

Motion by Butler, second by Hepp to approve the request from City Treasurer to purchase the BS&A software module to maintain the Special Assessment Rolls in the amount of \$500.00 for Fiscal Year 2015/2016, and \$2,645.00 for Fiscal Year 2016/2017.

All voting yes.

Opposing: none

Motion carried.

Motion by Rutledge, second by Haydamack to approve the adoption of Ordinance Amendment No. 209, Peddlers and Solicitors with changing the hours from between 8:00 a.m. to 8:00 p.m.

Voting yes: Rutledge, Haydamack, Hayman, Hepp, Butler

Opposing: Burkhardt

Motion carried.

TO AMEND THE CITY OF NEW BALTIMORE CODE OF ORDINANCES CHAPTER 36, ARTICLE II, PEDDLERS AND SOLICITORS PROVIDING FOR DEFINITIONS, LICENSING, STANDARDS FOR ISSUANCE, SUSPENSION AND REVOCATION, PROHIBITING ACTIVITY IN CERTAIN AREAS, PROVIDING FOR APPEAL, AND OTHERWISE REGULATING AND LICENSING THE ACTIVITIES OF COMMERCIAL PEDDLERS AND SOLICITORS IN THE CITY OF NEW BALTIMORE AND PROVIDING FOR PENALTY, REPEALER, SEVERABILITY AND EFFECTIVE DATE

THE CITY OF NEW BALTIMORE ORDAINS:

Section 1.

In order to promote and protect public health, safety and welfare through providing for the reasonable and orderly regulation of the activity of peddlers and solicitors within the city, in order to avoid injury to persons and property, provide for the safety of persons within neighborhoods, provide for neighborhood tranquility, to provide for harmony within neighborhoods, avoid disruption and disturbances in the public right of way and otherwise promote and protect public health, safety and welfare, it is the intent of the city to adopt the following provisions.

Section 2. Chapter 36, Article II, of the Code of Ordinances for the City of New Baltimore, is hereby revised and amended to read as follows:

ARTICLE II. PEDDLERS AND SOLICITORS.

Sec. 36-61. Definitions.

The following words, terms and phrases, when used in this Article shall have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning:

PEDDLER. Includes any person traveling by foot, bicycle, wagon, automotive vehicle or any other conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, farm products or provisions, or other items of personal property and offering the same for sale and making sales and delivering articles to purchasers, or who, without traveling from place to place shall sell or offer for sale from a wagon, automotive vehicle, or other vehicle or conveyance such items. Any person who solicits orders as a separate transaction, makes deliveries to purchasers as part of a scheme, or design to evade this Article is deemed to be a Peddler. The term Peddler shall include the common terms hawker and huckster.

SOLICITOR. Includes any individual whether a resident of the city or not, traveling either by foot, bicycle, wagon, automobile, or any other type of conveyance from place to place, from house to house, or from street to street, attempting to procure orders for the sale of goods, wares, or merchandise, or personal property of any kind or nature, or for services of any kind or nature for future delivery, whether or not such individual has, carries, or exposes for sale, a sample or information relating to such goods or services, or whether payment is being collected in advance on such sales or not. Included is any person who for himself or another person hires, leases, uses, or occupies any building, structure, tent, room, shop, or other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The term Solicitor shall include the term canvasser for commercial purposes.

Sec. 36-62. License Required.

No person shall engage in the business of peddler or solicitor within the city without first obtaining a license which shall be granted only upon certification of the Chief of Police.

Sec. 36-63. Criteria for Granting a Peddler or Solicitor Permit.

The Police Chief shall issue a solicitor or peddler permit upon a determination that the applicant has met all of the provisions of this Chapter including:

- (1) Required fees have been paid.
- (2) The applicant has not made a material misrepresentation of fact in or falsified any contents of the application and the application and all necessary supporting materials are complete.
- (3) The applicant has not had a peddler or solicitor's permit denied or revoked by the City or any other city within a period of five (5) years prior to the date of application.
- (4) The applicant has never been convicted of a felony or convicted of any crime involving sexual misconduct, assaultive conduct, theft, or fraud.
- (5) The applicant is not in default upon any real or personal property taxes owed to the City, or an officer or owner of any business in default upon any personal or real property taxes owed to the City.
- (6) The applicant has met other requirements of this Chapter.

