

ARTICLE 4.03
PEDDLERS AND SOLICITORS

DIVISION 1
In General

§ 4.03.001. Definitions.

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

Aggressive manner. Other than actions that would violate existing state law, actions or behaviors described as "aggressive manner" include, but are not to be limited to:

- (1) Touching, tapping or hitting any part of a motor vehicle occupied by a person being solicited, unless such touching is with the express permission of the occupant.
- (2) Blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation.
- (3) Approaching or following the person being solicited in a manner that is:
 - (A) Hostile or forceful and likely to cause a reasonable person to fear imminent bodily harm to a person or their property.
 - (B) Reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- (4) Continuing to solicit a person after the person has made a negative response.

Camp. To reside temporarily in a place, with shelter.

Canvasser. Any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, or in the public right-of-way for the primary purpose of:

- (1) Attempting to enlist support for or against a particular religion, philosophy, ideology, even if incidental to such purpose the canvasser accepts the donation for money for or against such cause;
- (2) Distributing a handbill or flyer advertising a noncommercial event or service; or
- (3) Attempting to enlist support for or against a particular political party, issue, or candidate.

Charitable organization. An incorporated or nonincorporated tax exempt body which is created and operated for charitable purposes, employs all its resources to those charitable activities that are under its direct control, does not distribute any part of the income generated for the benefit of any trustee, trustor, member, or other private individual, and does not contribute to or associate with political organizations.

Handbill/flyer. A printed advertisement or announcement that is intended for wide

distribution.

Panhandle. To solicit by spoken, written or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the panhandler's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

Peddle. And any form of the word, means all activities ordinarily performed by a peddler.

Peddler. Any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, or upon the public right-of-way or in a public area, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. Peddler does include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a different location or time.

Public area. An area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transportation facility or shop.

Roadway. Includes the roadbed, shoulder, median, curbs, traffic island, sidewalks, and utility easements located adjacent to or near the roadway.

Shelter. Includes a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of temporary, semipermanent, or permanent shelter, other than clothing or any handheld device, designed to protect a person from weather conditions that threaten personal health and safety.

Solicitation, soliciting, solicited, or any form of the word solicit. Any activities ordinarily performed by a solicitor.

Solicitor.

- (1) Any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, or upon the public right-of-way or in a public area for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition includes any person who, without invitation, goes upon private property, or in the public right-of-way to:
 - (A) Request contribution of funds or anything of value; or
 - (B) Sell goods or services for educational, political, charitable, religious, or other noncommercial purposes.
- (2) This definition does not include any person who serves as nothing more than an advertisement for a legal enterprise, does not accept or solicit anything of value, and does not enter into the roadbed, median, curbs or traffic island of a roadway.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.002. Purpose.

This article shall be deemed an exercise of the police power of the state and of the city for the public safety, comfort, welfare, convenience and protection of the city and citizens of the city,

and all of the provisions hereof shall be construed for the accomplishment of that purpose.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.003. General prohibitions.

- (a) It shall be unlawful for any peddler or solicitor to solicit to sell, offer to sale, take orders for, or offer to take orders for any goods, wares, merchandise, magazines or other things of value without first making application for and obtaining a peddlers' and solicitors' permit from the city marshal's department.
 - (b) No peddler, solicitor, canvasser or panhandler shall allow rubbish or litter to accumulate in or around the area in which they are conducting business.
 - (c) No peddler, solicitor, canvasser or panhandler shall conduct any business in such a way that would restrict or interfere with the ingress or egress of private property, public areas, or create or become a public nuisance that would increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction to marshals, fire, EMS or any other emergency services and their related vehicles and equipment.
 - (d) No peddler, solicitor, canvasser or panhandler shall utilize flashing or strobe lights, whistles, air horns, megaphones, amplifiers, loud noise devices or any other devices that may be used to attract attention to the merchant, yet would have a demonstrable negative impact on the health, safety, and welfare of the community.
 - (e) No person shall panhandle in an aggressive manner in the following public areas:
 - (1) Within 25 feet of:
 - (A) An automated teller facility, including one located within a store;
 - (B) The entrance or exit of a bank; or
 - (C) The entrance or exit of a check cashing business;
 - (2) On either side of the street on a block where a school attended by minors or a childcare facility has an entrance or exit;
 - (3) On the sidewalk outside of or the patio area of a bar or restaurant; or [sic]
- (Ordinance 427 adopted 5/16/2023)

§ 4.03.004. Exclusions from applicability of this article.

