

ORDINANCE NO. 8068-2017

**AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS),  
CHAPTER 115 (PEDDLERS AND SOLICITORS) OF THE REVISED  
ORDINANCES OF THE CITY OF BELLEVILLE, ILLINOIS AS AMENDED,  
BY AMENDING PORTIONS OF SECTIONS THEREOF**

THE CITY OF BELLEVILLE, ST. CLAIR COUNTY, ILLINOIS (THE "CITY"), IS A DULY ORGANIZED AND EXISTING MUNICIPALITY CREATED UNDER THE PROVISIONS OF THE LAWS OF THE STATE OF ILLINOIS.

THE CITY OF BELLEVILLE IS NOW OPERATING UNDER THE PROVISIONS OF THE ILLINOIS MUNICIPAL CODE, AS SUPPLEMENTED AND AMENDED AND AS A HOME RULE MUNICIPALITY PURSUANT TO ARTICLE VII OF THE ILLINOIS CONSTITUTION OF 1970; AND IN THE EXERCISE OF ITS HOME RULE POWERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLEVILLE, ILLINOIS:

**Section 1.** That Chapter 115 (Peddlers and Solicitors) is hereby amended by repealing said Chapter 115 in its entirety, and substituting in lieu thereof the following:

**CHAPTER 115: ITINERANT MERCHANTS, MOBILE  
COMMERCE VENDORS, PEDDLERS AND SOLICITORS**

**§ 115.01 DEFINITIONS.**

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

**BUSINESS.** The business carried on by any person who is an itinerant merchant, mobile commerce vendor, peddler or solicitor as defined in this section.

**FOODSTUFFS.** Any meat, poultry, fish, seafood, vegetables, milk, dairy products (including ice-cream, popsicles, gelato, etc.) and other food items and non-alcoholic beverages that are pre-packaged for sale, whether fresh, frozen or sold in cans, bottles, boxes, cartons or other containers, but excluding prepared food as defined herein.

**GOODS.** Merchandise of any description whatsoever, and includes but is not restricted to tangible personal property, wares and prepared food, but excluding foodstuffs as defined herein.

**ITINERANT MERCHANT.** Any person, whether as owner, agent or consignee, who engages in the business of selling goods or foodstuffs as defined herein within the City and who, in the furtherance of that business, uses any immobilized building, structure or other fixed location within the city, for a

temporary period of time of less than six (6) months days in any calendar year. Any person who is unable to produce written documentation of the right to occupy the fixed location for thirty (30) days or longer to the City Clerk within five (5) days of a request by the Clerk shall be presumed to be an itinerant merchant. This definition shall not include a mobile commerce vendor, peddler or solicitor as defined herein.

**MOBILE COMMERCE VENDOR.** Any person, whether as owner, agent or consignee, who engages in a temporary business of selling goods within the City and who, in the furtherance of that business, uses a building, structure, vehicle or other apparatus that is not immobilized for the sale of goods as defined herein. This definition shall not include a person who is an itinerant merchant, peddler or solicitor as defined herein.

**PEDDLER.** Any person selling or attempting to sell any goods, foodstuffs, or services of any kind and nature, being carried on or transported for immediate delivery or performance from house to house, building to building, or upon any street, highway or sidewalk within the City.

This definition shall not include a person who is an itinerant merchant, mobile commerce vendor or solicitor as defined herein.

**PREPARED FOOD.** Any food or non-alcoholic beverage sold or offered for sale that is cooked or otherwise prepared for immediate consumption, but excluding foodstuffs as defined herein.

**SOLICITOR.** Any person (1) soliciting or attempting to solicit or take orders, from house to house, building to building, or upon any street, highway or sidewalk within the City, for any goods, wares or merchandise, foodstuffs, services, or insurance of any type or description, or other sale of property or services; or (2) seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project. This definition shall not include a person who is an itinerant merchant, mobile commerce vendor or peddler as defined herein.

## **§ 115.02 LICENSE REQUIREMENT AND CONDITIONS.**

(A) No person shall engage in or attempt to engage in the business of an itinerant merchant, mobile commerce vendor, peddler or solicitor within the City without first obtaining a license therefore.

