

ARTICLE I. - IN GENERAL

Sec. 32-1. - Definitions.

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

Mobile shall mean being capable of being in active, but not necessarily continuous, movement.

Mobile food vendor shall mean any business which sells food or beverages from a vehicle or structure which is capable of being moved from place to place. The term shall include, but is not limited to:

- (1) *Mobile food truck*: a self-contained motorized unit selling food or beverage items;
- (2) *Concessions cart*: mobile vending unit that must be moved by non-motorized means; and
- (3) *Trailer*: a vending unit which is capable of being moved when pulled by a motorized unit and has no power to move on its own.

Peddler means any person, whether a resident of the city or not, traveling from house to house, or from street to street, for the purpose of selling or soliciting for sale, goods, wares, merchandise or services, other than agricultural products produced or processed in the state; and also means and includes any person transacting a temporary business within the city at an established place of business. The term "peddler" includes the terms "solicitor," "transient or itinerant merchant or vendor," or "transient or itinerant photographer."

(Code 1978, § 17-1; Code 1993, § 54-1; Ord. No. 2015-13, § 2, 8-4-2015)

Sec. 32-2. - Exceptions to chapter.

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

- (1) Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business.
- (2) Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law.
- (3) Bona fide residents of the state selling fruits, vegetables, dressed meats, fowl or farm products which were produced on land within the state, owned or controlled by such vendor.
- (4) Noncommercial solicitations, sales or distributions for purposes of fundraising or generating profits by religious or charitable organizations, political organizations, conservation organizations, city civic organizations, or other educational organizations, which have their principal place of activity within the city.

- (5) Minors conducting fundraising activities who represent an organization for the benefit of youths, including, but not limited to, Boy Scouts, Girl Scouts, Little League groups and city school groups.
- (6) Mobile food vendors that are registered with the city and conducting business at a mobile food court as defined in section 50-2.

(Code 1978, § 17-2; Code 1993, § 54-2; Ord. No. 2011-01, § 1(54-2), 3-21-2011; Ord. No. 2016-34, § 2, 1-3-2017)

Sec. 32-3. - Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, or any peddler who enters upon property posted with a "No Peddlers Allowed," "No Solicitations Allowed," or other similar type posted sign, shall be deemed guilty of criminal trespass and/or attempted criminal trespass and may be punished as provided in V.T.C.A., Penal Code §§ 15.01, 30.05.

(Code 1978, § 17-3; Code 1993, § 54-3; Ord. No. 2011-01, §2(54-3), 3-21-2011)

Sec. 32-4. - Use of public places.

It shall be unlawful for any peddler to sell or solicit or take orders for or offer to sell or take orders for or display any goods, wares, merchandise, photographs, newspapers or magazines on any public square, park, street, road, highway or alley within the city without having first obtained a special events permit as provided in section 32-55.

(Code 1978, § 17-4; Code 1993, § 54-4)

Sec. 32-5. - Hours of operation.

It shall be unlawful for any peddler engaged in the business of peddling within the city to go upon any residential premises and ring the doorbell, rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence prior to 9:00 a.m. or after 8:00 p.m. of any day Monday through Friday, or prior to 10:00 a.m. or after 8:00 p.m. on Saturday, Sunday, or any federal, state or city holiday, except by specific appointment with or invitation from the prospective customer.

(Code 1978, § 17-6; Code 1993, § 54-6; Ord. No. 2011-01, § 3(54-6), 3-21-2011)

Sec. 32-6. - Soliciting at intersections.

- (a) *Prohibition.* It shall be unlawful for any person to solicit funds, advertise, or distribute any item, either on foot or in automobiles, for any cause whatsoever, at any intersection or crossing of streets within the city limits, where, in the opinion of the police chief, such solicitation or distribution would cause the blocking of traffic so as to create a traffic hazard.
- (b) *Exceptions.* If, in the opinion of the police chief, it would not create a traffic hazard for solicitation of funds and advertising at an intersection of streets within the city, the person desiring to solicit funds, advertise, or distribute any item at such intersections, shall first make an application for permission to do so by making the application at the city hall. The application shall set forth the name of the organization, the location of the intersection where such solicitation shall transpire and the length of time the proposed solicitation shall take place, not to exceed 48 consecutive hours. If the solicitation is to be done by a person under the age of 18 years, no such permit shall be issued unless such person shall have proper adult supervision as to be determined by the police chief. Any permit for the solicitation of funds shall be acquired prior to any actual solicitation, and any such permit shall be good for one such solicitation period only and any further solicitation shall require an additional permit. Such permit should be signed by the police chief.

(Code 1978, § 17-7; Code 1993, § 54-7)

Sec. 32-7. - Misrepresentation.

- (a) It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.
- (b) If, after a permit has been issued, the city determines that such permit was obtained by false representation in the application or the permit holder has committed any act or practice that violates V.T.C.A., Business and Commerce Code ch. 17, subch. E, otherwise known as the Texas Deceptive Trade Practices-Consumer Protection Act, or any crime or misdemeanor involving moral turpitude, or any violation of this chapter or any other city ordinance, or any other state or federal law, during the term of the permit, the permit shall be revoked by the chief of police.

(Code 1978, § 17-8; Code 1993, § 54-8; Ord. No. 2011-01, § 4(54-8(a)), 3-21-2011)

Sec. 32-8. - Responsibility of owners, tenants and lessees allowing peddlers to utilized property.

Any property owner, tenant, or lessee who allows a peddler to utilize his private property shall be responsible, along with the peddler, for compliance with the adopted zoning regulations of the city set forth in chapter 50. Approval by the zoning administrator must be obtained before a permit may be issued.

(Ord. No. 2011-01, § 5(54-9), 3-21-2011; Ord. No. 2016-34, § 3, 1-3-2017)

Sec. 32-9. - Compliance with the Home Solicitation Sales Act.

A peddler shall comply with the requirements of the Home Solicitation Sales Act provided for in V.T.C.A., Business and Commerce Code ch. 601. In addition to any other rights or remedies available, a consumer may cancel a consumer transaction not later than 12:00 midnight of the third business day after the date the consumer signs an agreement or offer to purchase. A peddler must provide a consumer notice and a complete cancellation form, as provided for in V.T.C.A., Business and Commerce Code §§ 601.052 and 601.053 at the time a consumer signs an agreement.

(Ord. No. 2011-01, § 6(54-10), 3-21-2011)

Sec. 32-10. - Structures erected or maintained by peddlers.

It shall be unlawful for any peddler to erect or maintain any permanent or temporary structure without complying with the applicable building codes, zoning regulations, and other applicable city codes.

(Ord. No. 2011-01, § 6(54-11), 3-21-2011)

Sec. 32-11. - Mobile food vendors.

The following regulations shall apply to mobile food vendors operating within the city:

- (1) Each unit shall be equipped with a portable trash receptacle, and shall be responsible for the proper disposal of solid waste and waste water in the sanitation facility legally accessed by the mobile food vendor. All disturbed areas must be cleaned following each stop at a minimum of 20 feet of the sales location. Each unit shall comply with all applicable provisions of chapter 36 of the Code of Ordinances;
- (2) Each unit shall be equipped with a power source sufficient to conduct all operations. It shall be a violation of this provision for any unit to obtain power from an exterior source;
- (3) Continuous or repetitive music or sounds shall not project from the mobile food vendor unit; and
- (4) A mobile food vendor shall not be located in the same location, or within 100 yards thereof, for more than four hours total per day.

(Ord. No. 2015-13, § 3, 8-4-2015)

Secs. 32-12—32-40. - Reserved.