

CITY OF EVERMAN, TEXAS

ORDINANCE NO. 834

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 11 “LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS” BY REPEALING AND REPLACING IN ITS ENTIRETY ARTICLE V “PEDDLERS OR SOLICITORS”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE .

WHEREAS, the City Council desires to protect the safety, privacy and welfare of its residents; and

WHEREAS, unregulated solicitation and peddling may result in disturbances to residents and pose risks to public safety; and

WHEREAS, the City recognizes the constitutional rights of individuals to engage in commercial and expressive activities but finds it necessary to impose reasonable regulations on the time, place and manner of such activities; and

WHEREAS, the City Council has determined that it serves to protect the health, safety, and general welfare of the citizens of the City to adopt amended regulations regulating the time, place and manner of activity by peddlers or solicitors;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS THAT:

SECTION 1: The Code of Ordinances of the City of Everman, Texas is hereby amended at Chapter 11 “Licenses, Permits and Miscellaneous Business Regulations” by repealing and replacing in its entirety Article V “Peddlers or Solicitors,” to read henceforth in its entirety as follows:

“CHAPTER 11 Licenses, Permits and Miscellaneous Business Regulations

. . .

ARTICLE V Peddlers or Solicitors

Sec. 11-216 - General.

This article regulates the time, place and manner for the solicitation of funds and the distribution of handbills within the corporate limits of the City of Everman. The provisions of this article, however, shall not apply to:

- A. The regular delivery of newspapers, magazines, or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered;
- B. The interruption of service notices by the City or other utility companies;
- C. The distribution of mail by the United States Postal Service government or the delivery of mail order merchandise purchased by the occupant of the premises;
- D. The service of any lien foreclosure;
- E. Governmental notices of any character distributed by the City of Everman or any other governmental entity; or.
- F. Any exceptions authorized by state law.

Sec. 11-217 - Definitions.

The following words and phrases, when used in this article, shall have the meaning ascribed to them by this Section:

Business day means any calendar day except Saturday, Sunday or any state or national holiday.

Canvass shall mean, for the purposes of this article, to examine or discuss in detail; to make subject of discussion or debate; go through places or among people asking, requesting or engaging for vote/opinions concerning religious, political, or other topics of public concern but in no event, shall be construed to mean solicitation of funds or soliciting merchandise as provided herein.

Charitable purpose shall mean philanthropic, religious or other nonprofit objectives, including the benefit or poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civil organization, or the benefit of any educational institution. "Charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation. "Charitable purpose" shall not be construed to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.

Consumer means an individual who seeks or acquires real or personal property, services, money, or credit for personal, family or household purposes.

Consumer transaction means a sales transaction in which one or more of the parties is a consumer.

Deposit or depositing a handbill means to place, distribute, handout, or circulate any type of handbill.

Handbill, commercial means and includes any printed or written matter, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies or any matter or literature, which:

- a. Advertises for sale any merchandise, product, commodity, service, or thing;
- b. Directs attention to any business, mercantile, commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof;
- c. Directs attention or advertises any meeting, theatrical performance, exhibition, group, fundraiser, or other event whether the purpose of directing attention and advertising is for private gain or for raising fund for a charitable purpose; or
- d. Contains information that is of a noncommercial nature, but remains predominantly and essentially an advertisement, and is distributed or circulated for advertisement purposes, for private gain, or for raising funds for a charitable purpose.

Handbill, noncommercial means and includes any printed or written matter, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies of any matter or literature, pertaining to any speech not included in the definition of commercial handbill. Noncommercial handbills include, but are not limited to, handbills containing exclusively political and religious speech.

Handbill distributor means and includes any person engaging or engaged in the business for hire or gain of distributing commercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such commercial handbills.

Handbill sponsor means and includes the person, firm, or corporation who is utilizing commercial handbills as a medium of advertising or spreading a message.

