

CITY OF BILOXI  
AGENDA ITEM  
FACT SHEET

Item No.: 4 C  
Council Meeting Date: Nov. 7, 2017

ITEM TITLE: ORDINANCE (~~2nd~~ Reading)  
INTRODUCED BY: Mayor Andrew "FoFo" Gilich  
CONTACT PERSON: E. Michael Leonard, CAO *em*  
Peter Abide, City Attorney

SUMMARY EXPLANATION:

Ordinance to amend Code of Ordinances, City of Biloxi, Mississippi, of 1992, Sections 13-1-16, 13-1-16, 13-1-7, 13-1-18, 13-1-19 & 13-1-20, address aggressive panhandling issues, and to revise Licensing Procedures.

Resolution \_\_\_\_\_ Ordinance  Public Hearing \_\_\_\_\_ Routine Agenda \_\_\_\_\_

Exhibits for Review

Contract \_\_\_\_\_ Minutes \_\_\_\_\_ Plans/Maps \_\_\_\_\_ Deed \_\_\_\_\_ Lease \_\_\_\_\_

Other (Specify):

Submittal Authorization: Council President \_\_\_\_\_ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: Colavan Second By: Barrett

| Vote: | <u>Councilmember</u> | <u>Yes</u> | <u>No</u> | <u>Other</u> | <u>Councilmember</u> | <u>Yes</u> | <u>No</u> | <u>Other</u> |
|-------|----------------------|------------|-----------|--------------|----------------------|------------|-----------|--------------|
|       | Lawrence             | ___        | ___       | ___          | Tisdale              | ___        | ___       | ___          |
|       | Gines                | ___        | ___       | ___          | Glavan               | ___        | ___       | ___          |
|       | Newman               | ___        | ___       | ___          | Barrett              | ___        | ___       | ___          |
|       | Deming               | ___        | ___       | ___          |                      |            |           |              |

ACTION TAKEN: First Reading on October 24, 2017

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CODE OF ORDINANCES, CITY OF BILOXI, MISSISSIPPI, OF 1992, SECTIONS 13-1-16, 13-1-7, 13-1-18, 13-1-19 & 13-1-20, TO ADDRESS AGGRESSIVE PANHANDLING ISSUES, TO REVISE LICENSING PROCEDURES; AND FOR RELATED PURPOSES

WHEREAS, the City of Biloxi currently has a Peddlers and Solicitors Ordinance in the Biloxi Code of Ordinances Section 13-1-16; and,

WHEREAS, the current Peddlers and Solicitors ordinance is outdated and in need of amendment so as to address the aggressive panhandling issues within the City of Biloxi; and,

WHEREAS, the amended Peddlers and Solicitors ordinance addresses certain constitutionality issues arising from the current Peddlers and Solicitors ordinance; and,

WHEREAS, the amended Peddlers and Solicitors ordinance more specifically addresses the type of conduct prohibited and the type of conduct permitted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION 1. The findings, conclusions, and statements of fact contained in the foregoing preamble are hereby adopted, ratified and incorporated herein.

SECTION 2. Section 13-1-16 of the Code of Ordinances, City of Biloxi, Mississippi, is hereby amended to read as follows:

**Section 13-1-16 Panhandlers, Peddlers and Solicitors—Definitions; exemption**

- (a) *Panhandler*. For purposes of sections 13-1-16 through 13-1-20, the word "panhandler" means any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, begging or soliciting monetary donations or other resources. Further, to "panhandle" or "panhandling" means any solicitation made in person whereby a request is made for an immediate donation of money or other gratuity from another, and includes, but is not limited to, seeking

donations by vocal appeal. However, panhandling shall not include the act of passively standing or sitting with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person. The word "panhandler" shall include the words "beggar" or "vagabond."

- (b) *Peddler*. For purposes of sections 13-1-16 through 13-1-20, the word "peddler" means any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, conveying or transporting goods, wares, merchandise, meat, fish, vegetables, fruits or truck garden or farm products or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers. The word "peddler" shall include the words "hawker" and "huckster."
- (c) *Solicitor*. For purposes of sections 13-1-16 through 13-1-20, the word "solicitor" means any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders, subscriptions or contributions, or who, without necessarily having the intention of making a direct sale, distributes literature, pamphlets, handbills or samples. The term "solicitor" shall also include persons who solicit contributions for charitable, religious, educational, community, recreation or similar nonprofit purposes which have qualified for exemption from federal income tax under section 501(c) and (d) of the Internal Revenue Code. Charitable or nonprofit organizations which do not qualify for such exemption must have a local sponsor in order to solicit within the city. To qualify as a local sponsor, one must be a resident of the city and have resided within the city for at least one year.
- (d) *Exemption*. The provisions of sections 13-1-16 through 13-1-20 shall not apply to any person or to any member of his immediate household going from place to place, person to person, house to house, or dealer to dealer and selling or offering to sell dairy, poultry, orchard or farm products raised, produced or grown by him or his immediate household in the city or seafood caught by him or his immediate household.

