

ORDINANCE NO. 19-04

**AN ORDINANCE REGULATING MERCHANTS DOING BUSINESS ON
PROPERTY OWNED BY THE TOWN OF BAYVIEW**

WHEREAS, the Town of Bayview Board of Supervisors finds that it is in the best interests of the citizens to regulate all peddlers, solicitors and vendors doing business on property owned by the Town of Bayview; and

WHEREAS, peddling, soliciting and vending are time-honored activities which can be beneficial to the community and the citizens when conducted in a responsible manner; and

WHEREAS, the registration of persons who engage in peddling, soliciting and vending services and products within the Town of Bayview with is necessary to protect the interests of the public and also protects legitimate activities; and

WHEREAS, health and safety issues exist with respect to the services and products being offered within the Town of Bayview.; and

WHEREAS, in furtherance of the health, safety, and welfare of the public, the Town of Bayview Board finds it is in the best interest of the Town of Bayview to establish a permitting process and other regulations applicable to individuals providing services and products within the Town of Bayview.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BAYVIEW:

SECTION (1) - DEFINITIONS

- A. "Peddler" means any individual, whether a resident of the Town of Bayview or not, traveling by foot, automobile, motor truck or any other means of conveyance, from place to place, house to house, business to business, 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 immediate delivery or for services to be performed immediately, 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 payment on such sales or not.
- B. "Solicitor" means any individual, whether a resident of the Town of Bayview or not, traveling by foot, automobile, motor truck or via any electronic means, including, but not limited the internet or social media, or any other means of conveyance, from place to place, house to house, street to street, or via websites, or other marketing using the Internet for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for: (1) sale of goods, wares and merchandise, personal property of any nature whatsoever, for future delivery whether or not such individual has, carries or exposes for sale a sample of the subject of such sale; (2) or for services to be performed in the future whether or not such individual is collecting advance payment on such sales or not; or (3)

a request, whether vocalized or not, for a donation other than in response to an inquiry from another person.

- C. "Solicit" means to request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.
- D. "Merchandise." Merchandise shall be used in its broadest sense and includes property of every kind.
- E. "Park" or "Parking" when prohibited, means to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers.
- F. "Public Area" means all areas to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, beach, parking lot, alleyway, pedestrian way, or the common area of a commercial building or residence.
- G. "Services." Services shall be used in its broadest sense and includes any work or service done or provided for the benefit of another person.
- H. "Vendor" means any individual, whether a resident of this Town of Bayview or not, who offers for sale food, beverages, goods, merchandise, delivery, or for services to be performed immediately or in the future, from a certain location, for a period of more than fifteen (15) minutes, that is not within a building or a structure for which a certificate of occupancy is required by the Town of Bayview. This term shall not apply to businesses that operate from within a building or structure within the Town of Bayview for which a certificate of occupancy is required and also displays or sells food, beverages, goods, merchandise, etc., directly outside the building or structure which the business operates.

SECTION (2) - Permit Required.

It is unlawful for any peddler, solicitor or vendor to engage in the business of selling, displaying, offering for sale of any, goods, merchandise or Services of any kind upon property owned by the Town of Bayview without first obtaining a permit from the Town of Bayview Board.

Permit Exemptions.

The following are excluded from permitting provisions:

- A. Newspaper carriers;
- B. Farmers who sell agricultural products that were raised or grown by them;
- C. Political speech;
- D. Canvassers who attempt only to solicit political support or to determine opinions or sentiments;

- E. Sales made to established businesses by commercial travelers or sales agents in the usual course of business, or to sales made under authority and by order of law;
- F. Individuals traveling to businesses or houses at the invitation of the resident or the owner;
or
- G. Any operation which is exempted by state or federal statute from this chapter, only to the extent of such applicable exemption.

SECTION (3) - Use of State Highways and Town Roads Prohibited.

It shall be unlawful for any Peddler, Solicitor or Vendor to engage in business on any State Highway or Town of Bayview road within the Town of Bayview unless permitted pursuant to this ordinance.

