

APPLICATION FOR SOLICITORS LICENSE

DATE: \_\_\_\_\_

FULL NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

BIRTH PLACE: \_\_\_\_\_

HEIGHT: \_\_\_\_\_ WEIGHT: \_\_\_\_\_ Color Eyes/Hair: \_\_\_\_\_

Make & Model of Auto: \_\_\_\_\_

License Plate #: \_\_\_\_\_

Driver's License #: \_\_\_\_\_

Home Address: \_\_\_\_\_  
(Street) (City/State)

Last three (3) towns applicant worked: \_\_\_\_\_  
\_\_\_\_\_

Name of Company: \_\_\_\_\_

Type of Service or Merchandise: \_\_\_\_\_

License requested for \_\_\_\_\_

Dates for Soliciting: \_\_\_\_\_

\_\_\_\_\_  
*(Applicant Signature)*

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*(To be filled out by City Representative)*

**Background Check Done: Yes / No (circle one/attach background check)**

**Approved: Yes / No (circle one)**

**Date of Approval: \_\_\_\_\_**

**Signature of City Representative Approving Application:**

**Chief of Police \_\_\_\_\_**

**City Administrator/Secretary \_\_\_\_\_**

**Mayor: \_\_\_\_\_**

APPLICATION FOR TRANSIENT SOLICITORS LICENSE

Date \_\_\_\_\_

Full Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Color eyes: \_\_\_\_\_ Color Hair: \_\_\_\_\_

Make and model of auto: \_\_\_\_\_ Color: \_\_\_\_\_

Auto license number: \_\_\_\_\_ Driver's license no. \_\_\_\_\_

Home address: street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Local address: \_\_\_\_\_

Last 3 towns applicant worked: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Company: \_\_\_\_\_

Type of merchandise or service: \_\_\_\_\_

License requested for \_\_\_\_\_ to \_\_\_\_\_

APPLICATION APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_  
CHIEF OF POLICE

\_\_\_\_\_  
SIGNATURE OF APPLICANT

ORDINANCE #004-15

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS REPEALING AND REPLACING ORDINANCE NO. 79-104; ENACTING RULES AND REGULATIONS GOVERNING PEDDLERS, SOLICITORS, AND CANVASSERS; INCREASING PERMIT FEES; REGULATING THE DISTRIBUTION OF HANDBILLS; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY AND REPEALING CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of De Leon, Texas finds that it is in the best interest of the citizens of De Leon to regulate acts or conditions involving peddlers, solicitors, and canvassers within the City in order to protect the privacy and safety of the citizens;

WHEREAS, individuals often desire to approach other individuals in their homes to solicit donations for causes believed to be worthy of support, or to canvass for support for particular religious, ideological, or political causes or for reasons of prompting commerce; and

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of citizens.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS that:

I. Repeal. Ordinance No. 79-104, enacted on August 30, 1979, including the amendment filed on August 25, 1981, is hereby repealed.

II. Enactment. The following provisions shall be and are, hereby, enacted and adopted as the Peddlers and Solicitors Ordinance of the City of De Leon.

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**Section 1. Scope and Purpose.** The purpose of this Ordinance is to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy and to otherwise preserve the public health, safety, and welfare by regulating, controlling, and licensing peddlers, solicitors, and canvassers within the City limits.

**Section 2. Definitions.** The following words, terms and phrases when used in this Ordinance, shall have the meaning described in this section, except where the context clearly indicates a different meaning:

- a. "Canvasser" means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident or in the public right-of-way for the primary purpose of:

(1) Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation for money for or against such cause; or

(2) Distributing a handbill or flyer advertising a non-commercial event or service.

b. "City Administrator" means the City Administrator of the City of De Leon or designee.

c. "Handbill" means any printed or written matter, circular, leaflet, pamphlet, paper, booklet or other printed or other reproduced original or copies of any matter or literature.

d. "Official" means the City Administrator of the City of De Leon, peace officers of the De Leon Police Department, or other designated City staff who administers, implements, and enforces the provisions of this Ordinance.

e. "Peddler" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right-of-way, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a different location or time.

f. "Solicitor" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right-of-way, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition includes any person who, without invitation, goes upon private property or in the public right-of-way to request contribution of funds or anything of value, or to sell goods or services for educational, political, charitable, religious, or other non-commercial purpose.

### Section 3. General

a. Hours of canvassing, solicitation and peddling at private residences. It shall be unlawful for persons, licensed or unlicensed, to canvass, solicit or peddle at private residences between the hours of 6:00 p.m. and 8:00 a.m. unless otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This provision does not apply where the canvasser, solicitor or peddler is on the property by express prior invitation of the owner of the property or a person residing on the premises.

b. Entry upon premises unlawful It shall be unlawful for any person to canvass, solicit, or peddle upon any private property in the City where the owner, occupant, or person legally in charge of the premises has posted at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers", "No Solicitors", or words of similar import.

c. Front door only. It shall be unlawful for any person to canvass, solicit, or peddle at any entrance to a residence other than the front door.

d. Location. No solicitor, peddler or canvasser shall have any exclusive right to any location in the public roadways of the City including the areas adjacent to or nearby the traveled portion of the road, nor shall any be permitted a stationary location, nor shall they be permitted to operate in any congested areas where their operations might impede or inconvenience the public. For the purpose of this Ordinance, the judgment of a peace officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded.