Home solicitation transaction means: (i) a consumer transaction for the purchase of goods, services, or reality, payable in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence in person and the consumer's agreement of offer to purchase is given at the residence to the merchant; or (ii) any request for funds made by a person solicitation to the occupant of a residence at a place of residence and the solicitor is unknown to the occupant or owner of the residence at which the request for funds is made. A home solicitation transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale

where the consumer initiated a request for an appointment for the merchant to send a representative to his or her residence; or a sale of realty which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

Individual or person shall mean an individual, a person, a group of two or more individuals, a proprietorship, a partnership, a corporation, a limited liability company, an association, or other legal entity.

Residence means any living unit, occupied for residential purposes by one or more persons, contained within any type of building or structure.

Solicit funds or solicitation of funds. Any request for the payment or donation of money, property, or anything of value, or the pledge of a future payment or donation of money, property, or anything of value; or the selling or offering for sale of any service(s) or any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications. Expressly excluded from the meaning of solicit funds or solicitation of funds is any offer of membership in any organization. A solicitation of funds is complete when the solicitation is communicated to any individual then located within the corporate limits of the city.

Sunset. The time of day published on the weather page of the Dallas Morning News newspaper for sunset on that day in the City of Dallas, Texas.

Sec. 11-218 - Permits required for solicitation.

- A. Except as otherwise provided, a permit is required for an individual, person, or business entity through an agent or employee to solicit funds, as defined herein. A permit is required for the business entity, sponsor or merchant and for each individual representative, agent, member or employee of the business entity who will be soliciting funds within the City.
- B. A permit is not required for a handbill distributor, but such handbill distributor or sponsor must comply with the provisions of Section 11-225 of this article.

Sec. 11-219 – Door to door solicitation.

- A. Permit application must be submitted in writing to the Everman Police Department and shall include the following:
 - 1. The name of the person applying, that person's residence and/or business addresses, and his/her residence, cellular, and business telephone numbers.

2. In regard to any business entity, sponsor and/or merchant, the following:
 - a. If a natural person, the business and residence addresses and telephone numbers.
 - b. If a partnership: (i) the names of all partners; (ii) the name, principal business address; (iii) telephone number of the partnership and the agent for service of process; and (iv) the state of formation.
 - c. If a corporation or limited liability company, the person applying must state: (i) the mailing address and telephone number of the principal place of business and the registered agent; (ii) the mailing address, business location, telephone number and name of the individual in charge of the local office of such entity, if any; (iii) the names of all officers and directors or trustees of such corporation, or of all members (if member managed), managers and officers of such limited liability company; and (iv) the state of incorporation or formation.
 - d. If an association or any other entity, the person applying must state: (i) the mailing address and telephone number of the principal place of business and the agent for process of service; (ii) the names of all members/owners of the association unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and business addresses and telephone numbers of the officers and directors or trustees of the association; and (iii) if the association is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.
 - e. The Everman Police Department may request satisfactory documentation of an individual's authority to represent the partnership, corporation, association or other business entity, the sponsor, and/or the merchant.
3. The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation of funds or distribution of commercial handbills and responsible for ensuring compliance with this article.
4. The time period within which the solicitation of funds will be conducted, giving the date of the beginning of solicitation or distribution, and its concluding date.
5. A description of the methods and means by which the solicitation of funds is to be accomplished.

6. The names of other communities in which the applicant has solicited funds or distributed commercial handbills in the past six months.
 7. The nature of merchandise to be sold, offered for sale, or furnished and/or the nature of the services to be sold, offered for sale or furnished.
 8. Whether such applicant, upon any such order so obtained, will demand, accept, or receive payment or deposit of money in advance of final delivery.
 9. A statement to the effect that if a permit is granted, such permit will not be used or represented to be an endorsement or approval by the city or any of its officers or employees.
 10. Any other information which the City of Everman deems necessary for the administration of this article.
- B. Each applicant shall appear in person and provide proof of identification through submission of a valid driver's license or other valid, official photo identification.
 - C. The application must be accompanied by a copy of a valid state sales tax certificate, if applicable.
 - D. Information provided by the applicant in accordance with the provisions of this article shall be subject to verification by the Everman Police Department.
 - E. All applications, whether or not a permit is issued, shall be considered public record and shall be available for inspection by members of the public during regular business hours and copies may be obtained at cost in accordance with the Texas public information act. Redactions of personal identification numbers may be required under state law.

