant, peddler, or solicitor in this section.

"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 business of selling goods within the city, temporarily, and who, in the

furtherance of such business, uses any building, structure, vehicle, or any place within the city.

"PEDDLER." Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.

"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. A person who is a solicitor is not a peddler.

### **§118.02 PERMIT REQUIRED**

(A) Any person who is an itinerant merchant, peddler, or solicitor wishing to engage in such activity, within the corporate limits of the city shall first obtain a permit from the city. No permit issued under the terms and conditions of this chapter shall be transferable. Permits issued under this chapter shall be valid for the time period specified thereon. Under no circumstances shall the permit be valid after December 31 of the year of its issuance. Re-application shall be required upon expiration of said permit if the applicant wishes to continue such activity.

(B) Solicitation within the city shall be permitted from 9:00 a.m. to 7:00 p.m. Daylight Savings Time and from 9:00 a.m. to 6:00 p.m. when there is not Daylight Savings Time.

### **§118.03 APPLICATION FOR PERMIT**

Any person, sole proprietorship, partnership, or corporation desiring to act as an itinerant merchant, peddler, or solicitor and any individual desiring to act as an itinerant merchant, peddler, or solicitor on behalf of a sole proprietorship, partnership, or corporation, shall submit a completed application form to the Chief of Police. Said application forms can be obtained at the Police Department. The application form shall be signed by the applicant if an individual, or by all partners if a partnership, or by the President if a corporation. The completed application form shall include at least the following information:

(A) The name, address and telephone number of the applicant.

(B) The name of the individual having management or supervisory authority of the applicant's business during the time it is to occur in the city:

(1) The local address and telephone number of such individual;

(2) The permanent address and telephone number of such individual;

(2) The capacity in which such individual will act.

(C) The name, address and telephone number of the person, if any, for whose purpose the business will be carried on, and if a corporation, the state of corporation;

(D) The time period or periods during which it is proposed to carry on the applicant's business;

(E) The nature and quality of the goods or services to be offered for sale or delivered;

- (1) If goods, their invoice value and where and by whom such goods are manufactured or grown;

(F) The nature of the advertising proposed to be done for the business and samples of same when applicable;

(G) Whether the individuals identified in § 118.02 or divisions (A), (B), or (C) of this section have ever been convicted of any crime and, if so, the nature of each offense and the penalty assessed for each offense;

(H) A description of any vehicle proposed to be used in the business, including its license number.

#### **§114.04 STANDARDS FOR INVESTIGATION; ISSUANCE**

(A) Upon receipt of the application, the Chief of Police shall cause a set of the applicant's fingerprints and a picture taken of the applicant to be attached to the application. Additionally, the Chief of Police shall also cause an investigation of the applicant's business reputation and moral character to be made. If the investigation discloses tangible evidence that the conduct of the applicant or the applicant's business would pose a threat to the public health, safety, morals, or general welfare, then the application may be denied. For the purposes of this section, tangible evidence shall be defined as:

- (1) The applicant has been convicted of a crime of moral turpitude; or
- (2) The applicant has made willful misstatements on the application; or
- (3) The applicant has committed prior violations of ordinances pertaining to itinerant merchants, peddlers and solicitors; or
- (4) The applicant has committed prior fraudulent acts; or
- (5) The applicant has a record of continual breaches of solicited contracts; or
- (6) The applicant has unsatisfactory moral character.

(B) The Chief of Police shall approve the application if the investigation does not uncover tangible evidence of a threat to the public health, safety, morals, or general welfare of the public. Said investigation shall be completed no later than the conclusion of the third business day after filing the application. The Chief of Police shall then notify

the applicant by certified mail as to whether the application is approved or denied. If denied, the letter shall indicate the reasons for the denial.

#### **§114.05 FEES**

Any person acting as an itinerant merchant, peddler, or solicitor shall, upon approval of their application, be required to obtain an occupational license from the City Licensing Agent and pay a fee of \$25 per day, per employee, or \$150 per year, per employee.

#### **§114.06 DISPLAY OR PERMIT REQUIRED**

(A) Any permit issued to an itinerant merchant under this chapter shall be conspicuously in or at the place named therein. In the event more than one location within the city is used to conduct business, separate licenses must be obtained for each location.

(B) The Chief of Police shall issue a permit to each peddler or solicitor licensed under this chapter. The permit shall contain the-words "Licensed Peddler" or "Licensed Solicitor", the expiration date of the license, and the number of the license. The permit shall be maintained on the licensee during such time as the individual is engaged in the business activity so licensed.

#### **§114.07 APPEAL PROCEDURE**

Any person aggrieved by a decision made pursuant to the requirements herein contained shall have the right to appeal to the Board of Council. The appeal shall be filed with the legislative body within 14 days after receipt of the decision of the Chief of Police. The Board of Council shall conduct the hearing of appeal within 14 days after receipt of notification of appeal.

#### **§114.08 REVOCATION STANDARDS AND PROCEDURE**

Any permit granted under this chapter may be immediately revoked by the Chief of Police pursuant to the standards set forth in this section. The Chief of Police may cause the revocation of a permit granted under this chapter for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the permit application; or
- (B) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the permit; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

#### **§114.09 REQUIREMENTS FOR BONA FIDE NONPROFIT ORGANIZATION**

(A) Bona fide nonprofit organizations shall be exempt from the requirements set forth in this chapter. When any bona fide nonprofit organization desires to engage in solicitation of funds, donations or gifts, or the selling or giving away of any evidences, certificates or tickets for any prizes, drawings or other interests in any awards whatsoever, written application shall be made to the Chief of Police. Said written application shall set forth the kind and type of solicitation to be made, the purpose or purposes for which the proceeds will be used, the date, time and place said solicitation is intended to be made, and same shall be signed by a duly authorized representative of the bona fide nonprofit organization.

(B) Upon receipt of the written request to engage in solicitation, the Chief of Police shall cause an investigation to be made concerning the nonprofit organization and the purpose for which the funds are to be used. The investigation shall be completed no later than the conclusion of the third business day after filing the application. The Chief of Police shall then notify the applicant by certified mail as to whether the request is approved or denied. No fee shall be required for a bona fide nonprofit organization to engage in such activity.

(C) No more than two nonprofit organizations shall be permitted to simultaneously engage in solicitation of any kind in the same geographic area as defined by the City Plat Record Index Sheet.

#### **§114.99 PENALTY**

Any person who violates any provision of this chapter shall upon conviction be fined not less than \$50 nor more than \$250. Each day of violation shall constitute a separate offense.

### **Section III**

Any and all ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.

### **Section IV**

If any provision of this Ordinance as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**Section IV**

This ordinance shall take effect and be in full force from and after its passage, publication, which may be in summary form, and recording, according to law.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF PARK HILLS, KENTUCKY

A municipal corporation of the fourth class

BY: \_\_\_\_\_  
MAYOR

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ATTEST: \_\_\_\_\_

CITY CLERK/ADMINISTRATOR