#### **Section 4. Permit and Bond Required.**

a. Permit Requirements. It shall be unlawful for any person to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the City Administrator.

b. Exhibition of Permit Required. It shall be unlawful for any solicitor or peddler to fail to conspicuously display on or about their person the permit issued by the City. "Conspicuously displayed" shall mean displayed to the front and visible to whomever the permit holder is conversing at all times they are engaging in a permitted activity. Upon approval of an application, the City Administrator will issue the permit holder a lanyard so that the permit holder may easily comply with this requirement. Upon expiration or revocation of the permit, the permit holder must return the lanyard to the City or will be charged a \$5.00 replacement fee.

c. Exceptions. The following are exempted from the permit requirements of this Section:

1. Any solicitation made upon premises owned or occupied by an organization upon whose behalf solicitation is made;
2. Any solicitation in the form of a collection at a regular meeting, assembly, or service of a charitable person or entity;
3. A canvasser as defined by this Ordinance.
4. A solicitor or peddler already licensed by the State to engage in the activity.

d. Application. Applicants for permits under this Ordinance must file with the City Administrator an application in writing on a form obtained from the City and provide the following:

1. Full name and date of birth of the applicant and of any agents working for the applicant under the permit.
2. A valid Texas Driver's License or state issued photo identification for the applicant and each agent working under the permit.

3. A brief description of the activity or business to be conducted.
4. An authorization to conduct a criminal background check on the applicant and on any and all agents working for the applicant under the permit.
5. The appropriate fee under subsection (e), below.
6. The names of the last three (3) cities in which the applicant and any agents have worked.
7. Proof of status necessary to receive an exemption under subsection (f) below, if applicable.
8. The bond required under subsection (g), below.

c. Permit Fee and Duration.

1. A standard permit will be in effect for fifteen (15) days after the date of issuance. The standard permit shall cost \$50.00, plus an additional \$10.00 for each agent working under that permit.
2. If an extended permit is requested, that permit shall be in effect for thirty (30) days after the date of issuance. The extended permit shall cost \$100.00, plus an additional \$100.00 for each agent working under that permit.

f. Exceptions to Fee. The payment of the permit fee(s) shall not be held to be applicable to the following organizations; however, all solicitors and peddlers for such organizations are required to comply with all other applicable provisions of this Ordinance unless otherwise exempted:

1. Any local church or other religious group, or ministers or agents thereof soliciting funds for the support of such religious group.
2. Any established society, association, or corporation that is organized and operated exclusively for educational, philanthropic, benevolent, fraternal or charitable purposes, not operated for pecuniary profit, where no part of the net earnings inures to the benefit of any person, private shareholder, or individual, where the solicitation of such organization is:

A. Conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation; or

B. In the form of collections or contributions at the regular exercises or services of any society, lodge, benevolent order or fraternity or similar organization, or any branch thereof.

3. Vendors of farm produce, poultry, stock or agricultural products in their natural state if raised on land owned or leased by the vendor or a member of the vendor's household.

4. Sales of goods, wares, and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious or philanthropic purposes.

5. Sales of goods, wares, and merchandise by any bonafide charitable, religious or philanthropic organization.

g. Bond Required. The application for a permit shall be accompanied by a bond in the sum of One Thousand Dollars (\$1,000.00) issued by a surety company authorized to do business in the State. The bond shall be conditioned on compliance with this Ordinance and upon the final delivery of goods sold through soliciting and peddling activities under this Ordinance.

h. Issuance. Upon completion and presentation of the application, the City Administrator shall issue a permit to the applicant within five (5) business days unless grounds for denial exist under subsection (i), below.

i. Denial. An application for a permit may be denied to a person under this Ordinance for any of the following reasons:

1. The applicant has been convicted of a felony or misdemeanor and the crime directly relates to the conduct of peddling or soliciting or results from an assault against a person.

2. An investigation reveals that the applicant falsified information on the application.

3. The applicant is a registered sex offender.

4. The applicant has had a permit revoked for any reason within the past three (3) years.

j. Revocation. Permits issued under this Ordinance may be revoked for any of the following reasons by the City Administrator:

1. Fraud, misrepresentation or false statement contained in the application for permit.

2. Fraud, misrepresentation or false statement made in the course of carrying on the permit holder's business.

3. Any violation of this Ordinance.

4. Conviction of a misdemeanor or felony if the crime directly relates to the conduct of the permit holder's business.

5. The permit holder's conducting of business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, and general welfare of the public.

Notice of revocation of a permit shall be given in writing, and the grounds for the revocation shall be specified in said notice. The permit holder shall immediately surrender his permit to the City Administrator upon receiving notice that the permit has been revoked.

**Section 5. Handbills.** It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown, scattered, or cast any handbill upon any residential property except:

- a. By handing or transmitting such handbill directly to the owner or occupant then present in or upon such private premises; or
- b. By placing or depositing the same in a manner to secure and prevent such handbill from being blown or drifting about such premises, except that mailboxes may not be used unless authorized by federal postal laws or regulations.

**Section 6. Violations and Penalties.**

- a. Automatic Revocation. Any person violating any provision of this Ordinance shall have his/her permit revoked immediately and will not be entitled to reapply for a permit for a period of one (1) year from the date of the revocation. In the event of such revocation, no part of any permit fee paid by the violator shall be refunded.
- b. Criminal Penalty. Any person violating any provision of this Ordinance shall be guilty of a Class C misdemeanor and upon conviction thereof shall be punished by a fine in a sum not to exceed Five Hundred Dollars (\$500.00). A separate offense occurs each day of the violation.

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**III. Severability.** Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

**IV. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the *Open Meetings Act, Texas Govt. Code, Chapt. 551.*



V. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the City Charter or the Texas Local Government Code.

PASSED AND APPROVED on this 22<sup>nd</sup> day of June, 2015.

PASSED, APPROVED AND ADOPTED on this 13<sup>th</sup> day of July, 2015.



Ron Johnson  
Ron Johnson, Mayor

Karen Wilkerson  
Karen Wilkerson, City Administrator/Secretary