

ORDINANCE NO. 12

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANCTUARY, TEXAS: THAT

PREAMBLE

This entire ordinance is and shall be deemed as an exercise of the police power of the State of Texas and the City of Sanctuary, for public safety, comfort, welfare, convenience and protection of the City and Citizens of said City, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

ARTICLE I ITINERANT VENDORS

SECTION 1: Definition

For the purpose of this article, an itinerant merchant is any person who either sells from house-to-house or from place-to-place within the city limits.

SECTION 2: Permit Required

Every itinerant merchant as defined in the forgoing section shall be required to obtain a permit prior to the engaging in the business of an itinerant merchant. An application for a permit to do business as an itinerant merchant shall be filed, in writing, with the City secretary not less than ten(10) days before the first month in which he proposes to engage in business as an itinerant merchant. The application must contain the following information:

- (a) The full name of the person applying for a permit and his address and telephone number, if any; if the itinerant merchant is selling on behalf of an organization, the name and address of the parent organization shall also be supplied.
- (b) The license plate number of any and all vehicles to be used by the permittee must be provided. The Texas drivers license number of any and all who will operate a motor vehicle for the permittee must be provided.
- (c) Proof of liability insurance (as required by State Law) must be provided at the time of request for this permit. Such proof shall be in format permitting retention by the City.
- (d) The name, address, date of birth and fingerprints of each agent who will be selling within the City.
- (e) A copy of a limited sales tax permit issued by the State of Texas, or proof that the goods being sold are not subject to such sales tax.
- (f) A statement of the type of goods or wares that are to be sold.

SECTION 3: Fees attached

That the Permit fee for an itinerant merchant, or itinerant vendor shall be \$ 50.00; plus \$25.00 for each additional agent or representative engaged in any activity mentioned in Section 1 hereof. The fees herein provided for shall be used by the City for the purpose of defraying the expenses incident to the issuing of said permits.

SECTION 4: Exemptions

- (a) The provisions of this ordinance shall not apply to sales made to dealers by commercial travelers or sales agents in the usual course of business, nor to sales made upon authority and by order of law, nor to vendors of farm products, if such products are from the farm of the vendor.
- (b) No provision of this ordinance shall be construed to apply to children engaged in the sales of items for extra curricular activities sanctioned by the school district; nor for any agricultural products in their natural state sold by the grower.
- (c) NO exemption is either expressed or implied for any vendor of confectionary or dairy products (including those foods commonly referred to as ice cream) sold from mobile vending trucks nor for the sale of botanical products vended from the roadside or door-to-door.

SECTION 5: Cancellation of Permit

Each itinerant merchant permit issued hereunder shall be subject to cancellation for ant violation of any provision of this ordinance applicable to itinerant merchants.

SECTION 6: No Permits To Certain Persons

No permit shall be issued to any person who shall have been convicted of any crime involving moral turpitude, including, but not limited to fraud, swindling or related crimes.

SECTION 7: Identification Badge

Any itinerant merchant, vendor, peddler or agent thereof, operating in the City of Sanctuary, Texas, shall at all times while working in such capacity, wear and prominently display a badge or placard clearly identifying the said vendor by name and clearly identifying the base or parent organization he is representing. The letters of said badge or placard must be at least 1/8 inch in height.

SECTION 8: Duration of Permit; NONTRANSFERABLE

- (a) Solicitation Permits are valid only for the period specified in the permit. Permits will be issued for a period of thirty (30) days.
- (b) An extension of the permit, not to exceed thirty (30) days, may be issued by the City upon a showing of good cause by the permittee.

SECTION 9: Revocation of Permit

- (a) The City shall revoke a solicitation permit of a permittee for any one or more of the following reasons:
1. The making of a false statement as to a material matter in an application or hearing concerning an application;
 2. The making of a false statement or misrepresentation to a member of the public with regard to the solicitation activity;
 3. Violation of any of the terms or conditions of the permit for solicitation;
 4. Violation of a provision of this ordinance.
- (b) The City shall send written notice of a revocation to the permittee by certified mail, return receipt requested, setting forth the reasons for the revocation.