The provisions of this article shall not apply to the following:

- (1) Commercial agents dealing with local business establishments in the usual course of their business;
- (2) Insurance salesman, real estate agents, and others permitted by the state;
- (3) Vendors of farm produce or agricultural products when the vendor himself produces such produce or products;

- (4) Persons engaged in religious or political speech, which does not include the sale of any item or the solicitation of contributions;
- (5) Persons engaged in the distribution of handbills or flyers for services, commercial goods, wares, merchandise, subscriptions, or publications to be delivered at some future date, who do not engage in face-to-face contact with prospective customers or clients.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.005. Distribution of handbills and commercial flyers.

In addition to the other regulations contained herein, a solicitor, peddler or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:

- (1) No handbill or flyer shall be left at, or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The marshal and code enforcement officers are authorized to remove any handbill or flyer found within the right-of-way.
- (2) No handbill or flyer shall be left at, or attached to any privately owned property in a manner that causes damage or inconvenience to the owner of such privately owned property.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.006. Underage solicitors.

No person under the age of 18 may solicit or peddle in the city unless a permit is obtained by a sponsoring adult that is 18 years of age or older, who shall also be responsible for the conduct of any underage person while peddling or soliciting.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.007. Camping prohibited.

A person commits an offense if the person intentionally or knowingly camps in a public place without the effective consent of the officer or agency having the legal duty or authority to manage the public place.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.008. Penalty and violations.

Any person who violates any of the provisions of this article shall be deemed guilty of a class C misdemeanor and upon conviction thereof shall be punished by a fine not to exceed more than \$200.00. Each day any violation of the article shall continue shall constitute a separate offense.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.009. through § 4.03.030. (Reserved)

DIVISION 2
Door-to-Door Soliciting

§ 4.03.031. Hours of canvassing, solicitation and peddling at private residences.

It shall be unlawful for persons, permitted or unpermitted, to canvass, solicit or peddle at private residences between the hours of 8:00 p.m. and 8:00 a.m., unless otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This provision does not apply where the canvasser, solicitor or peddler is on the property by prior invitation of the owner of the property or a person residing on the premises.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.032. Entry upon premises or property unlawful.

- (a) It shall be unlawful for any person to solicit, peddle or canvass upon any private property in the city where the owner, occupant, or person legally in charge of the premises has posted within five feet of the front door to the premises or main structure, or within five feet of the main entry point of the property or within five feet of the entry to the principal building on the premises, a sign bearing the words "no solicitation" or other similar sign bearing the words "no peddlers," "no canvassing," "no solicitors" or words of similar importance.
- (b) It shall be unlawful for any person to solicit, peddle or canvass at any entrance to a residence or private property other than through the use of the front door or primary entrance to the residence or private property.
- (c) It shall be unlawful for any person to solicit, peddle or canvass in a gated community or subdivision owned in common and maintained by a restrictive covenant property or homeowners association when a sign bearing the words "no solicitation" or other words of similar importance is clearly posted at each entrance of the property and is visible from the public right-of-way.
- (d) It shall be unlawful for any person to continue to solicit, peddle or canvass upon any private property in the city where the owner, occupant, or person legally in charge of the premises has advised the solicitor, peddler or canvasser to leave the property.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.033. through § 4.03.060. (Reserved)

DIVISION 3
Soliciting in Roadways

§ 4.03.061. Solicitation in public roadways.

- (a) Pursuant to Texas Transportation Code section 552.007, "solicitation by pedestrians," a person may not stand in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.
- (b) Pursuant to Texas Transportation Code section 552.0071, "local authorization for solicitation by pedestrian," a local authority shall grant authorization for a person to stand in a roadway to solicit a charitable contribution as provided by Texas Transportation Code section 552.007.
 - (1) If the persons to be engaged in the solicitation are employees or agents of the local authority and the other requirements of this section are met.
 - (2) A person seeking authorization under this section shall file a written application with the local authority not later than the 11th day before the date the solicitation is to begin. The application must include:
 - (A) The date or dates and times when the solicitation is to occur;
 - (B) Each location at which solicitation is to occur; and
 - (C) The number of solicitors to be involved in solicitation at each location.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.062. through § 4.03.090. (Reserved)

DIVISION 4
Permits

§ 4.03.091. Application for permit.