Sec. 11-220 – Permit fee and exemptions

- A. Except as otherwise provided, every application for permit shall be accompanied by a nonrefundable application fee of \$50 or such other amount as shall, from time to time, be updated and approved by the Everman City Council by resolution, to cover the cost of administering this article, and such fee will not be refunded if a permit is not issued. No permit provided for by this article shall be issued until such fee has been paid by the applicant, unless an exemption applies.
- B. The following applicants are not required to pay a permit fee:
 1. Individuals operating under license(s) granted by a state agency.

Sec. 11-221 – Permit issuance, denial, duration, and form.

- A. When an application for solicitation permit is filed with the Everman Police Department, the department shall review the application.
- B. The Everman Police Department shall approve the application and issue the permit unless:
 - 1. The application fails to comply with a provision of this article;
 - 2. A pervious permit issued under this article was revoked within the past 12 months;
 - 3. The Everman Police Department determines that the applicant has been convicted of a felony, a crime of moral turpitude, or is a registered sex offender;
 - 4. The Everman Police Department determines that the applicant has furnished false information or identification; or
 - 5. The applicant has a warrant out for his/her arrest.
- C. Everman Police Department shall notify the applicant of its decision to approve or deny a permit application within ten business days of the receipt of the application. Notification of the decision shall be given in writing and either sent via U.S. mail to the applicant's address as listed on the permit application or delivered to the applicant in person.
- D. If the application was turned in as incomplete, the Everman Police Department shall not grant or deny the application but shall return the application with an explanation of what additional information/documentation is needed to process the application. The incomplete application and explanation shall be sent within ten business days of the receipt of the application to the applicant's address as listed on the permit application or it shall be delivered to the applicant in person.
- E. A permit requested under this section, if issued, shall be issued for the length of time requested, not to exceed six months.
- F. The city shall prescribe the form of the permit. The permit may contain a photo of the applicant. The following shall be printed prominently on each permit: "The issuance of this permit is not an endorsement by the City of Everman or any of its officers or employees." Each permit shall bear a permit number that corresponds with the city's files containing the application filed by the applicant.

Sec. 11-222 – Permit suspension or revocation

- A. If a permit holder fails to comply with any provision of this article, the Everman Police Department will take the following action:
 - 1. For a first offense under this article, any permit issued hereunder to the offender shall be suspended for a period not to exceed 30 days.

The chief of police, or his/her designee, shall determine the number of days of the suspension.

2. For a second offense under this article within a 12 month period, any permit issued hereunder to the offender shall be revoked, and such offender shall not be eligible to apply for another permit for a period of 12 months from the date of revocation.
- B. If a permit holder is arrested and charged with a felony, the permit shall be suspended until final disposition of the criminal charges.
1. Upon conviction or acceptance of deferred adjudication by the court, the permit shall be revoked.
 2. If the permit holder is found innocent or the charges are dismissed, the suspension of the permit shall be lifted.
- C. Upon suspension or revocation, the permit holder shall tender the permit to the Everman Police Department until completion of the suspension or successful appeal of the suspension or revocation.

Sec. 11-223 – Appeal from denial, suspension, or revocation of permit.

Should an applicant be denied a permit or have a permit suspended or revoked, he/she may appeal that action to the city manager by submitting a letter within ten business days of the denial, suspension or revocation. The city manager, or his/her designee, shall review the appeal and make a determination within ten business days of receiving the appeal request and shall have the authority to uphold, reverse, or modify the action complained of. However, should the city manager uphold the denial, suspension or revocation, he/she shall schedule a hearing before the city council at a regular or special meeting within thirty days of the denial, unless the applicant withdraws the appeal in writing. Such hearing shall be an administrative hearing, and adherence to formal rules of evidence shall not be required. The decision of the city council may be appealed, as allowed by law to any court with competent jurisdiction.

Sec. 11-224 – Solicitor's identification.

