

Prepared by:
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ORDINANCE NO. 2020-10

AN ORDINANCE AMENDING TITLES 4 AND 5 OF THE POTTSVILLE MUNICIPAL CODE FOR THE CITY OF POTTSVILLE ARKANSAS; AND, FOR OTHER PURPOSES

WHEREAS, there is a proposed amendment to Title 4 and Title 5, of the Pottsville Municipal Code which covers "Business Licenses and Regulations" and "Health and Sanitation;"

WHEREAS, the proposed amendment is attached to this Ordinance as "Exhibit A" and is incorporated in this Ordinance by reference; and

WHEREAS, the City Council has determined to approve the amendments in "Exhibit A," and amend Title 4 and Title 5 of the Pottsville Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF POTTSVILLE, ARKANSAS:

SECTION 1: Title 4 and Title 5 of the Pottsville Municipal Code for the City of Pottsville, Arkansas is hereby amended to incorporate the amendments which are attached to this Ordinance as "Exhibit A" and incorporated herein by reference.

SECTION 2: Title 4 and Title 5 of the Pottsville Municipal Code for the City of Pottsville, Arkansas shall be amended only to the extent necessary to incorporate the attached amendment into the current Pottsville Municipal Code.

SECTION 3: In exercising the authority to codify the amendment attached as "Exhibit A," the City Council makes the following changes to the amendment attached as "Exhibit A" to:


- (a) Correct the spelling of words;
- (b) Change capitalization for the purpose of uniformity;
- (c) Correct manifest typographical and grammatical errors;
- (d) Correct manifest errors in references to laws, ordinances, and other documents;
- (e) Correct manifest errors in internal reference numbers, letters, and sections;
- (f) Correct punctuation;
- (g) Add provisions to reflect current ordinance; and
- (h) Remove provisions that have been revoked by ordinance.

SECTION 4: Any and all prior resolutions, ordinances, or parts of the same, which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5: If any provision of this ordinance or the application thereof to any person or circumstances is declared to be invalid, such invalidity shall not affect the other provisions or applications of the ordinance which may be given effect without the invalid provision(s) or application(s), and to this end the provisions of this ordinance are declared severable.

SECTION 6: EMERGENCY CLAUSE: In order to correct errors in Title 4 and Title 5 in the Pottsville Municipal Code for the City of Pottsville and to provide accurate information to the citizens and accurately apply the ordinances as intended and in turn protect the health, safety, and welfare of the City and residents of the City of Pottsville, Arkansas, an emergency is declared to exist and this Ordinance shall go into effect immediately upon and after passage by the City Council.

PASSED AND APPROVED THIS 28th day of October 2020.



RANDY TANKERSLEY, MAYOR

ATTEST:

I, Holly Fowler, City Clerk of Pottsville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2020-10 passed by the Pottsville City Council on the 26th day of October 2020.


HOLLY FOWLER

EXHIBIT A

1. Chapter 4.16, Section 4.16.01: This Section shall be amended to read as follows: "Chapter 4.16, Section 4.16.01 City Tax Levied: All private clubs within the City serving alcoholic beverages shall pay to the City a supplemental tax equal to one-half (1/2) of the amount to be paid to the state. Proceeds from this tax shall be deposited in the City's General Fund."
2. Chapter 4.20, Section 4.20.07: The first sentence of the second paragraph shall be amended to read as follows: "However, where the residence, building, structure, development, or subdivision of a person requesting to be served cable television service by the Grantee in the city is located in areas requiring greater than 300 feet of cable per home, Grantee shall have the right to establish and collect an extension charge for erecting, constructing, or extending its cable, wire, or lines to the residence, building, structure, development, or subdivision desiring connection to Grantee's System."
3. Chapter 4.24, Section 4.24.01: This Section shall be amended to read as follows: "Chapter 4.24, Section 4.20.01 Required. Prior to any "home solicitation sales" no person, party, company, or other entity shall solicit or request contributions or sell goods, tickets of admission, advertising or any other thing of value prior to registering and receiving a permit for such solicitations at the following address:

Pottsville City Hall
c/o Pottsville Code Enforcement
173 E. Ash Street
Pottsville, AR 72858
Phone: (479) 968-3029

(Ord. No. 2020-8, Sec. 1)

4. Chapter 4.24, Section 4.24.02. The citation for this Section shall be amended to be:
(Ord. No. 2020-8, Sec. 2)
5. Chapter 4.24, Section 4.24.03. The citation for this Section shall be amended to be:
(Ord. No. 2020-8, Sec. 3)
6. Chapter 4.24, Section 4.24.04. This Section shall be amended to read as follows:
(A) Any party or parties making home solicitation sales within the City of Pottsville offering or selling merchandise or services and not having a regular permanent place of business in the city, prior to engaging in such activity, shall execute a bond with good and sufficient surety payable to the City for the use and benefit of any person damaged by a breach thereof. The bond shall ensure performance of services, delivery of merchandise, and proper application of monies received therefor.

(B) The bond shall be in an amount, approved by the Code Enforcement Officer or designated agent, which amount is found, after considering the money likely to be

involved or the value of services to be rendered or merchandise to be delivered, to be adequate to protect the public against fraud or dishonest dealing. The bond shall not be an amount less than \$500.00 cash or equivalent commercial bond.