Any person subject to the provisions of this article shall file a written application with the city marshal department. Permits are issued for individuals and not companies or organizations as a whole. Permits are not transferable. The application form is furnished by the city and shall include the following information:

- (1) Each applicant's name, current address, driver's permit number, or state-issued identification number, telephone number, birth date and physical description.
- (2) A photocopy of a government issued identification card of the applicant that includes a photograph.
- (3) If the applicant is peddling or soliciting for a commercial organization, the applicant must provide the organization's name, address, telephone number and name of the organization's owner or chief operating officer.
- (4) If the applicant is peddling or soliciting for a commercial organization, the applicant must provide the name, title, address, driver's permit number, or state issued identification number, date of birth, telephone number and e-mail address of their immediate supervisor.
- (5) A full and complete list of goods to be sold and/or services to be rendered and a copy of the sales contract/agreement and cancellation clause that complies with Texas Business and Commerce Code chapter 601.
- (6) Description (year, make, model, color) and the issuing state and permit plate number for any and all vehicles to be used in soliciting and peddling.
- (7) Whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude, fraud, theft or assault of any kind.
- (8) The period of time during which the applicant wishes to solicit or sell in the city.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.092. Investigation.

- (a) Each applicant shall submit the information required, together with an investigation fee as determined from time-to-time by ordinance, which will be used to help defray the expense of investigating the applicant to verify the statements on the application and shall not be refundable.
- (b) It shall be the duty of the city marshal or their designee to investigate each applicant.
(Ordinance 427 adopted 5/16/2023)

§ 4.03.093. Issuance or denial.

- (a) It shall be the duty of the city marshal or their designee to issue or refuse to issue a

peddler's and solicitor's permit applied for under this article no later than two weeks from the time a complete application is filed. A peddler's and solicitor's permit shall be in the form as established by the city.

- (b) An application for permit may be denied due to a person's conviction of a felony or misdemeanor if the crime directly relates to the conduct of a peddler's or solicitor's business or results from an assault against another person. In determining whether a criminal conviction directly relates to the occupation, the marshal department shall consider:
- (1) The nature and seriousness of the crime;
 - (2) The relationship of the crime to the purposes for requiring a permit to engage in the occupation;
 - (3) The extent to which a permit might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
 - (4) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the permitted occupation.
- (c) An application for permit may be denied if:
- (1) An investigation reveals that the applicant falsified or omitted information on the application.
 - (2) The applicant is a registered sex offender.
 - (3) The applicant has had a permit revoked for any reason within the past three years.
 - (4) The applicant has failed to provide all required documentation with the application.
- (d) A peddler's and solicitor's permit issued hereunder shall be valid for 90 days, after which the holder thereof must reapply pursuant to section 4.03.091 if the holder desires to continue to peddle or solicit in the city.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.094. Fees.

If the city marshal or their designee approves an application, the applicant shall pay a fee as determined from time-to-time by ordinance upon issuance of the peddler's and solicitor's permit. No permit shall be issued for more than 90 days or before all fees as required by this article have been paid.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.095. Appeal of denial.

If the city marshal or their designee denies a peddler's and solicitor's permit to any applicant, the applicant may appeal such denial by written request to reconsider filed with the city administrator within seven days of such denial, providing such additional information as the

applicant believes is pertinent to the city administrator reconsideration of such denial. The city administrator shall deny the appeal or issue the permit within seven days of receiving a request to reconsider.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.096. Exhibition of permit required.

A solicitor or peddler must possess their city-issued permit at all times when soliciting within the city. If requested in the course of soliciting in the city, the person soliciting must produce the permit for inspection.

(Ordinance 427 adopted 5/16/2023)

§ 4.03.097. Revocation of permit.

- (a) Any permit issued hereunder may be revoked if the permit holder is convicted of a violation of any provisions of this article or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a permit under the terms of this article.
- (b) If more than one (1) complaint of misconduct by a permit holder or group of permit holders working for the same company is received, the permit(s) may be immediately revoked by the city.

(Ordinance 427 adopted 5/16/2023)

ARTICLE 4.04 MOBILE FOOD VENDORS¹

§ 4.04.001. Definitions.

Cottage food vendor. An individual selling items sourced from operating out of the individual's home, who produces any food, excluding meat, that does not require time or temperature to prevent spoilage. See article 4.09.

