

Chapter 17 - PEDDLERS AND SOLICITORS¹¹

Footnotes:

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Editor's note— Ord. No. 2003-14, § 2, adopted March 18, 2003, amended Ch. 17 in its entirety to read as herein set out. Prior to amendment, former Ch. 17, §§ 17-1—17-14, pertained to similar subject matter and derived from Ord. No. 76-29, § 1(4-1-1)—(4-1-13), adopted Nov. 16, 1976; Ord. No. 85-46, § 2(H), adopted Sept. 17, 1985; Ord. No. 87-85, § 9, adopted Dec. 15, 1987; Ord. No. 90-50, § 2, adopted Aug. 21, 1990; and Ord. No. 93-45, § 2, adopted Sept. 21, 1993.

Cross reference— Creation of noise, § 12-7(12).

Sec. 17-1. - Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

Charitable purpose: The use of money or property for the benefit of a duly incorporated and tax-exempt nonprofit corporation or entity, which is certified as being tax exempt under state or federal law.

City right-of-way: All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

Peddler: Any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering or exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the City of Grapevine. A "peddler" also includes any street vendor, hawker, huckster, itinerant merchant or transient vendor.

Solicitor: Any person who goes from house to house or from place to place in the city soliciting, selling or taking orders for any services, goods, wares, or merchandise, of any nature or kind whatsoever.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2A, 1-20-04)

Sec. 17-2. - License—Required.

- (a) It shall be unlawful for any person to conduct themselves as a peddler or solicitor without having first obtained a license therefor from the city, except that where the person who will be peddling or soliciting is under the age of 16, such person shall be supervised by a person who is over the age of 18 and who shall obtain a license on behalf of the person to be supervised.
- (b) Upon issuance, the license shall be carried with any licensee at all times during which peddling or solicitation activity is being conducted. Further, the licensee must ensure that the license is properly displayed while conducting peddling or solicitor activities. Properly displayed shall mean attached to or hung so that the license is clearly visible to the public and law enforcement officials.
- (c) It shall be unlawful for any person to conduct themselves as a peddler or solicitor without wearing an orange traffic safety vest.
- (d) It shall be unlawful for any person to peddle or solicit on, in, upon, or around city right-of-way, with or without a license.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2B, 1-20-04)

Sec. 17-3. - Same—Application.

- (a) Each application for a license shall be in writing under oath and shall set out the following:
- (1) Name of applicant, with his permanent address, telephone number, proof of identity, together with two full-face photographs of the applicant two inches square;
 - (2) Name and address of the person or entity he represents;
 - (3) Kind, type and character of goods he will offer for sale, or type of peddling or solicitation he will undertake;
 - (4) The specific location(s) where he will peddle or solicit;
 - (5) The names of any cities where applicant has worked in the previous 90 days;
 - (6) Whether or not applicant has ever been convicted of a felony or misdemeanor, and if the applicant has been so convicted, state the nature of the offense and the punishment or penalty assessed thereof;
 - (7) An authorization to conduct a criminal background check on the applicant;
 - (8) The license and investigation fees as provided in this chapter.
- (b) Failure to provide a complete and thorough application or the falsification of any part of the application shall be grounds for the denial or revocation of a license.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2C, 1-20-04)

Sec. 17-4. - Same—License fees; term; exemptions from license fees.

The license fee for a peddler or solicitor under this chapter shall be \$50.00. Provided, however, when a person engages in any such activity, through one or more agents or employees, such person shall, in addition to the \$50.00 fee above mentioned, pay a license fee of \$20.00 for each agent or employee so engaged, all of which licenses shall be valid for one year from the date of their issuance. The fee for a replacement license that is within one year from the date of original issuance of license shall be \$20.00. In addition to the license fee, each applicant must pay the investigation fee provided for in section 17-5.

The license fee shall not be required of charitable solicitations.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2D, 1-20-04)

Sec. 17-5. - Same—Investigation of applicant.

In addition to the license fee, each applicant shall pay a fee to cover the cost of conducting a criminal background check on the applicant, in an amount to be determined by the city manager, or his designee.

It shall be the duty of the chief of police to investigate each applicant for a license under this chapter and make a report thereof to the city manager before issuance of such a license. The chief of police's report shall include a recommendation as to the propriety of issuing a peddler or solicitor permit to the applicant based on a review of the applicant's background.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2E, 1-20-04)

Sec. 17-6. - Same—Issuance.

It shall be the duty of the city manager, or his designee to issue or refuse to issue a license under this chapter not later than 30 days from the time the application therefor is received by him.

(Ord. No. 2003-14, § 2, 3-18-03)

Sec. 17-7. - Exemptions to licensing requirements.

The following shall be exempt from the licensing requirements of this chapter:

- (a) Religious organizations exclusively for the distribution of literature and other items for the purpose of proselytizing, provided that no fees are charged and no donations are solicited.
- (b) Anonymous political speech.
- (c) The provisions of this chapter shall not apply to sales made under authority and by order of law, nor to persons, or their authorized representatives, who have previously established with the owners or occupants of such private residences or property a regular business, trade, service or other contractual relationship.
- (d) Newspaper solicitations. The licensing requirements of sections 17-2 through 17-7 shall not apply to newspaper solicitations. However, it shall be unlawful for any person, firm or corporation to conduct newspaper solicitations except in compliance with this section 17-8(d) and the other applicable sections of this chapter.