Section (4) - Use of Town of Bayview Parks or Beaches.

A Peddler, Solicitor or Vendor may not engage in business in Town of Bayview parks or beaches without issued by the Town of Bayview Board of Supervisors.

Section (6) Written Application Required.

Any person desiring to engage in activities as a Peddler, Solicitor or Vendor within the Town of Bayview must complete and file a written application for permit with the Town of Bayview Clerk which application shall give the following information:

- A. Applicant's name, address, telephone number, email, address of where all business will occur within the Town of Bayview, a copy of a valid photo ID either a driver's license or a State issued photo ID.
- B. If the applicant is peddling or making solicitations for any commercial, charitable or political organization, the full legal name, telephone number and address of such organization.
- C. Full and complete list of goods or merchandise to be sold and/or Services to be delivered and location.
- D. Description (year, make, type) and valid license plate number and state of registration of all vehicles to be used in Soliciting, Vending and Peddling and a copy of the vehicle's current proof of liability insurance.
- E. A copy of the applicant's current State of Wisconsin Sales and Use Tax Permit together with written documentation from the State that all sales tax that may be due and owing by the vendor has been paid in full.
- F. Proof of insurance naming the town as an additional insured with policy limits not less than one million dollars (\$1,000,000) per occurrence.

Section (7) - Permit Fees.

Permit fees shall be accompanied with the permit application. All Peddlers, Vendors and Solicitors not exempted shall be required to pay the permit fee of \$100.00 Permit renewals shall be \$100.00.

Section (8) - Permit Denial.

- A. A copy of the application for permit will be referred to the Town of Bayview Board for their consideration. An application for permit under this chapter may be denied where:
 - 1. Required application information is incomplete or incorrect;
 - 2. Applicant is currently wanted on warrant for arrest;
 - 3. A permit fee has not been paid; and,
 - 4. Fraudulent statements or omissions on permit application.
 - 5. The activity is not suitable or appropriate for the proposed location.
 - 6. Any permit application may be denied at the discretion of the Town of Bayview Board.
- B. Notification of denial will be delivered in writing.

Section (9) - Permit Issuance, Duration.

- A. Each permit will be valid for 6 months from date of issue and may be renewed in additional 6 month increments by review of the Town of Bayview Board.
- B. The permittee is required to update any information required under Section (6) that has changed within five (5) working days of the change. Failure to update will constitute grounds for the Town of Bayview to revoke the permit.
- C. Notification of permit approval will be issuance of said permit.
- D. Such other conditions as the Town of Bayview Board deems necessary to carry out the purpose of this ordinance.

Section (10) - Permit Nontransferability.

Permits issued under the provisions of this chapter are not transferable in any situation.

Section (11) - Permit Revocation.

- A. The Town of Bayview Board may revoke a permit granted herein.

- B. Prior to the revocation, the Town of Bayview shall provide the permittee with written notice containing particulars of any and all complaint(s) against him or her, and the time, date and place for review of the complaints by the Town of Bayview Board.
- C. After notice and review, the Town of Bayview Board may revoke any permit issued under this chapter for the following (but not limited to) reasons:
 - 1. Fraudulent statements, omissions on permit application or in conduct of permitted business;
 - 2. Any violation of Federal or State statute, or Town of Bayview ordinance;
 - 3. Endangerment of public welfare, health or safety.
- D. Revocation of any permit shall bar the permittee from eligibility under this chapter for a period of one year from the date of revocation.

Section (12) - Violation / Penalty.

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not more than \$10,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

Section (13) Savings Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is held for any reason to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Town of Bayview hereby declares that it would have passed and adopted this ordinance and each section, subsection, sentence clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 14 Effective Date

His ordinance shall be effective upon passage and publication as provided by law.

Dated this 9th day July, 2019

Charles Ray _____

Town Chairman, Charly Ray

Donald A Jenicek _____

Town Board Supervisor, Donald Jenicek

Bill Bodin _____

Town Board Supervisor, Bill Bodin