Sec. 36-64. License Application.

A license application either for solicitor or peddler shall be filed with separate applications for each individual containing the following information:

- (1) Name and description of applicant.
- (2) Permanent home address and full local address of the applicant.
- (3) A brief description of the nature of the business and goods to be sold.
- (4) The name and address of any employer together with credentials establishing the exact relationship.
- (5) The length of time for which the right to do business is requested.
- (6) The place where goods or property proposed to be sold or orders to be taken for sale are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery.
- (7) The applicant shall pay the applicable fee and have photographs taken of the applicant by the Police Department showing the head and shoulders of the applicant in a clear and distinguishing manner which will be utilized to issue the permit. Fees for this process shall be fully paid prior to the issuance of any permit and shall be established from time to time by the Mayor.
- (8) Applicant must provide a complete set of finger prints taken by the police department of the City.
- (9) A photo-static, legible copy of a driver's license or Michigan state identification card, or other state identification card current and valid.
- (10) A statement as to whether the applicant's parent organization has ever been found to have violated a municipal ordinance regulating peddling or soliciting and if yes, the details thereof.
- (11) A current ICHAT (Internet Criminal History Access Tool), report current within the last thirty (30) days for each employee who will be engaging in peddling or soliciting and who is an officer or director of the business utilizing peddlers or solicitors with an explanation of any and all offenses noted.

- (12) The application shall be signed by the applicant stating that information contained is true and correct and the city shall have the right to investigate and verify information contained in the application.

Sec. 36-65. Approval or Disapproval.

The Chief of Police within ten (10) days following the issuance of a complete application may either act to approve or disapprove the application, or if additional information or investigation is required, may act to extend the time or action by up to an additional ten (10) days.

Sec. 36-66. Denial or Revocation and Appeal.

The Chief of Police are authorized to deny or revoke any permit issued or requested under this Chapter for violation of the provisions of this Chapter including but not limited to the following:

- (1) The Peddler or Solicitor or a Peddler or Solicitor for a business has violated any provision of this Chapter, Code of Ordinances, or State or Federal laws, rules or regulations pertaining to peddling or soliciting.
- (2) The Peddler or Solicitor has made a false material statement in the application, has failed to complete the application or is otherwise become disqualified for the issuance or continue maintenance of a permit.
- (3) The Peddler or Solicitor has been found to be in violation of the criteria for issuance of an application at any time prior to or after the issuance of such application, including but not limited to conviction for any of the crimes prohibited thereunder.

Sec. 36-67. Notice of Denial and Hearing Prior to Revocation.

The Chief of Police shall provide the Peddler or Solicitor with written notice of denial and reasons for denial of the permit at the address on the application for permit. Prior to any revocation, the allegations for revocation shall be furnished in writing to the Peddler or Solicitor at the address on the application for the permit. A person denied a permit shall be entitled to a hearing if a written request for hearing is submitted in writing within ten (10) days following the denial to both the Chief of Police and Mayor. The Mayor shall thereafter schedule the hearing within fourteen (14) days following receipt of a request for hearing. In the case of revocation the notice shall provide that the person may request a hearing before the Chief of Police prior to revocation which hearing must be requested in writing to the Police Chief within ten (10) days of notification of the charges. Upon such request being received, such hearing shall be scheduled and initiated by the Mayor within fourteen (14) days from the receipt for such hearing. Following denial or revocation by the Chief of Police, the Peddler or Solicitor may appeal the denial or revocation to the Mayor. Such appeal must be filed within ten (10) days revocation or denial to both Chief of Police and the Mayor in writing. Following receipt of the appeal, request of a hearing with the Mayor must be scheduled and initiated within fourteen (14) days and completed within a reasonable time.