(B) The following conditions shall apply to each license issued under this chapter:

(1) An itinerant merchant shall only sell goods and foodstuffs consistent with the regulations contained in this chapter, and no license shall be issued to an itinerant merchant where the location or premises indicated on the application for the activity is not zoned to permit retail selling activity. The location of the sale shall be on private property, outside of the special services area defined in Ordinance 3325, and shall, in all respects, comply with all zoning regulations for the district and all building safety regulations applicable to the property, including but not limited to a seasonal commercial occupancy permit.

(2) A mobile commerce vendor shall only sell goods consistent with the regulations contained in this chapter and only from a location within the City upon private property, outside of the special services area defined in Ordinance 3325, which complies with all zoning and building safety requirements of this Code, subject to the following restrictions:

(a) mobile commerce vendors may only operate daily between 6:00 a.m. to 1:00 a.m.

(b) noise from mobile commerce vendors, including but limited to generators and music, shall not exceed 75 decibels as measured from 10 feet away.

(c) mobile commerce vendors shall collect all trash and debris resulting from their operations within 100 feet of the vending area.

(d) mobile commerce vendors shall not utilize water, electric or other City utilities.

(d) mobile commerce vendors selling prepared food shall properly dispose of any fat, oil or grease generated during its operation in accordance with applicable law.

Notwithstanding the foregoing, mobile commerce vendors may operate on public property within the City only as part of a City-approved event under Chapter 111 of this Code.

(3) A peddler shall only sell goods and foodstuffs consistent with the regulations contained in this chapter and only along the rights-of-way of the City in the area specified in the application.

(4) A solicitor may only sell goods and foodstuffs consistent with the regulations contained in this chapter and only by means of door-to-door solicitation.

(5) No peddler or solicitor shall remain in the same place or within reasonably close proximity to the same place except when in the act of expeditiously showing goods or expeditiously selling goods to or purchasing goods or taking orders from a customer. Any peddler or commercial solicitor remaining in the same place or reasonably close proximity to the same place upon the public right-of-way for longer than five (5) minutes when goods are on display or available for sale without sales activity shall be presumed not to be

engaged in expeditiously showing goods or expeditiously selling goods to or purchasing goods or taking orders from a customer.

(6) An itinerant merchant, mobile commerce vendor, peddler and solicitor licensed under this chapter shall possess a certificate of registration when required by the State of Illinois Retailers Occupation Tax Act and shall timely pay all required sales tax.

(7) No person licensed as an itinerant merchant, mobile commerce vendor, peddler or solicitor shall violate the conditions, terms, or limitations of such license.

(C) The fee for the license required by this chapter shall be \$100 per year.

(D) No license issued under this chapter shall be transferable.

(E) All licenses issued under this chapter shall expire on April 30<sup>th</sup> after the date of issuance thereof.

### **§ 115.03 APPLICATION.**

(A) Before a license may be issued under this chapter, a written sworn application signed by the applicant shall be submitted to the City Clerk. The application shall contain at minimum the following information:

(1) The name of the applicant; if the applicant is a corporation, the name of the officers of the corporation; if the applicant is a partnership, the names of all partners.

(2) The name, title, address (including the street address) and telephone number and FAX number, if any, of the person having immediate supervisory or management responsibility over the applicant's business that is proposed to be carried on in the City.

(3) The names and ages of all persons who will be selling goods or foodstuffs under the license.

(4) The permanent business address, telephone number and FAX number of the applicant.

(5) The names, ages, permanent address, telephone number, Social Security number and criminal history for the past four (4) years of each person selling goods or soliciting business on a door-to-door basis under the license. Each such person shall submit a criminal history check authorization form with the application.

(6) The local street address and telephone number of the applicant while the applicant is conducting business within the City.

(7) The name and addresses of persons having custody of the applicant's financial records.

(8) The names of municipalities or governmental units to which the applicant has applied for a license of similar character within the twelve (12) months prior to the date of application.

(9) A copy of the applicant's certificate of registration under the State of Illinois Retailers' Occupation Tax Act, or such information as the State requires to sell goods in the State.

(10) The applicant's employer number, if any, for reporting to the Internal Revenue Service.