**Sec. 13-1-17. – Same—License required to panhandle, peddle or solicit business; issuance of license.**

- (a) Any and all panhandlers, peddlers or 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 Community Development Department.
- (c) The Community Development Director shall have ten (10) working days from the date of the application to approve or deny the issuance of a license. There shall automatically be a ten-day waiting period before applicants will be allowed to panhandle, peddle or solicit within the city, in order that the department of public safety may conduct an investigation into the character and background of the applicant. The tax collector shall furnish a copy of the license to the director of the department of public safety.

- (d) No license shall be issued to any person or any employee or agent thereof who has been convicted of a previous violation of sections 13-1-16 through 13-1-20, or who has had his or her penal bond, as provided for in subsection 13-1-18(c) forfeited either voluntarily or through appropriate legal proceedings.
- (e) No solicitation will be allowed by conducting "highway holdup" activities within the city, except when an applicant has applied for an exception to this provision, to be granted by the city council only after a hearing in which the applicant shows that a general public interest would be served by such solicitation. For purposes of this section, a "highway holdup" activity is defined as solicitation conducted for any purpose along any street, avenue, boulevard, road, alley, lane, viaduct or other public thoroughfare in the city.
- (f) 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 peddle or solicit in residential areas.
- (g) 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 Community Development Director may deny the issuance of a license upon the determination that the activity would endanger the public health, welfare and safety.

**Section 13-1-18. – Same—License fee; bond.**

- (a) Upon every person or agent or employee of such person operating as a peddler or solicitor for business, there is hereby levied an annual license fee of \$25.00. All persons employed by the solicitor for business 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 a charitable, religious, educational, community or similar purpose. When solicitation is conducted by a group or organization composed predominately of minors, the adult sponsor or leader may carry only one permit for the whole group.
- (c) Solicitors shall, in advance of making any solicitation, furnish and make payable to the city a good and sufficient bond in the amount of \$1,000.00, conditioned that if the solicitors and any employees, officers or agents thereof comply with all of the provisions of this chapter relating to solicitors the obligation shall be void, and otherwise to remain in full force and effect.
- (d) There shall be no fee or bond for a panhandler's license.

**Section 13-1-19. –Same—Unlawful acts.**

- (a) It shall be unlawful for a panhandler, peddler or solicitor or any person on his behalf to:
  - (1) Panhandle at the following locations within the City of Biloxi:
    - i. A bus, streetcar, or train stop;
    - ii. In a public transportation vehicle or facility;

- iii. Twenty (20) feet in any direction from an automatic teller machine (ATM) or bank;
  - iv. Within eight (8) feet of any occupied vehicle on the street; or
  - v. In public parks.
- (2) Shout, make any outcry, blow a horn, ring a bell or use any sound device or musical instrument, including any loud speaking radio or sound amplifying system, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.
- (3) Panhandle, peddle or solicit from 7:00 p.m. to 7:00 a.m., or at any time when a sign has been posted on a building or residence stating, "No Panhandlers or Solicitors," or words to that effect.
- (4) Engage in an act of panhandling in an aggressive manner, including the following actions:
- i. Touching the solicited person without the solicited person's consent;
  - ii. Panhandling a person while such person is standing in line and waiting to be admitted to a commercial establishment;
  - iii. Blocking the path of a person being solicited or the entrance to any building or vehicle;
  - iv. Following behind, ahead or alongside a person who walks away from the panhandler after being solicited;
  - v. Approaching and coming within three (3) feet of a person unless the person has agreed to make a donation;
  - vi. Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled to make a donation.
- (5) Make any representations to persons being solicited of any facts in conflict with the statements on their license or application, 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.
- (b) The prohibitions contained in this section shall not preclude the soliciting from door to door or from vehicles of fresh food products of farm or garden, or bona fide deliveries of goods, wares, merchandise or food made on a regular route to regular customers, nor shall it preclude the delivery and sale of any items that have been previously ordered.

**Section 13-1-20. – Same – Penalty for violation of sections 13-1-16 through 13-1-20.**

Any person violating any of the terms and provisions of sections 13-1-16 through 13-1-20, upon conviction by the court, shall be guilty of a misdemeanor punishable by a fine not exceeding \$100.00 or imprisonment in the jail for city prisoners not exceeding 25 hours, or both, or any other appropriate sentence in the discretion of the municipal judge. Any violation shall constitute a separate offense on each successive day continued.

SECTION 3. Upon unanimous vote of the members of the City Council, this ordinance shall be in full force and effect from and after passage, because it serves the public peace, health and safety of the citizens of Biloxi. This ordinance shall be published according to law and spread on the minutes of the Biloxi City Council.