(C) A fee of \$15.00 shall be paid to the City by each person executing such a bond in order to defray the costs of administering this Section. The fee so collected shall be deposited into the General Fund.

(Ord. No. 2020-8, Sec. 4)

7. Chapter 4.24, Section 4.24.04. Charitable Solicitation on Streets shall be renumbered as 4.24.05 Charitable Solicitation on Streets.

8. Chapter 4.24, Section 4.24.05 Charitable Solicitation on Streets. This Section shall be amended to read as follows:

(A) No person shall solicit donations on the streets for charitable, religious, or other bonafide non-profit purposes without a permit from the City.

(B) To obtain such a permit, a person shall submit in writing to the City an application to be provided giving the name, headquarters, address of the organization they represent and shall solicit for, and the names and addresses of any and all solicitors and any and all other information which may be required by the City.

(C) The Code Enforcement Officer or designated agent shall administer the provisions of this Section and promulgate regulations governing the procedure for application and issuance of permits.

(Ord. No. 2020-8, Sec. 5)

9. Chapter 4.24, Section 4.24.06 Permit for Charitable Solicitors for Hire. The citation for this Section shall be amended to be: (Ord. No. 2020-8, Sec. 6)

10. Chapter 4.24, Section 4.24.07 Additional Prohibitions. This Section shall be amended to read as follows:

Additionally, it shall be unlawful for any solicitor or peddler to:

(1) Peddle or solicit within the City without having a copy of their permit issued by the City of Pottsville, as well as a photo identification visible, identifying the person peddling or soliciting;

(2) Enter upon any private residence, knock on a door, ring a doorbell, or otherwise attempt to gain admittance at the residence when the premises has posted at the entry of the residence a decal or sign bearing the words, "No Soliciting/No Peddling," "No Soliciting," "No Peddling," "No Trespassing," or other words of similar import;

(3) Conduct the activities of peddler or solicitor and knock on a door, ring a doorbell, or otherwise attempt to gain admittance at the residence between the hours of 8:00p.m. and 8:00a.m.;

(4) Remain at or fail to leave the premises or residence when requested to leave, or to otherwise conduct business in a manner in which a reasonable person would find obscene, threatening, intimidating, or abusive;

(5) Claim to have the endorsement of the City based on the City having issued permit to that person;

(6) Fail to disclose his or her name and the name of the principal who he or she represents at the outset of the initial conversation;

Nothing herein shall be construed to prohibit the distribution of advertising literature so long as the person distributing same does not seek to sell or take orders for merchandise or services while distributing the advertising material.

Ord. No. 2020-8, Sec. 7.

11. Chapter 4.24, Section 4.24.08 Exemptions. This Section shall be amended to read as follows:

The following shall be exempt from the provisions of this ordinance as set forth below:

(1) Officers or employees of the City, county, or state or federal government, or any subdivision thereof when on official business;

(2) After supplying adequate proof to the City Clerk that the nonprofit charitable organization is a charity with a current Section 501(c)(3) IRS exception, the Clerk may issue the permit required by this Ordinance without charge to the persons desiring to exercise their free speech rights as long as no solicitation for donations are made and no donations are accepted.

(3) Although everyone going door to door must respect and not go to the door of a citizen who has posted a "no solicitation" type sign, and may only go door to door during the hours allowed in Section 7 above, and must conform to the requirements of F(4),(5), and (6), persons exercising their First Amendment political or religious free speech rights are otherwise exempted from this section.

(4) Students enrolled in grades kindergarten through 12th grade, enrolled in a public or private school located within the City of Pottsville, Arkansas, peddling or soliciting for the benefit of their school or an organization thereof or for any private, nonprofit social club or organization to which they belong, such as, but not limited to, FBLA, FFA, FHA, band, choir, Boy Scouts or Girl Scouts must abide by the restrictions found in F(2),(3),(4), and(6) but are otherwise exempt from this section.

Ord. No. 2020-8, Sec. 8.

12. Chapter 4.24, Section 4.24.09 Penalty. The citation for this Section shall be amended to be: (Ord. No. 2020-8, Sec. 9)

13. Chapter 4.24, Section 4.24.10 Damages. The citation for this Section shall be amended to be: (Ord. No. 2020-8, Sec. 10)
14. Chapter 4.28, Section 4.28.02 Permit Required. The citation for this Section shall be (Ord. No. 97-5, Sec. 1.)
15. Chapter 4.28, Section 4.28.07 Enforcement. This Section shall be amended to read as follows: "4.28.07 Enforcement. The Pottsville Code Enforcement Officer or designated agent shall ensure that all businesses have a permit posted at the location of the business or sale. (Ord. No. 2020-9, Sec. 1)"
16. Chapter 4.28, Section 4.28.09 Display. This Section shall be amended to read as follows: "4.28.09 Display. Each permit shall be posted in a conspicuous place where such business or corporation is carried on and the holder of such permit shall immediately show the same to any officer of the City upon being requested to do so. Each road-side vendor shall display his permit in a manner such that it may be seen from the curb or road-side by city inspectors. (Ord. No. 97-5, Sec. 9.)
17. Chapter 5.04, Section 5.04.02 Notice Required: Subparagraph 2 shall be modified to read:
 - "2. Include a statement of the reasons why it is being issued, and the sections of the ordinance that are alleged to be in violation."
18. Chapter 5.12, Section 5.12.01: The following citation shall be added: See A.C.A. § 8-6-406.