Sec. 36-68. No Property Interests.

Any permit applied for or granted pursuant to this Article does not grant any property right or right to receive such permit in the future.

Sec. 36-69. Other Permits or Licenses.

A permit obtained pursuant to this Chapter shall not relieve a person of their responsibility for obtaining any other permit, license or authorization required by any other ordinance, statute, or administrative rule.

Sec. 36-70. Permit, Fees and Duration.

- (1) The fee for a permit shall be set periodically by the Mayor. The Mayor shall be permitted to conduct an investigation of the applicant's business in order to make a determination as to the required administrative time within the city in order to process, administer and

enforce the provisions of this Chapter and the overall Code of Ordinances based on the nature and extent of the proposed peddling and soliciting activity.

- (2) A permit granted shall remain in effect for a period not to exceed ninety (90) days with the duration to be established based on the application request setting forth duration of activity.

Sec. 36-71. Exemptions.

Exempt from licensing requirements only but subject to the remaining provisions of this Article are:

- (1) Farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated.
- (2) Persons under the age of eighteen (18) when engaged in peddling on foot under the direct supervision of any school, or recognized charitable or religious organization.

Sec. 36-72. Prohibitions and Requirements: All Peddlers and Solicitors.

- (1) Hours of operation. No Peddlers or Solicitors shall engage in any activity within the city at any time other than between the hours of 8:00 a.m. and 8:00 p.m.

Sec. 36-73. Affixed Stands Prohibited; Parking.

No person licensed as a Peddler shall stop or remain in any one place upon any street, alley, or public place longer than necessary to make a sale to a customer wishing to buy. Any Peddler using a vehicle, when stopped, shall situate their vehicle parallel to and within twelve (12) inches of the curb and shall depart from such place immediately upon completing sales with customers actually present.

Sec. 36-74. Prohibited Areas.

No Peddler in the sale of goods, wares and merchandise shall obstruct any street, alley, sidewalk or driveway except as may become necessary and reasonable to consummate a sale, nor remain, barter, sale, offer or expose for sale any goods, wares, or merchandise in front of or at the side of property against the wishes or desires of the property owner, occupant, or tenant of such property. No Peddler shall engage in peddling on any street, alley, or public place after having been requested to part by any police officer.

Sec. 36-75. Noise Regulation.

No Peddler or Solicitor shall shout or cry out, relating to business or service, or blow any horn, ring any bell, or use any lights or other similar devices to attract the attention of the public.

Sec. 36-76. Curb Service Prohibited.

No person shall operate or maintain any stand, vehicles, store or place of business on or near to any highway in such a manner that customers with such person, occupy or congregate within the limits of any street, lane, highway, alley or a public place within the City. No person shall be permitted to use the streets, alleys, lanes or public places of the City for the service of customers or for the transaction of business or to use any stands, stores, or other places of business in any manner that shall require the customer in transacting business to stay within the limits of any streets, highways, alleys, or any other public places of the City.

Sec. 36-77. Special Events.

The City may restrict peddling and/or soliciting during certain hours or certain areas within the city during special events where the city is determined that peddling or soliciting may be hazardous to the health, safety, or welfare of the public due to congestion in city streets,

sidewalks, or other public places. The Mayor may issue such an order restricting areas and times. No peddler or solicitor shall engage in peddling or soliciting during such an event and in the area during any time that peddling or soliciting is restricted after having been furnished written notice of such restriction or advised to depart from such restricted area by a police officer.

Sec. 36-78. No Soliciting Signs.

No peddler or solicitor shall enter or remain on property that has posted a no soliciting sign nor remain on property after being requested to leave by the owner or occupant.

Sec. 36-79. Threatening or Harassing Behavior.

No peddler or solicitor shall threaten or harass any person in the course of their activities or in any way engage in conduct that threatens the health and safety of another or causes a nuisance.