(11) If a motor vehicle is utilized for the sale of prepared food or foodstuffs, a copy of the health permit.

(12) A valid driver's license to operate a motor vehicle.

(13) Valid vehicle registration for the vehicle to be used for mobile commerce or foodstuff vending; and, if applicable, the vehicle being used to tow a mobile commerce vehicle or a foodstuff vending vehicle.

(14) A photograph of the mobile commerce vehicle or foodstuff vending vehicle.

(15) In the case of an itinerant merchant, written evidence of the right to occupy a specific location at which the sales activity is proposed.

(16) In the case of peddlers and commercial solicitors, the boundaries of the area where peddling or soliciting will be conducted.

(17) The dates upon which the business is proposed to be conducted in the City.

(18) A listing of all other State or City permits already applied for or issued.

(19) Appropriate surety, other bond, or insurance certificate.

#### **§ 115.04 STANDARDS FOR ISSUANCE.**

(A) Upon receipt, the City Clerk shall refer all applications or registration statements for peddlers and solicitors to the Police Department for review or investigation of the representations in applications or registration statements. In the case of itinerant merchants, the application shall be referred to the zoning official and building official for review.

(B) The City Clerk shall issue a license for an itinerant merchant upon compliance with the provisions of this chapter unless the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare, and upon compliance with all ordinances applicable to the premises, including but not limited to all zoning and building safety requirements.

(C) The City Clerk shall issue a license for a mobile commerce vendor upon compliance with provisions of this chapter unless the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare, and upon compliance with all ordinances applicable to the premises, including but not limited to all zoning and building safety requirements.

(D) The City Clerk shall issue a license for a peddler upon compliance with the provisions of this chapter unless the applicant's business would pose a

substantial threat to the public health, safety, morals or general welfare., and upon receiving the report of the Police Department finding that no person selling for such peddler has been convicted of violating any law or ordinance based upon charges concerning the use of sales, subscription or soliciting methods involving disorderly conduct, assault or battery, trespass to land, undue pressure, misrepresentation and false or misleading statements, fraud, or felonies involving bodily harm or theft, or any ordinances or laws related to licensing or the payment of sales tax.

(E) The City Clerk shall issue a license for a solicitor upon compliance with the provisions of this chapter unless the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare., and upon receiving the report of the Police Department finding that no person selling for such solicitor has been convicted of violating any law or ordinance based upon charges concerning the use of sales, subscription or soliciting methods involving disorderly conduct, assault or battery, trespass to land, undue pressure, misrepresentation and false or misleading statements, fraud, or felonies involving bodily harm or theft, or any ordinances or laws related to licensing or the payment of sales tax.

(F) Permits authorized to be issued pursuant to this chapter may be suspended, revoked or refused to be issued by the City Clerk upon a determination that an applicant or licensee does not comply with the requirements of this chapter.

#### **§ 115.05 REVOCATION PROCEDURE.**

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 115.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. This notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

#### **§ 115.06 STANDARDS FOR REVOCATION.**

A license granted under this chapter may be revoked for any of the following reasons:

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

**§ 115.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 115.04 or 115.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to the person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for the hearing shall be given to the person in the same manner as provided in § 115.05.

(B) The order of the City Council after the hearing shall be final.

**§ 115.08 EXHIBITION OF IDENTIFICATION.**

(A) Each peddler and solicitor or their agents and employees shall at all times while peddling or soliciting within the City carry upon his/her person the registration certificate identification/license required by this Chapter, and shall exhibit the certificate or license upon request to any law enforcement officer or any person upon whom he/she calls.

(B) Each itinerant merchant and mobile commerce vendor shall prominently display the registration certificate identification/license required by this Chapter so that it is plainly visible at a distance of five (5) feet.

**§ 115.09 CITY POLICY ON SOLICITING.**

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

**§ 115.10 NOTICE REGULATING SOLICITING.**

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(B) The letters shall be at least one-third-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

**§ 115.11 DUTY OF SOLICITORS.**

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 115.10 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

**§ 115.12 UNINVITED SOLICITING PROHIBITED.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 115.10 above.

**§ 115.13 TIME LIMIT ON SOLICITING.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to 9:00 a.m. or after 9:00 p.m. of any weekday or Saturday, or at any time on a Sunday or on a state or national holiday.

