ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. 2820

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD REPEALING AND REPLACING SECTION 11-46 OF THE OXNARD CITY CODE AND ADDING SECTIONS 11-49 AND 11-50 TO THE OXNARD CITY CODE CONCERNING BUSINESS LICENSES AND VENDOR PERMITS FOR PEDDLERS, CANVASSERS AND SOLICITORS

The City Council of the City of Oxnard does ordain as follows:

Part 1. Section 11-46 of the Oxnard City Code is hereby repealed and replaced with the following:

"SEC. 11-46. BUSINESS LICENSE AND VENDOR PERMIT TO PEDDLE, SOLICIT OR CANVASS IN RESIDENTIAL AREA; FINGERPRINT REPORT REQUIRED.

(A) An applicant for an initial or renewed business license to peddle, solicit or canvass in residential areas, as shown on a map prepared by staff in the Planning Department, shall pay the license tax, unless exempt therefrom.

(B) Every person who peddles, solicits or canvasses in residential areas, as shown on a map prepared by staff in the Planning Department and regardless of whether that person is an independent contractor or employed by a licensee, shall pay an annual vendor permit fee and obtain a vendor permit from the collector before peddling, soliciting or canvassing in such areas. Vendor permit fees shall be established by resolution of the city council and shall be renewed annually.

(C) An applicant for a business license or a vendor permit shall pay an annual fee for a fingerprint report on himself or herself, performed by the State Department of Justice. The applicant, other than a disabled veteran applying for a license as set out in subdivision (5) of subsection (B) of section 11-9, shall pay such fee even if the applicant is exempt from the license tax and other license fees. The applicant shall provide the collector with one of the following forms of identification and shall be fingerprinted by the police department:

(1) Alien registration card issued by the United States Immigration and Naturalization Service;

(2) Driver's license or any identification containing a photograph, issued by any state or the District of Columbia;

(3) Passport issued by the United States or a foreign country;

(4) Foreign national identification issued by a foreign country; and/or

(5) Foreign military identification issued by a foreign country.

(D) The police department shall inform the collector whether the fingerprint report revealed that within seven years of the date the application was filed, the applicant was convicted of or pled no contest to any of the following crimes, or of an attempt or conspiracy to commit any of the following crimes:

(1) Murder, mayhem, kidnapping, robbery, assault with intent to commit a felony, assault, battery, rape, arson, burglary, or possession of burglarious instruments or deadly weapons, as defined in the Cal. Penal Code;

(2) Cal. Penal Code sections 184 (theft), 484b (diversion of funds), 484e (theft of access card), 496(a) (receiving stolen property), or 503 (embezzlement);

(3) Crimes involving a controlled substance, as defined in Cal. Health and Safety Code sections 11054, 11055, 11057, or 11058; and

(4) Any crime for which the applicant is required to register as a sex offender pursuant to Cal. Penal Code section 290.

(E) If the police department informs the collector that the applicant has been so convicted or has so pled no contest within seven years of the date the application was filed, the collector shall deny the application for the license and/or permit. The collector shall deposit in the United States mail, postage prepaid, directed to the applicant at the mailing address stated in the application, a notice of denial, stating the reasons for denial. An applicant whose business license application is denied may appeal the decision to the collector in accordance with section 11-26. An applicant whose vendor permit application is denied may appeal the decision to the collector in accordance with section 11-49.

(F) If the police department informs the collector that the fingerprint report did not reveal that within seven years of the date the application was filed the applicant was so convicted or pled no contest, the collector shall grant the license and/or permit and deposit the license and/or permit in the United States mail, postage prepaid, directed to the applicant at the mailing address stated in the application.

(G) If the fingerprint report is not received by the police department from the State Department of Justice within 30 days of the date the applicant was fingerprinted, the collector, on request of the applicant, shall issue to the applicant a temporary license and/or a temporary permit to peddle, solicit or canvass in residential areas, which shall expire when upon receipt of the fingerprint report, the collect grants the application and sends the license and/or permit to the applicant or the collector denies the application and gives written notice thereof to the applicant.

(H) While engaged in peddling, soliciting or canvassing in residential areas, licensees and all of their employees or independent contractors shall carry the business license, or a photocopy thereof, the vendor permit issued by the collector, and the identification provided to the collector pursuant to subsection (C) of this section.