Each newspaper is required to notify the city secretary during the regular business hours of the city, and at least 12 hours in advance of such solicitation, of the date, time, and general location of the solicitation, and of the number of persons who will be soliciting. Each person conducting himself as a newspaper solicitor shall wear a badge or other form of identification which identifies the newspaper and is worn on a clearly visible location on the person.

- (e) Any operation which is exempted by state or federal statute from this chapter, only to the extent of such applicable exemption.

Any person claiming to be legally exempt from the provisions of this chapter, including the payment of the license or investigation fee shall make such a claim in writing to the city manager, or his designee, citing the applicable statute or authority, and providing proof of its applicability.

(Ord. No. 2003-14, § 2, 3-18-03)

Sec. 17-8. - Appeals.

If the city manager refuses to issue a license under this chapter, the applicant shall have the right to appeal to the city council at its next regular meeting.

(Ord. No. 2003-14, § 2, 3-18-03)

Sec. 17-9. - Hours of operation.

It shall be unlawful for any person acting as a peddler or solicitor to go in or upon the premises of a private residence in the city prior to 9:00 a.m. or after dusk (30 minutes after sunset) of any day, Monday through Saturday, or at any time on Sunday or any other federally designated holiday, or, on any day where the Department of Homeland Security has issued a formal alert regarding a specific or credible terrorist threat resulting in an imminent or elevated threat level. This section shall not apply to a visit to the premises as a result of a request or invitation made by the occupant.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2F, 1-20-04; Ord. No. 2014-30, § 2, 6-3-14)

Sec. 17-10. - Health certificate for peddlers of food products.

Peddlers of food products shall be subject to the requirements of Chapter 12 of the Code of Ordinances, as amended, relating to Health and Sanitation.

(Ord. No. 2003-14, § 2, 3-18-03)

Sec. 17-11. - Cleanliness of food products and vehicles; honest weights and measures.

Every person who shall comply with this chapter and shall sell, or offer for sale, any produce of edible quality shall at all times keep the same in a clean and sanitary condition, and shall also keep their wagons, vehicles, or other conveyances in a clean and sanitary condition, and they shall not sell, or offer for sale, any unsound or unwholesome articles, nor shall they give, or make, any false weights or measures of any of the various articles as specified and covered by this section.

(Ord. No. 2003-14, § 2, 3-18-03)

Sec. 17-12. - Prohibited conduct.

It shall be a violation of this ordinance and unlawful for any peddler or solicitor to:

- (1) Misrepresent the purpose of the peddling or solicitation;
- (2) Misrepresent the affiliation of those engaged in the peddling or solicitation;
- (3) Continue efforts to peddle to or solicit from an individual once that individual informs the peddler or solicitor that he does not wish to give anything to or to buy anything from that peddler or solicitor; or
- (4) Represent the issuance of any license under this chapter as an endorsement or recommendation of the peddling or solicitation; or
- (5) Peddle or solicit at any residence or building which has posted a no peddling or solicitor sign; or
- (6) Act in any manner which is contrary to local, state, or federal law.
- (7) Peddle or solicit at any residence listed on the city's "do-not solicit list."

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2G, 1-20-04; Ord. No. 2014-30, § 3, 6-3-14)

Sec. 17-13 - Do-not solicit list.

- (a) The city manager, or their designee, shall develop and maintain a list of residences where peddling or soliciting is prohibited and such list shall be referred to as the "do-not solicit list."
- (b) Any property owner or occupant may elect to add or remove his or her residence to or from the do-not solicit list through the procedures developed by the city manager. The property owner or occupant making such a request will be required to affirm that he or she is an owner or occupant of the residence, and is making the request on their behalf and on behalf of any other occupant at that address.
- (c) The city manager shall make the do-not solicit list available on the city's website and to any person upon request.
- (d) The city secretary shall provide a do-not solicit list to each person issued a permit under this section.

(Ord. No. 2014-30, § 4, 6-3-14)

Sec. 17-14. - Penalties; civil remedies; license forfeiture.

- (a) Any person, firm or corporation violating any of the terms or provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not to exceed \$2,000.00 for each offense relating to fire safety, zoning, or public health and sanitation, including dumping of refuse, nor to exceed \$500.00 for each offense for all other violations, and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (b) In case of any willful violation of any of the terms and provisions of this chapter, the city, in addition to imposing the penalties above provided, may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations; and the definition of any violation of the terms of this chapter as a misdemeanor, shall not preclude the city from invoking the civil remedies given it by the laws of the state, but same shall be cumulative and subject to prosecution as hereinabove prescribed for such violations.
- (c) Each day's engaging in the business regulated by this chapter without the payment of the fee due thereon, and procuring a receipt, or license therefor, and each day's failure to comply with any of the other provisions of this chapter, shall constitute a separate offense, and the person so found guilty of such violation, or failing to comply with the provisions hereof shall, upon conviction, be punished therefor as hereinabove provided.
- (d) In addition to the sanctions provided for above, any person, firm, or corporation violating any term or provision of this chapter shall be subject to forfeiture of their peddler or solicitor license. In the event of such forfeiture of license, no part of such license fee as may have been so paid shall be refunded to such person, and no further license shall be issued to such person for the remaining period of such license year under this chapter.

(Ord. No. 2003-14, § 2, 3-18-03; Ord. No. 2004-02, 2H, 1-20-04)