**§ 115.14 RECORD OF SALES.**

Each itinerant merchant, mobile commerce vendor, peddler and solicitor shall, if requested by the City Clerk, certify under oath to the City Clerk the total amount of sales in the City and send a copy of the merchant's report of sales to the State under the Retailers Occupation Tax Act. Such information shall be delivered to the City Clerk within twenty-eight (28) days after any request. The City Clerk shall be entitled to examine the records of such merchant in order to verify the proper collection of such taxes.

**§ 115.15 FAILURE TO OBTAIN LICENSE; HOLDING OF GOODS.**

(A) Any person who makes sales as a transient merchant without having first obtained a license therefor under this Article or sells in violation of the terms of the license shall apply or reapply for a license under this Article and in addition to penalties provided in § 115.99 for violation of this Chapter, pay the additional fee called for by ordinance.

(B) Any law enforcement officer who finds any person selling goods as a transient merchant without possessing a license therefor or in violation of the terms of such a license may take into possession the goods being sold and the inventory of such person. Such goods shall be held in the custody of the City until such person selling without a license or in violation of the terms of such license obtains a license or a license, as the case may be.

(C) If the goods being held pursuant to (b) above are not claimed within sixty (60) days after they are taken into possession by the City, the City Attorney may proceed to seek an order for the sale of property pursuant to the Transient Merchant Act of 1987 of the State of Illinois (225 ILCS 465/1 et seq.).

(D) The provisions of this § 115.15 are in addition to, and not in lieu of, the penalties set forth in § 115.99 of this Chapter.

**§ 115.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined not more than \$750. Each day's violation shall constitute a separate offense.

**Section 2.** That Chapter 116 (Vehicles Vending Food) is hereby repealed.

**Section 3.** That Chapter 118 (Food and Beverage Businesses), Section 118.02 (Food Vendors), is hereby repealed.

**§ 118.02 FOOD VENDORS.**

(A) No person shall sell meats, bread, bakery goods, fruit, fish, poultry, candy, ice cream, cheese, lard or other provisions or any or either of them at a store, stand or place in the city without a license. The license fee of \$25 per year.

(B) This section shall not apply to farmers or gardeners selling the produce of their farms and gardens, nor to itinerant merchants, mobile commerce vendors, peddlers and solicitors under Chapter 115 of this Code.

**Section 4.** That conflicting Ordinances or pertinent portions thereof in force the time this takes effect are hereby repealed.

**Section 5.** Any person violating this Ordinance shall be subject to the penalties of Title XI (Business Regulations), Chapter 115, Section 115.999 (Penalty).

**Section 6.** This Ordinance shall be in full force and effect from and after its passage, approval and publication, in pamphlet form, all as provided by law; provided, however, that any event already approved under Chapter 111 before the enactment hereof shall not be subject to same.

**PASSED** by the City Council of the City of Belleville, Illinois, on this 17<sup>th</sup> day of July, 2017 on the following roll call vote:

	<u>AYE</u>	<u>NAY</u>
Joseph Hazel	<u>  X  </u>	_____
Ken Kinsella	<u>  X  </u>	_____
Jane Pusa	Excused	_____
Michael Buettner	<u>  X  </u>	_____
Kent Randle	<u>  X  </u>	_____
Scott Tyler	<u>  X  </u>	_____
Johnnie Anthony	<u>  X  </u>	_____
Raffi Ovia	<u>  X  </u>	_____
Edward Dintelman	<u>  X  </u>	_____
Michelle Schaefer	<u>  X  </u>	_____
Andrew Gaa	<u>  X  </u>	_____
Mary Stiehl	<u>  X  </u>	_____
Philip Elmore	<u>  X  </u>	_____
Dennis Weygandt	<u>  X  </u>	_____
Roger Wigginton	<u>  X  </u>	_____
Roger Barfield	<u>  X  </u>	_____

**APPROVED** by the Mayor of the City of Belleville, Illinois this 18<sup>th</sup> day of July, 2017.

  
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 MARK W. ECKERT  
 MAYOR

ATTEST:

  
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 JENNIFER GAIN MEYER  
 CITY CLERK