(I) Licensees shall require that any of the following persons have a valid vendor permit issued by the collector:

(1) Any person who sells items owned by the licensee; or

(2) Any person who operates or sells items from a pushcart, wagon, or other non-motorized container owned by the licensee.

(J) If the city council adopts ordinances or resolutions restricting the locations, days and hours of the day that persons may peddle, solicit or canvass, or similar restrictions, the collector may state any such applicable restrictions on the license and/or permit. The collector's failure to state restrictions on the license and/or permit shall not relieve the licensee or permittee of the duty to comply with applicable ordinances and resolutions.

(K) (1) A person, institution or organization, other than a disabled veteran applying for a license as set out in subdivision (5) of subsection (B) of section 11-9, that is exempted by section 11-8 from some of the requirements of this chapter and that wishes to peddle, solicit or canvass in residential areas, as shown on a map prepared by staff in the Planning Department, shall, before engaging in such activities, apply to the collector for written approval to do so, pay a fee for a fingerprint report on each person who wishes to do so, and obtain written approval from the collector, in accordance with subsections (A) through (J) of this section. References in subsections (A) through (J) of this section to licenses and permits and applications for licenses and permits shall be deemed to refer to written approval and applications for written approval required for this subsection (K).

(2) All procedures and requirements contained in subsections (A) through (J) of this section for granting and denying licenses and permits, including but not limited to carrying licenses and permits while engaged in peddling, soliciting or canvassing in residential areas, shall apply to written approvals required by this subsection (K)."

Part 2. Sections 11-49 and 11-50 are hereby added to the Oxnard City Code to read as follows:

"SEC. 11-49. REQUEST FOR HEARING BY APPLICANT.

(A) (1) The applicant for a vendor permit may request a hearing if the applicant receives written notice from the license collector that the application is denied.

(2) The request for hearing must be received by the license collector within 14 days after the license collector mailed the notice of denial to the applicant.

(B) An applicant's request for hearing shall be in writing, a copy of the notice of denial shall be attached to the request, and the request shall state the reasons that the applicant alleges the notice to be incorrect.

(C) An applicant's request for hearing shall be accompanied by the hearing fee set by resolution of the city council.

(D) The procedures for setting and holding a hearing, rendering decision, and seeking judicial review of the decision shall be as provided in subsections (H) through (N), inclusive, of section 11-154 of this code."

"SEC. 11-50. REVOCATION OR MODIFICATION OF VENDOR PERMIT.

(A) A vendor permit may be revoked or modified or conditions may be imposed for failure of the permittee to comply with applicable laws and regulations, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.

(B) A city officer or employee may file with the license collector a written request for revocation or modification of a vendor permit, stating facts showing that the permittee failed to comply with applicable laws, regulations or permit conditions. The request shall be accompanied by a written report, stating wherein the permittee has not complied with applicable laws, regulations or permit conditions and recommending that the permit be revoked or in what respect the permit should be modified or conditioned.

(C) On receiving the request and report referred to in subdivision (B) of this section, the license collector shall mail to the permittee a notice that the permit is recommended for revocation, modification or conditioning in a specific manner and stating the reasons for that recommendation. The notice shall inform the permittee that the recommendation will be adopted and the permittee will be deemed to concur with the recommendation if the permittee does not make a written request for a hearing as provided in subsection (D) of this section.

(D) On receiving the notice referred to in subsection (C) of this section, the permittee may make a written request for a hearing. The request must be received by the license collector within 14 days after the license collector mailed the notice referred to in subsection (C) of this section to the permittee and be accompanied by the hearing fee set by resolution of the city council. The request for hearing shall be attached to a copy of the notice of recommended revocation, modification or conditioning received by the permittee and shall state the reasons that the permittee alleges the notice to be incorrect.

(E) The procedures for setting and holding a hearing, rendering decision, and seeking judicial review of the decision shall be as provided in subsections (H) through (N), inclusive, of section 11-154 of this code."

Part 3. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Mayor

ATTEST:

_____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

For
_____
Alan Holmberg, City Attorney
11.9.09