

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF DIAMONDHEAD, MISSISSIPPI PROVIDING FOR
THE REGULATION OF PEDDLERS AND SOLICITORS**

PURPOSE

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by regulating peddling, itinerant traders, and other door-to-door salesmen, generally known as peddlers. Such persons typically market magazines, appliances, house wares, and other goods and services by going door to door in neighborhoods and business districts. The citizens of the City of Diamondhead, Mississippi, are subject to unregulated peddling by sometimes questionable organizations or individuals, with illegitimate products, or no intent to deliver. It is the purpose of this Ordinance to regulate peddling in the City of Diamondhead, Mississippi, to protect the public health, safety and welfare. To achieve this end, this Ordinance requires peddlers to seek licenses and peddle under certain limitations.

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Diamondhead, Mississippi as follows, to wit:

LICENSE REQUIRED; ISSUANCE OF LICENSE

- (a) Any and all peddlers and solicitors shall apply for and be in receipt of a license before engaging in any activity in the city.
- (b) Application for a license shall be made in writing to the office of the building official located in the city hall building.
- (c) The code official shall have ten working days from the date of the application to approve or deny the issuance of the license. There shall automatically be a ten-day waiting period before solicitors will be allowed to solicit within the city, in order that the police department may conduct an investigation into the character and background of the applicant. A non-refundable fee of \$40.00 shall be paid for the cost of the background check. The code official shall furnish a copy of the license to the chief of police.
- (d) No license shall be issued to any person or any employee or agent thereof who has been convicted of a previous violation of this ordinance or who has had his penal bond, as provided herein, forfeited either voluntarily or through appropriate legal proceedings.
- (e) Only those persons who are citizens of the state or who are agents of foreign corporations domiciled in the state, or who are agents of foreign corporations qualified to do business in the state shall be allowed to solicit in residential areas.
- (f) In order to protect the local citizenry against crime and preserve the private property, peace and comfort of the citizens from those persons who are not known or who are not easily identifiable or traceable, the code official may deny the issuance of a license upon the determination that the activity would endanger the public health, welfare and safety.

CONTENTS OF LICENSE APPLICATION

Applicants for license must file with the code official a sworn application giving the following information:

- (a) Name and description of applicant with copy of valid driver's license;
- (b) Address, legal and local;
- (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) If a vehicle is to be used, a description of same, together with license number or other means of identification;
- (f) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2 inches by 2 inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (g) Evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

LICENSES NOT TRANSFERABLE – DUTY TO EXHIBIT – ALTERATION PROHIBITED - EXPIRATION

- (a) No peddler's license shall be used at any time by any person other than the one to whom it was issued.
- (b) Peddlers are required to exhibit their license at the request of any citizen.
- (c) It shall be unlawful for any person to alter or deface any license issued pursuant to this ordinance.
- (d) Unless otherwise provided by law, all peddlers' licenses shall expire ninety days from the date of issuance. A license may be renewed on payment of a \$25.00 fee and filing for renewal with the code official before expiration of the current license. A license may be renewed only one time after which a licensee must once again purchase a new license, pursuant to Miss. Code Ann. § 75-85-15(a)-(b).

LICENSE FEE; BOND

- (a) Upon every person or agent of employee of such person operating as a peddler or solicitor, there is hereby levied a license fee of \$250.00. All persons employed by the solicitor or peddler must have separate licenses.
- (b) No fee shall be levied, nor a bond required, if the solicitation is for the purpose of seeking donations or gifts for an eligible charitable, religious, educational, community or similar nonprofit purpose; provided, however, that a license must first be obtained and carried at all times. When solicitation is conducted by a group or organization composed primarily of minors, the adult sponsor or leader may carry only one permit for the whole group.
- (c) Peddlers and solicitors shall, in advance of making any solicitation, furnish and make payable to the city a good and sufficient cash bond or surety bond issued by a corporate surety authorized to do business in this state in an amount that is the lesser of either \$2,000.00 or 5% of the wholesale value of any merchandise or service to be offered for sale by the applicant. Said bond shall be issued in favor of the city and shall be conditioned upon payment of (a) all taxes due; (b) any fines assessed against the applicant's agents or employees for a violation of this Ordinance; and (c) any judgment rendered against the applicant. Miss. Code Ann. § 75-85-13.

UNLAWFUL ACTS

- (a) It shall be unlawful for a peddler or solicitor or any person on his behalf to:
 - (1) Shout, make any outcry, blow a horn, ring a bell or use any sound device or musical instrument, including any loudspeaker radio or sound amplifying system, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to

sell.

- (2) Peddle or solicit except from noon to sundown, or at any time when a sign has been posted on a building or residence stating "No Peddlers or Solicitors," or words to that effect.
- (3) Make any representations to persons being solicited of any facts in conflict with the statements on the application filed with the building official, or to omit advising the person solicited of the exact name of the soliciting organization or person and the purpose for which the donation is requested.
- (4) Peddle or solicit from any stationary position, except as otherwise authorized, or claim any exclusive right to any transitory or stationary location in the public streets or upon public property, and he shall not be permitted to operate in any congested area or public streets or sidewalks where his operations impede or inconvenience the public.
- (5) Peddle or solicit, except from a permitted stationary position on private property, within 300 feet of any parade route between the hours of 7:00 a.m. to 11:00 p.m. during any parade in the city.

(b) Failure to adhere to any of the provisions of this ordinance shall result in the revocation of the vendor's license, with no refund of any of the charges imposed in this ordinance.

APPEALS

Any person aggrieved by the action of the chief of police or the code official in the denial of an application for a peddler's license or in the decision with reference to the revocation of a peddler's license as provided herein shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city council shall set a time and place for a hearing on such appeal and written notice of such hearing shall be given to the appellant. Appeals from revocation of a license shall be in the same manner as provided in this section.

PENALTY FOR VIOLATION OF THIS ORDINANCE

Any person violating any of the terms and provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined in an amount not to exceed \$500.00 or imprisoned in the city jail for a term not to exceed 180 days, or both, pursuant to Miss. Code Ann. § 75-85-19.

In accordance with Mississippi Code of 1972, § 21-13-11, this ordinance becomes effective thirty days from date of passage with a single publication of the ordinance prior to the effective date.

ORDAINED, ADOPTED AND APPROVED by the Mayor and City Council of the City of Diamondhead, Hancock County, Mississippi at its regular meeting held on the ___ day of _____, 2017.

MOTION made to adopt the foregoing Ordinance was made by Council Member _____ and SECONDED by Council Member _____ and the foregoing having first been reduced to writing, was submitted to a Roll Call Vote, the result was as follows:

	Aye	Nay	Absent
Councilmember L'Ecuyer	_____	_____	_____
Councilmember Depreo	_____	_____	_____
Councilmember Morgan	_____	_____	_____
Councilmember Moran	_____	_____	_____
Councilmember Koenenn	_____	_____	_____
Mayor Schafer	_____	_____	_____

Whereupon, the Mayor declared the Ordinance carried and the Ordinance adopted.

The foregoing Ordinance is approved this the ____ day of _____, 2017.

CITY OF DIAMONDHEAD, MISSISSIPPI

BY: _____
 THOMAS E. SCHAFER, IV
 MAYOR

ATTEST:

 JEANNIE KLEIN
 CITY CLERK