



City of Rochester Hills
AGENDA SUMMARY
NON-FINANCIAL ITEMS

1000 Rochester Hills Dr.
Rochester Hills, MI 48309
248.656.4630
www.rochesterhills.org

Legislative File No: 2013-0203 and 2013-0204

TO: Mayor and City Council Members

FROM: Laura Douglas, Clerk's Dept. and Tina Barton, City Clerk (Ext. 2461)

DATE: 05/15/13

SUBJECT: Peddlers, Solicitors and Itinerant Merchants - Second reading and adoption, an Ordinance amendment Sections 78-163, 78-166 and 78-198 of Article III of Chapter 78, Peddlers, Solicitors and Itinerant Merchants and Section 54-501 of Article IX of Chapter 54, Peddlers, Solicitors and Itinerant Merchants, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to increase the permit fee for itinerant merchants; repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations

REQUEST:

We are requesting that City Council accept, for second reading and adoption, an Ordinance amendment Sections 78-163, 78-166 and 78-198 of Article III of Chapter 78, Peddlers, Solicitors and Itinerant Merchants, to require criminal background checks for itinerant merchant applications; modify the hours during which door-to-door commercial solicitation is permitted; change license duration; repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations and Section 54-501 of Article IX of Chapter 54, Peddlers, Solicitors and Itinerant Merchants, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to increase the permit fee for itinerant merchants; repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations

BACKGROUND:

As the primary permit issuer for solicitation permits, the Clerk's Department processes all solicitation applications. A few issues have come to our attention. First, the hours allowed for soliciting set forth in the ordinance are not clearly defined. Secondly, the expiration date of March 31 of each year causes confusion and is a long time period for solicitors to be in our community. Third, the ordinance does not allow for any background checks on applicants. And last, if background checks are instituted the fee for the permit would have to be updated. Updating the ordinance will align us with other local communities, give residents and solicitors clear dates and times to follow, and provide our residents with a greater peace of mind that the City is doing what it can to screen the people coming in to our community to sell wares or goods.

The first issue we would like to address is the time solicitors are allowed to canvass. Currently, solicitation is "...permitted between the hours of 6:00 p.m., or sunset, whichever is later, and 8:00a.m., except by invitees." As seasons change throughout the year, so does sunset. Having a time frame that is constantly changing can lead to different interpretations from one solicitor to another and even from one resident to another. Many residents that call are concerned about how

late solicitors are allowed to canvass. Some believe 7:00 p.m. to be too late and others find 8:00 p.m. to be late. With the current ordinance, sunset may not occur until 9:00 p.m. during the summer season. Examples of surrounding communities are listed below:

City of Rochester:	no set hours listed in ordinance
City of Auburn Hills:	sunset, at the latest
City of Troy:	9:00 a.m. – 9:00 p.m.
Bloomfield Township:	11:00 a.m. in the forenoon and 7:00 p.m. in the evening-daylight savings time 11:00 a.m. in the forenoon and 5:00 p.m. in the evening-remainder of year

In addition to the hours, the expiration date for permits currently reads, “A licenses issued under this division shall be issued for a period of up to one year as determined by the city clerk with consideration of the application, and all licenses shall expire March 31 of each year.” The expiration date of March 31 is an odd date as solicitors have applied for permits as early as January. At the beginning of 2013 we informed those applying that the permit would only be good until March 31 of 2013. To have it effective through 2014 they would have to reapply at the end of March. As most soliciting occurs in the summer months, a year may be excessive. This allows solicitors in our community for a longer period of time. Most companies do not need this much time to canvass. A few surrounding communities and their time frames are listed below:

City of Rochester:	90 days
City of Auburn Hills:	December 31 of each year
City of Troy:	90 days
Bloomfield Township:	60 days

Third, the ordinance does not provide for background checks on applicants. When residents call to inquire about solicitors and what is required of them to apply, they have asked about background checks. Currently, we obtain a release from the applicant to conduct a background check, but it would only be done if we felt there was cause to do so or there was a problem with a solicitor. However, by the time the check may be done whatever damage that’s been done would already have occurred. It would be a case of too little, too late. This policy does not reassure the residents that we are doing what we can to keep them safe. All of the communities listed below practice some method of background checks or fingerprinting:

City of Rochester:	fingerprinting and investigation by chief of police
City of Auburn Hills:	fingerprinting and may perform a background check
City of Troy:	fingerprinting
Bloomfield Township:	Internet Criminal History Access Tool (ICHAT)

Last, if background checks are instituted our fees for applicants would have to be adjusted. Currently, the fee per application is \$25.00. Fees per applicant for surrounding communities are listed below:

City of Rochester:	\$10.00/day or \$100.00/year
City of Auburn Hills:	\$100.00 for first applicant, \$25.00 each subsequent applicant
City of Troy:	\$24.00 application fee and \$20/week, \$40/month or \$100/year
Bloomfield Township:	\$35.00

Solutions

To end the confusion concerning the hours allowed for solicitation, we are proposing that the City removes any reference to an arbitrary time such as “sunset” and set clearly defined hours. We would suggest a time frame of 9:00 a.m. in the forenoon and 7:00 p.m. in the evening while daylight savings time is in effect and from 9:00 a.m. in the forenoon and 5:00 pm in the evening when daylight savings time is not in effect. This would provide applicants, and residents, with a clear definition of the hours. Furthermore, these hours would be clearly defined for the Oakland County Sheriff’s Department. As the OCSD is the primary ordinance enforcement officers for this particular ordinance, they also would not have to approximate the time of day sunset is occurring when investigating calls from residents.

As for the expiration date, we are proposing limiting the time frame on the permits to 90 days. As listed above, this would bring the City in line with some of the surrounding communities. This change would limit confusion for those companies and individuals that apply prior to March 31. No matter what time of year they apply, they would have 90 days to complete their canvass. If they needed additional time they could reapply. However, the 90 days will give companies and individuals plenty of time to canvass our community.

We would also like to propose instituting background checks on all applicants. These checks would be run through the Internet Criminal History Access Tool (ICHAT). This is the only tool available to us at this time. The OCSD is not able to conduct background checks because it would be a LEIN (Law Enforcement Information Network) violation. Although ICHAT only covers Michigan felonies and serious misdemeanors, it would still offer piece of mind to residents that we are checking and making an extra effort with concern for their safety. Currently, the City uses ICHAT in the Human Resources Department.

At the first reading of the ordinance, the Council requested that an additional change be made in the ordinance to require that all solicitors be issued a lanyard that would encase their permit. These lanyards would allow for easy identification and would give a uniform look to solicitors.

Last, we propose recouping the cost for background checks by including it in the City’s permit fee. The fee for using ICHAT is \$10.00 per search. We are proposing that the fee be increased to \$75.00 per applicant.

RECOMMENDATION:

We recommend City Council accept, for second reading and adoption, amendments to Ordinance Sections 78-163, 78-166 and 78-198 of Article III of Chapter 78, Peddlers, Solicitors and Itinerant Merchants and Section 54-501 of Article IX of Chapter 54, Peddlers, Solicitors and Itinerant Merchants, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to increase the permit fee for itinerant merchants; repeal conflicting or inconsistent ordinances, and prescribe a penalty for violations

APPROVALS:	SIGNATURE	DATE
Department Review		
Department Director		
Mayor		
City Council Liaison		