

ORDINANCE NO. 86-06

"AN ORDINANCE REGULATING PEDDLERS; PROVIDING DEFINITIONS AND EXCEPTIONS; RESTRICTING ENTRANCE TO PREMISES; MAKING UNLAWFUL THE REFUSAL TO LEAVE PREMISES OF ANOTHER AND MISREPRESENTATION; ESTABLISHING HOURS OF OPERATION; REQUIRING A PERMIT AND ESTABLISHING CONTENTS THEREOF AND TERM; ESTABLISHING PROCEDURES FOR OBTAINING A PERMIT; REQUIRING A BOND; DESIGNATING THE CLERK AS AGENT TO RECEIVE SERVICE OF PROCESS; PROVIDING FOR INVESTIGATION OF APPLICANTS; PROVIDING GROUNDS FOR DENIAL OF A PERMIT; PROVIDING FOR REVOCATION OF A PERMIT; PROHIBITING SOLICITATION ON COUNTY PROPERTY; PROVIDING PENALTIES FOR VIOLATIONS; AND TO PROVIDE AN EFFECTIVE DATE."

Section 1. Short Title. This Ordinance shall be known as and may be referred to as the "Bay County Peddlers' Ordinance."

Section 2. Definition. The word "peddler" as used in this article shall mean any individual without a fixed established place of dealing or business in Bay County, whether a resident of this County or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or not or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within this County for the sole purpose of exhibiting samples and taking

orders for future delivery. The word "peddler" shall include the terms "canvassers," "solicitor," "transient or itinerant merchant or vendor" or "transient or itinerant photographer."

Section 3. Exceptions. The provisions of this Ordinance shall not apply to the following:

- (a) Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business;
- (b) Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law;
- (c) Bona fide residents of the state selling fruits, vegetables, dressed meats, fowl or farm products which were produced on land within the state, owned or controlled by such vendor;
- (d) Solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity within this County.
- (e) Any person or persons who the Board of County Commissioners see fit to waive the Peddlers' Ordinance with a majority vote.

Section 4. Entrance to premises restricted. It shall be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

Section 5. Misrepresentation. It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

Section 6. Hours of operation. It shall be unlawful for any peddler to engage in the business of peddling within Bay County between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays,

except by specific appointment with or invitation from the prospective customer.

Section 7. Required. It shall be unlawful for any person to engage in business as a peddler within this County without first obtaining a permit to do so.

Section 8. Application. Applicants for a permit under this division shall file with the Sheriff a sworn application in writing, in duplicate, on a form to be furnished by the Sheriff, which shall give the following information;

- (a) The name and a description of the applicant;
- (b) The permanent home address and full local address of the applicant;
- (c) A brief description of the nature of the business and the goods to be sold;
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e) The length of time for which the right to do business is desired;
- (f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery;
- (g) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of filing of the application, which picture shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (h) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal or County Ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (i) Whether the applicant, upon any sale or order, shall

demand, accept or receive payment or deposit of money in advance of final delivery;

(j) The State, County and municipalities wherein the applicant has worked before coming to this County, and

(k) Such other relevant information which shall include all co-workers as well, as may be required by the investigation of the applicant.

Section 9. Driver's license. At the time of filing his application for a permit required by this division, the applicant shall present his driver's license, if he has one, or another acceptable identification, to the Sheriff.

Section 10. Fingerprints. At the time of making application for a permit required by this division, the applicant shall submit to fingerprinting by the Sheriff.

Section 11. Application fee. At the time of filing the application, a fee of \$25.00 per person shall be paid to the Sheriff to cover the cost of investigation of the facts stated therein.

Section 12. False information. 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.

Section 13. Bond.

(a) Every applicant, not a resident of Bay County or who is a resident of Bay County and represents a firm whose principal place of business is located outside the state, shall file with the Sheriff a cash bond or a surety bond running in favor of the County in the amount of Five Thousand Dollars (\$5,000.00), with a surety acceptable to and approved by the Board 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 that all money paid as

a down payment will be accounted for and applied according to the representations of the peddler and further 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 hereof shall remain on deposit or in full force and effect until the limitation period set forth in Chapter 95, Florida Statutes, and the amendments thereto has had 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 Five Thousand Dollars (\$5,000.00) for any and all of its agents, employees, canvassers or solicitors.

Section 14. Service of process. Before any permit shall issue under this division, there shall also be filed with the Sheriff 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 notice of process for and on the behalf of such applicant; and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the Clerk.

Section 15. Investigation. Upon receipt of an application for a permit required by this division, the Sheriff shall investigate the applicant's background for charges of criminal or unethical conduct or civil unfair trade practices. The Sheriff shall complete his investigation within ten (10) days of receiving the application.

Section 16. Denial. If, as a result of investigation, the applicant is found to have been convicted of any felony

or crime involving moral turpitude, or if found to have committed any unethical conduct or civil unfair trade practice, the permit shall be denied. The Sheriff shall endorse on the application the specific reasons for the denial and inform the applicant of the denial, the specific reasons for same and the applicant's right to appeal.

Section 17. Issuance. If, as a result of investigation, the character and business responsibility of the applicant are found to be satisfactory, the Sheriff shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and upon payment of any required fee, deliver the permit to the applicant. Copies of all permits issued herein shall be forwarded for filing in the office of the Clerk of the Circuit Court.

Section 18. 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, the class of permit issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

Section 19. Record. The Clerk of the Circuit Court shall keep a permanent record of all permits issued under this division.

Section 20. Display. Every peddler having a permit issued under the provisions of this division and doing business within Bay County shall display his permit upon the request of any person.

Section 21. Duration. Every permit issued under the provisions of this division shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

Section 22. Revocation. Any permit issued under the provisions of this division may be revoked by the Sheriff for the

violation by the permittee of any applicable provision of this Code, state law city or county Ordinance, rule or regulation.

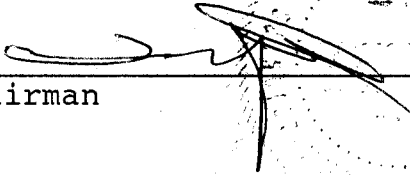
Section 23. Appeals. The denial or revocation of a permit under this division may be appealed to the Board by serving a notice of appeal upon the Sheriff and the Clerk of the Circuit Court within thirty (30) days after such denial or revocation. such appeal shall be heard and resolved by the Board in such a manner as to afford due process within thirty (30) days after the filing of the notice.

Section 24. County Property. No person shall solicit, canvass, or otherwise take orders for the sale or rental of merchandise, services, goods, or property of any kind or character in and from any lands or pier owned or leased by the Board, including park and beach lands. This prohibition shall not apply to a tenant, concessionaire or licensee of the Board lawfully operating within the terms of any lease, concession agreement or license granted by the Board.

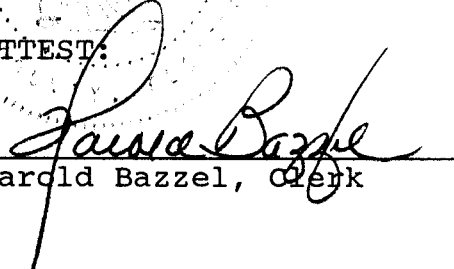
Section 25. Penalty for Violation. Violation of this Ordinance is a misdemeanor and shall be prosecuted in the name of the State in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment.

DONE AND ADOPTED in regular session this 17th day of June, 1986.

BOARD OF COUNTY COMMISSIONERS
OF BAY COUNTY, FLORIDA


Chairman

ATTEST:


Harold Bazzel, Clerk