SECTION 10: Prohibited Conduct

Any person engaged in solicitation within the City of Sanctuary; either house-to-house, door-to-door or in a public place shall not:

1. Obstruct or impede the passage of a pedestrian or vehicle;
2. Make physical contact with the person being solicited unless that person's permission is obtained;
3. Misrepresent the purpose of the solicitation; or misrepresent the affiliation of those engaged in the solicitation.

ARTICLE II. SOLICITATION GENERALLY

Section 1: Exhibiting Card Prohibiting Solicitors

- (a) A person, desiring that no merchant or other person engaged in a home solicitation at his residence, shall exhibit in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than three(3) inches by four (4) inches in size, containing the words, "No Solicitor". The letters shall be not less than two-thirds ($2/3$) of an inch in height.
- (b) Every itinerant merchant and/or solicitor upon going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence. If such notice is exhibited, the merchant or solicitor shall immediately depart from the premises, without disturbing the occupant, unless the visit is a result of a request made by the occupant.

SECTION 1: Exhibiting Card Prohibiting Solicitors(continued)

- (c) No person shall go upon any residential premises and ring the door-bell, rap or knock upon the door or create any sound in a manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in the solicitation or sale of merchandise as an itinerant merchant transaction, if a card as described in subsection (a) above is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is the result of a request made by the occupant.
- (d) No person, other than the occupant of the residence, shall remove, deface, or render illegible, a card placed by the occupant pursuant to subsection (a) above.
- (e) Any merchant or solicitor who has gained entrance to a residence, 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.

SECTION 2: Hours of Solicitation

Sell, solicit or peddle; beside, in, on or near any public roadway within the City without approval from the City, regardless of having been issued a permit.

- (a) No itinerant merchant, Vendor, Peddler, Solicitor or salesman as these terms are defined in this ordinance shall go from house-to-house or from place-to-place; in this City; soliciting, selling or peddling between the hours of 7:30 P.M. and 8:30 A.M. and it is hereby made a violation of this ordinance and is a finable offense.

SECTION 3: Penalties; Civil Remedies; Permit Forfeiture

- (a) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined as provided in section-4 ; each day such violation continues shall constitute a separate and distinct offense.
- (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 sumulative and subject to prosecution as hereinabove prescribed for such violations.

SECTION 3: Penalties; Civil Remedies; Permit Forfeiture (continued)

(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 permit, therefore, 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; provided, the court trying said cause shall have the right and power upon conviction of any person for violation of any of the provisions of this chapter, to decree, and to make the same a part of the judgement in such cause a forfeiture of such permits as such person may have procured hereunder.

However, in the event of such forfeiture of permit, no part of such permit fee as may have been so paid shall be refunded to such person, and no further permit shall be issued to such person for the remaining period of such permit year under this chapter.

SECTION 4: FINES

Any person, firm or corporation violating any portion of this Ordinance shall be guilty of a misdemeanor and may be fined not less than ten (\$10.00) dollars nor more than \$1,000.00 dollars.

SECTION 5: Severance Clause

Each and every provision, paragraph, sentence and clause of this Ordinance has been separately considered and passed by the City Council of the City of Sanctuary, Texas; and each said provision would have been separately passed without any other provision, and if any provision hereof should be ineffective, invalid, or unconstitutional for any cause, it shall not impair, nor affect the remaining portion nor any other part thereof, but the valid portion shall be enforced just as if it had been passed alone, and all ordinances and parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED AND APPROVED THIS THE 5th day of September, 1995.

Donald A. Raab
MAYOR

ATTESTED:

Floyd Galloway
Floyd Galloway-Mayor Pro-Tem

Jack Gustafson
Jack Gustafson-Councilmember

Julia Moore
Julia Moore- Councilmember

Joe George
Joe George-Councilmember
Andrew Williams
Andrew Williams-Councilmember