

## CHAPTER 110: PEDDLERS AND SOLICITORS

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### § 110.01 PURPOSE.

This chapter is and shall be deemed an exercise of the police powers of the state and of the city for the public safety, comfort, convenience and protection of the city and the citizens thereof, and all of the provisions of this chapter shall be constructed to the accomplishment of this purpose.

(Ord. passed 7-17-90)

### § 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PEDDLER or SOLICITOR.** Any person, partnership, firm or corporation going from house to house or from place to place in the city soliciting, exhibiting, selling, canvassing for or taking orders for or offering to sell or take orders for any goods, wares, merchandise, ~~foods~~

and subscriptions to magazines, publications, newspapers, photographs or services. The same shall also include any persons, partnerships, firms or corporations soliciting, exhibiting, selling, taking orders for or offering to sell or take orders for the goods, wares, merchandise, ~~food~~, publications or services upon or from a truck or other vehicle whether on the streets or from any property whatever in the city, whether public or private. Also, anyone who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade these provisions shall be deemed a PEDDLER or SOLICITOR. The terms PEDDLER and SOLICITOR shall also be synonymous with ITINERANT MERCHANT and TRANSIENT VENDOR, as well as each other.

(Ord. passed 7-17-90)

#### § 110.03 PERMIT REQUIRED.

It shall be unlawful for any person, partnership, firm or corporation to peddle, sell, solicit, exhibit or take orders for or offer to take order for any goods, wares, merchandise, ~~food~~ or subscriptions to magazines, publications, newspapers, photographs or services without first having obtained a permit to do so from the city, except as provided for in § 110.04.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.04 APPLICATION FOR PERMIT.

(A) Every person desiring to obtain a permit or registration certificate, as required by this section, shall make written application to the City Administrator which application shall show at least the following:

- (1) The name and address of the applicant;
- (2) The name and address of person which the applicant represents;
- (3) The applicant's date of birth, height, weight, color of hair and color of eyes, social security number and driver's license number, if existent;
- (4) Whether the applicant has ever been convicted of a felony or a misdemeanor involving theft, fraud, bribery or perjury;
- (5) The name of the immediate last preceding three towns in which he or she worked, if any;
- (6) The kind of goods, wares and merchandise offered or to be offered for sale;
- (7) Whether the applicant upon any order so obtained will demand, accept or receive payment or deposit of money in advance of final delivery; and
- (8) In addition, there shall be attached to each application for a permit, the following:

(a) A recent photographic likeness of the applicant's face, as well as any assistant working with him or her; and

(b) Satisfactory proof of applicant to represent the company or individual the applicant so states that he or she represents.

(B) In addition, the applicant shall submit to fingerprinting by the Police Department and the fingerprinting shall be kept as a permanent record with the application.

(Ord. passed 7-17-90)

#### § 110.05 ISSUANCE AND DURATION OF PERMIT.

Upon completion of the investigation, the City Administrator shall issue or refuse to issue a permit. No permit shall be issued prior to the expiration of 72 hours after the filing of the application. All permits issued shall be valid for a period of one year unless sooner revoked.

(Ord. passed 7-17-90)

#### § 110.06 PERMIT FEES.

Each and every person seeking a permit under the provisions herein shall pay an application fee as set in the city's fee schedule. The fee shall be paid by the person desiring the permit and payable at the time of application. This fee shall be charged to help defray the cost of investigation and administration incident to the permit. This fee shall not be pro-rated or refunded to the applicant regardless of whether a permit is issued or not.

(Ord. passed 7-17-90; Ord. 101-21, passed 3-16-21)

Cross-reference:

Fee schedule, see § 38.01

#### § 110.07 PERMIT TO BE CARRIED ON PERSON; PRESENTATION UPON REQUEST.

It shall be unlawful for any peddler or solicitor to do business within the city unless he or she carries the permit on him or her at all times. Every peddler or solicitor shall display his or her permit upon request of any person and, failure to so display each permit, shall be grounds for revocation or constitute a violation of this section.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.08 REVOCATION OF PERMIT.