Each solicitor shall, during any time of solicitation, wear the permit issued by the City of Everman pursuant to this article in such a manner that it is visible to others and shall also carry with him/her and produce upon the request of any citizen, city employee, or city official, the following information and identification:

1. A copy of the valid state sales tax certificate, if applicable, and
2. A valid driver's license or other valid, state-issued photo identification.

Sec. 11-225 – Handbill distribution.

- A. Except as otherwise prohibited, no person, firm, corporation or other entity, shall distribute any commercial handbill on a private property, except in compliance with this section:
 - 1. Handing the commercial handbill directly to the owner, occupant, or any other person then present in or upon such premises;
 - 2. Depositing the handbill or noncommercial handbill in a secure manner to prevent such handbill from being blown or drifting about the premises, must be affixed to the front door or door window glass, or deposited in a receptacle designated for such purpose, except that mailboxes may not be used when prohibited by federal postal laws or regulations.
- B. Registration. Every individual or person as defined herein shall not distribute any commercial handbill on private property except after registration with the Everman Police Department in compliance with this section. The following information on a form provided by the department shall be submitted which includes:
 - 1. Submission must be provided to the city as provided herein at least 24 hours before any distribution.
 - 2. Provide a list of individuals that will be distributing the handbills.
 - 3. Provide the name, address, telephone number for the handbill distributor or sponsor.
 - 4. Indicate the type and number of any government issue identification for each person actually distributing the handbills.
 - 5. Provide a sworn statement that each distributor of handbills on private property has not been convicted of a felony and/or is not a registered sex offender.
 - 6. Dates and general area where the distribution will be conducted within the city.
- C. An individual, directly or through an agent or employee, may not:
 - 1. Throw, cast or scatter any handbills or leave any handbill unattended that is not securely affixed to the place of deposit.
 - 2. Distribute any commercial handbills outside without registering period.
 - 3. Distribute commercial handbills for a purpose other than what was represented in the registration that was made under this article.

4. Represent that the registration by the city constitutes an endorsement or approval of the solicitation or distribution by the city or its officers or employees.
 5. Distribute any commercial handbill or noncommercial handbill in or upon any premises which are temporarily or continuously uninhabited or vacant.
 6. Distribute any handbill upon any premises if requested not to do so by the owner, occupant, or any other person then present in or upon such premises, or if there is placed on such premises in a conspicuous place upon or near the main entrance of the residence or premises, a card as provided in Section 11-227 of this article (exhibiting card prohibiting solicitation and handbills of any type).
 7. Distribute any handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name, address and telephone number of the handbill sponsor who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true name and addresses of the owners, managers, or agents for the fictitious person or club sponsoring such commercial handbill shall also appear thereon.
 8. Employ, hire, request, direct or cause, directly or indirectly, another person for whom a registration is not made to distribute handbills within the city.
 9. Distribute commercial handbills under the direction of another and not have a supervisor who can arrive at the location where the person is distributing the handbills or soliciting within ten minutes of being requested to appear, by the police or otherwise.
 10. Direct someone else to distribute handbills and not provide a supervisor who can arrive at the location where the person is distributing the handbills within ten minutes of being requested to appear, by the police or otherwise.
- D. No person convicted of a felony or sex offender, as defined by state law, may engage in placing any handbill upon any private residential premises.
- E. Upon completed registration in compliance with this article, the Everman Police Department shall issue an identification card which must be displayed on the person distributing handbills under this section.

Sec. 11-226 – Hours

It shall be unlawful for any person, firm, association or corporation to solicit funds or distribute commercial or noncommercial handbills at a place of

residence during the following hours, unless invited to do so by the occupant or owner of the residence outside the following hours:

Monday—Friday: (daylight saving time)	Before 9:00 a.m. After 7:00 p.m.
Monday—Friday: (standard time)	Before 9:00 a.m. After 6:00 p.m.
Saturday:	Before 10:00 a.m. After 5:00 p.m.
Sunday:	None