Gray water. Wastewater that is not contaminated by fecal matter. Water that has been used domestically, commercially or industrially. Includes the leftover water generated from washing machines, bathtubs and sinks.

Mobile food vendor (MFV). An entity that provides prepared food for public consumption in various forms, including but not limited to, mobile food unit, cart, portable building, catering vehicle or food tent and anyone who prepares the food. Any mobile establishment where food or ice is held, processed, manufactured, packaged, prepared, displayed, served, transported or sold.

Monthly MFV. A MFV commercial food business permitted for up to twelve consecutive months.

Temporary MFV. A MFV commercial food business conducted for no more than 72 hours at a single location.

Western motif. Having an appearance that is consistent with the master plan, including a historical, Old West setting and which enhances the western, cowboy image of the city.
(Ordinance 442 adopted 6/11/2024)

§ 4.04.002. Permit required; penalty.

- (a) Anyone conducting temporary or monthly MFV operations for the purpose of selling food cooked and/or prepared on site to the public shall, before engaging in such operations, apply to the city and be granted a MFV permit, as appropriate. Issuance of a MFV permit by the city does not authorize the permittee to locate the food business at any particular site. The permittee shall be responsible for obtaining authorization or permission to locate the food business at a particular site from the owner or operator of the site.
- (b) The permit must be prominently displayed on the MFV.
- (c) MFV found selling within the city limits without first obtaining a permit from the city will incur a penalty of \$100.00 per day, for the first offense. Multiple offenses may result in the MFV being barred from selling within the city limits for up to 6 months.

(Ordinance 442 adopted 6/11/2024)

§ 4.04.003. Application for permit; fee.

1. Editor's Note—Former Article 4.04 Pertaining To Temporary Or Seasonal Businesses Was Repealed And Replaced With Similar Provisions By Ordinance 442 Adopted 6/11/2024. Prior To The Replacement, This Article Derived From The Following: Ordinance 238 Adopted 5/20/04; Ordinance 301 Adopted 2/13/14; Ordinance Adopting 2009 Code; 2009 Code, Secs. 4.04.001–4.04.009.

- (a) The application for each MFV permit shall be upon such form as may be designated by the city and shall show the date of its issuance and identity of each applicant by:
 - (1) Full name.
 - (2) State-issued ID.
 - (3) Telephone number.
 - (4) Permanent address.
 - (b) Each MFV permit shall be valid for the duration identified on the administratively complete city-issued permit. The fee schedule is on file at city hall and is subject to periodic revision by the city. In addition to those listed above, the following are required to obtain a MFV permit, based on type and applicability:
 - (1) Certificate of insurance: All.
 - (2) Health permit issued by the state: MFV.
 - (3) DSHS temporary food establishment event permit: Non-MFV.
 - (4) Food manager's or handler's certificate: Non-MFV.
 - (c) The permit shall specify the type of business in which the permittee is authorized to engage in the city.
 - (d) The city administrator or his/her designee may revoke the permit at any time for any violation of city ordinances.
- (Ordinance 442 adopted 6/11/2024)

§ 4.04.004. Operation and removal of mobile food vendor (MFV).

- (a) Temporary MFVs: The permittee must remove the MFV within 24 hours of the permit expiring. If the MFV is not removed within 24 hours, future permits may be denied, and the city may declare the MFV to be in violation of code and proceed with the penalties and processes outlined in section 1.01.009 of this code.
- (b) Monthly MFV: The permittee must remove the MFV within seven (7) days of the permit expiring. If the MFV is not removed within seven (7) days, future permits may be denied, and the city may declare the MFV to be in violation of code and proceed with the penalties and processes outlined in section 1.01.009 of this code.
- (c) Western motif is highly encouraged for MFVs.
- (d) MFVs shall provide an exterior trash receptacle (30 gallon minimum) for their customer's use.
- (e) Solid and liquid waste shall be held, stored and disposed of in a receptacle approved by the county health authority and in compliance with applicable code requirements. At no time shall an owner/operator of a MFV discharge gray water on the ground within city limits.