Sec. 36-80. Sales Limited to Products in Services on Application.

Peddlers and solicitors shall be limited to the sale or promotion of the products or services specified on their applications. Amendments to originally approved applications must be submitted to the Chief of Police for review and approval and shall not be effective prior to such approval. Application fee for such application in an amount as established by the Mayor shall be paid in full.

Sec. 36-81. Permits Non-transferable Non-assignable.

Peddler and solicitor permits issued under the authority of this Chapter are non-transferable or assignable either to persons or as to location.

Sec. 36-82. Possession, Display and Return of Permit Required.

A person issued a permit under this Chapter shall have it in his or her possession at all times during which he or she is peddling and shall display said permit by wearing the same around their neck. The permit shall be returned to the Chief of Police upon expiration.

Sec. 36-83. Request to Leave Doorway.

No peddler or solicitor shall request a person who is being peddled or solicited to retrieve something from inside their home which requires them to leave the front door.

Sec. 36-84. Request to Enter Home.

No peddler or solicitor shall request a person being peddled or solicited to allow them to enter their residence.

Sec. 36-85. Changes of Information.

While a permit is in effect the peddler or solicitor shall within three (3) calendar days after change occurs, report the same in writing to the Chief of Police with respect to any material information previously furnished on the application form.

Sec. 36-86. Abusive of Activity.

No person shall engage in abusive peddling and solicitation. Abusive of activity shall include but not be limited to coming closer than three feet to the person peddled or solicited unless and until such person indicates he or she wishes to make a purchase or otherwise receive the peddling or solicitation; blocking or impeding the passage of the person being peddled or solicited; repeating peddling or solicitation after the person has indicated their objection to the peddling or solicitation; following a person by proceeding behind, ahead or alongside such person after the person has indicated his or her objection; threatening a person with physical harm; touching the person being peddled or solicited without consent; shouting, screaming, or using a loud tone of voice after being requested to cease using the tone of voice.

Sec. 36-87. Enforcement.

Any police officer or the building inspector may require any person seen, soliciting, or peddling to show proof of a permit issued by the city and any such police officer, building inspector is authorized to enforce the provisions of this Chapter.

Sec. 36-88. Violations and Penalties.

Any person who violates any section of this Chapter shall be guilty of a misdemeanor subject to punishment by up to ninety-three (93) days and/or a Five Hundred (\$500.00) Dollar fine or both, plus cost. The Police Chief shall maintain a record for each permit issued and record the reports of violations maintaining a record of such complaints and violations.

Section 3. Repealer. All ordinances or parts of ordinance in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Severability. If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the city, that this ordinance shall be fully severable.

Section 5. Effective Date. This Ordinance due to its emergency nature shall be effective immediately upon publication following adoption.

ORDINANCE DECLARED ADOPTED.

Motion by Butler, second by Hayman to approve the revised Banner Policy as presented with a review in December 2016.

Voting yes: Butler, Hayman, Rutledge, Haydamack
Motion carried.

Opposing: Burkhardt, Hepp

Motion by Butler, second by Rutledge to move into closed session at 7:38 PM, to discuss the city attorney's written legal opinion regarding Spicer Group and CAT Generator.

All voting yes.

Opposing: none

Motion carried.

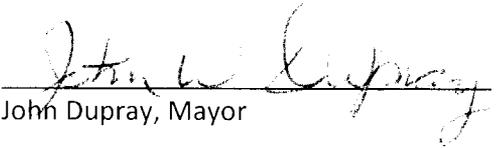
Council reconvened into open session at 7:50PM

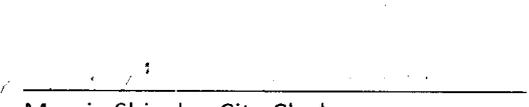
Motion by Burkhardt, second by Hepp to adjourn at 7:51 PM.

All voting yes.

Opposing: none

Motion carried.


John Dupray, Mayor


Marcia Shinska, City Clerk