If, after the permit, as hereinbefore provided, has been issued and the city finds that the permit was obtained by false representation in the application or that the permit holder has committed any act or practice that violates Tex. Bus. and Com. Code, §§ 17.46 et seq., otherwise known as the State Deceptive Trade Practice Act or any act or practice which violates the House Solicitation Sales Act or the commission, during the term of the permit, of any crime or misdemeanor involving moral turpitude or any violation of this section or any other city ordinance or state or federal law the permit may be revoked.

(Ord. passed 7-17-90)

#### § 110.09 SURETY BOND REQUIRED.

(A) In the event the application shows the applicant is to take orders for future delivery, he or she shall give bond signed as surety by some surety company authorized to do business in the state, conditioned for the final delivery of goods, wares, merchandise, ~~food~~, photographs, publications or services in accordance with the terms of the order obtained and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the articles, sold by the principal in the bond, at the time of delivery, that may be discovered by the purchaser or customer within 30 days after delivery.

(B) (1) The bond shall be in the sum of not less than \$1,000 and shall remain in full force and effect for the entire duration of the license permit.

(2) The bond required herein shall be in the form as set by the City Council.

(Ord. passed 7-17-90)

#### § 110.10 REFUSAL TO LEAVE PREMISES PROHIBITED.

Any peddler or solicitor who enters upon premises owned or occupied by any person and willfully refuses to leave the premises after having been notified by the owner or tenant of the premises or his or her agent to leave the same shall be deemed guilty of a misdemeanor.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.11 POSTED RESTRICTIONS.

It shall be unlawful for any peddler or solicitor to enter upon any private premises when the same is posted with a sign stating "No Peddlers Allowed," "No Solicitation Allowed" or other words to that effect.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.12 RESTRICTED HOURS.

It shall be unlawful for any peddler to engage in the business of peddling at any time between the **hours of sunset and 30 minutes after sunrise**, except when the peddler has specific invitation and appointment with the customer.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.13 CUSTOMERS' RIGHTS; CANCELLATION.

(A) All peddlers or solicitors shall provide to the consumer, in writing, the right to cancel a solicitation transaction made in person or by telephone until midnight of the third business day after the day on which the customer signs an agreement or offer to purchase any goods, wares, merchandise, ~~food~~, photographs, publications or services.

(B) For the purpose of telephone solicitation, the date of transaction means the day the consumer receives the goods, wares, merchandise, ~~food~~, photographs, publications or services purchased in a solicitation transaction. If the consumer chooses to cancel the solicitation transaction, notification by mail shall be considered given at the time mailed, as evidenced by the postmark, notification by telegram shall be considered given at the time filed for transmission and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.

(C) It shall be unlawful for any peddler, solicitor or company represented to refuse to allow the customer to cancel the solicitation transaction.

(Ord. passed 7-17-90) Penalty, see § 10.99

#### § 110.14 EXEMPTIONS.

(A) The provisions of this chapter shall not apply to persona engaged in the following sales or delivery of goods and services.

(B) It shall be unlawful for persons to go from house to house or place to place in the city, without having first registered with the City Administrator.

(1) Sales of goods, wares, merchandise, publications and/or services by any bona fide charitable, religious, educational or philanthropic organization or when donated by owners or merchants of which the proceeds are to be used and applied to some charitable, religious, educational or philanthropic purposes;

(2) Ordinary commercial travelers who sell or exhibit for sale goods, wares, merchandise, ~~food~~, photographs, publications or services to firms, persons or corporations engaged in the business of buying, selling and dealing in the same;

(3) Daily deliveries of milk and bakery and other food products or newspaper or the sale or deliveries of home grown food products; (The term HOME GROWN, as used herein, means a food product which is grown locally in a garden, orchard or field. The term LOCALLY, as used herein, means within the state.)

(4) Insurance salespeople, real estate salespeople and other professionals licensed by the state; and

(5) Persons engaged in interstate commerce. (The term INTERSTATE COMMERCE means soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, publications or services, or acting in any function as a peddler or solicitor, as the terms are used in this section, which, at the times the order is taken, are in or will be produced in any federal district or territory, any commonwealth or any state other than Texas, and shipped or introduced into the city in the fulfillment of the orders.)

(Ord. passed 7-17-90)