Sec. 11-227 – Exhibiting card prohibiting solicitation and handbills

- A. A person, desiring to prohibit a merchant or other person engaged in a charitable or non-charitable solicitation, or home solicitation or placement of handbills or other advertisement or canvassing at such person's residence shall exhibit in a conspicuous place upon or near the main entrance to the residence a weatherproof card, not less than three inches by four inches in size containing the words, "NO SOLICITORS". The letters shall not be less than two-thirds of an inch in height. No person shall engage in a charitable or non-charitable solicitation, a home solicitation or affix, deposit, or otherwise leave handbills or canvass on or about said residences displaying a "NO SOLICITORS" card.
- B. Every person upon going onto any premises shall first examine the premises to determine if any notice prohibiting soliciting or distribution of commercial handbill or noncommercial handbill distribution is exhibited upon or near the main entrance to the premises. If notice prohibiting solicitation or commercial handbill or noncommercial handbill distribution is exhibited, the person shall immediately depart from the premises without disturbing, placing, or depositing any type of handbill or disturbing the occupant, unless the visit is the result of a request made by the occupant.
- C. No person shall go upon any premises and ring the doorbell, or rap or knock upon the door or create any sound in a manner calculated to attract the attention of the occupant of the premises, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a solicitation or distribution transaction, if a card, as described in this section, is exhibited in compliance with this article, unless the visit is the result of a request made by the occupant.
- D. No person, other than the owner or occupant of the premises, shall remove, deface, or render illegible, a card placed by the occupant pursuant to this section.

- E. Any merchant, solicitor, or person who has gained entrance to premises, or audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.

Sec. 11-228 – Sale of merchandise on public right-of-way; city parks; mobile vendors.

- A. It shall be unlawful for any person to peddle, solicit, sell, offer for sale, or exhibit for sale any merchandise upon any public sidewalk, street, street right-of-way, parkway, or other public right-of-way, except that it shall be lawful for any person to engage in mobile vending operation involving food products upon any street, public street, street right-of-way, provided such person has previously obtained a solicitor's permit and a health permit from the city and under the conditions set forth in this section.
- B. No person shall engage in or attempt to engage in any mobile vending operation involving food products, on any public street which is not residential in character or on any street which includes four or more marked traffic lanes or within any city park.
- C. No person shall engage in or attempt to engage in any mobile vending operation involving food products unless such person has in his or her immediate possession a valid solicitor's permit and health permit issued by the city.
- D. Any person engaged in or who attempts to engage in mobile vending operations involving food products shall stop the motor vehicle only in immediate response to a direct request from a potential customer and for a period not to exceed 15 minutes.
- E. Any person engaged in mobile vending operations involving food products shall comply with all traffic laws and parking regulations. Sales and deliveries of products shall not be made from any part of the vehicle away from the curbside.
- F. No person may sell or offer for sale any food, drinks, confections, merchandise, or services by mobile vending within the limits of any city park except as may be provided in Article III of this Chapter 11.

Sec. 11-229 – Handbills on public property.

It shall be unlawful for any person to paste, stick, affix or place any advertisement, handbill, placard, printed material, picture or written matter or any device for advertising purposes upon any fence, railing, sidewalk, telephone, electric light or public utility pole or other public property, or to knowingly permit the same to be done.

Sec. 11-230 – Penalty

Any owner, person, firm, corporation or business entity violating this article shall be deemed guilty of a Class C misdemeanor, and upon conviction thereof shall be fined a sum not exceeding \$500.00. Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this article shall not preclude Everman from filing suit to enjoin the violation. Everman retains all legal rights and remedies available to it pursuant to local, state and federal law.”

SECTION 2: All ordinances, orders, or resolutions heretofore pass and adopted by the City Council of the City of Everman, Tarrant County, Texas are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, are in conflict herewith.

SECTION 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 4. This ordinance shall be effective from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Everman, Tarrant County, Texas this the 24th day of June, 2025.

APPROVED:

Ray Richardson, Mayor

ATTEST:

APPROVED AS TO FORM:

Mindi Parks, City Secretary

Victoria Thomas, City Attorney
4925-4443-6555, v. 1