- (f) MFVs shall maintain the area around the mobile food trailer, keeping it clear of litter and debris at all times.
- (g) MFVs are required to acquire and display on the mobile food unit the proper city-issued and state (DSHS) permits and licenses in order to operate within the city limits.
- (h) MFVs are subject to onsite inspections by the city and/or county.
- (i) MFVs are allowed to operate in the following place types: P1 (subject to facility use agreement with the city), P2, P3 (on private property as a caterer who does not sell to any individual other than the resident under contract) P4, P5 and P6.
(Ordinance 442 adopted 6/11/2024)

ARTICLE 4.09
TEMPORARY TRADES OR COTTAGE FOOD VENDORS

§ 4.09.001. Definitions.

Cottage food vendor. An individual selling items sourced from operating out of the individual's home, who produces any food, excluding meat, that does not require time or temperature to prevent spoilage.

Monthly vendor. A commercial trades or cottage foods activity conducted on a monthly basis for up to twelve months with or without reference to a fixed year-round location and whose commercial activity does not require a Certificate of Occupancy by the city.

Temporary vendor. A commercial trades or cottage foods activity conducted for no more than thirty (30) consecutive days without reference to a fixed, year-round location in the city which includes but is not limited to selling produce from vehicles, making and taking orders for photographs at a temporary location, and the renting of a motel room for taking orders for products such as clothing.

Vendor booth. A small space, usually 10 feet by 10 feet in size, within a vendor market. They provide space for vendors to display and sell their products and attract customers.
(Ordinance 442 adopted 6/11/2024)

§ 4.09.002. Permit required, penalty.

- (a) Anyone conducting monthly or temporary vendor operation for the purpose of selling any goods, services or cottage food to the public shall, before engaging in such operations apply to the city and be granted a monthly or temporary permit, as appropriate. Issuance of a monthly or temporary permit by the city does not authorize the permittee to locate the business at any particular site. The applicant shall be responsible for obtaining authorization or permission to locate the business at a particular site from the owner or operator of the site.
- (b) The city issued permit must be prominently displayed at the sales location.
- (c) Any monthly or temporary vendor found selling within the city limits without first obtaining a permit from the City will incur a penalty of \$100 per day, for the first offense. Multiple offenses may result in the vendor being barred from selling within the city limits.

(Ordinance 442 adopted 6/11/2024)

§ 4.09.003. Application for permit; fee.

- (a) The application for each type of permit shall be upon such form as designated by the City and shall show the date of its issuance and identity of each applicant by:
 - (1) Full name.
 - (2) State-issued ID.
 - (3) Telephone number.

- (4) Permanent address.
- (b) In addition to those listed above, the following documents are required to obtain a Cottage Food permit:
 - (1) Texas Sales and Use Tax Permit (if applicable).
 - (2) Food Handler's Card.
 - (3) Certificate of Insurance.
- (c) In addition to those listed above, the following documents are required to obtain a vendor permit:
 - (1) Texas Sales and Use Tax Permit (if applicable).
- (d) A temporary vendor permit shall be valid for a period of no more than thirty (30) consecutive days as indicated on the administratively complete city issued permit. The fee schedule is on file at City Hall and is subject to periodic revision by the city council.
- (e) A monthly vendor permit shall be valid for a period of no more than twelve months as indicated on the administratively complete city issued permit. The fee schedule is on file at City Hall and is subject to periodic revision by the city council.
- (f) The permit shall specify the type of commercial activity in which the permittee is authorized to engage in the city.
- (g) The City Administrator or his/her designee may revoke the permit at any time for any violation of city ordinances.
(Ordinance 442 adopted 6/11/2024)

§ 4.09.004. Operation and removal during periods of non-operation.

- (a) Temporary trades and cottage vendors. The permittee must remove their business operation and all other associated items, equipment, etc. from the sales location within 24 hours of the permit expiring. If the business operation is not removed within 24 hours, future permits may be denied, and the City may declare the vendor to be in violation of code and proceed with the penalties and processes outlined in § 1.01.009 of this code.
- (b) Monthly trades and cottage vendors. The permittee must remove their business operation within seven (7) days of the permit expiring. If the business operation is not removed within seven (7) days, future permits may be denied, and the City may declare the vendor to be in violation of code and proceed with the penalties and processes outlined in § 1.01.009 of this code.
- (c) All Trades and Cottage Vendors shall maintain the area around the business, keeping it clear of litter and debris at all times.
- (d) All Trades and Cottage businesses are allowed to operate in the following Place Types: P1 (subject to Facility Use Agreement with the city), P2, P4, P5 and P6.

(Ordinance 442 adopted 6/11/2024)