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ORDINANCE NO. 79-104

PEDDLERS AND SOLICITORS

AN ORDINANCE LICENSING AND REGULATING
PEDDLERS AND SOLICITORS IN THE CITY OF
DE LEON TEXAS

DEFINITION OF TERMS; REFUSAL TO LEAVE
PREMISES; RESTRICTIONS; TELEPHONE SO-
LICITATION; TIME RESTRICTION; REGISTRA-
TION REQUIRED; BOND REQUIRED; EXCEPTIONS
AND EXEMPTIONS; REQUIRED WAITING PERIOD;
LIMITATIONS ON LOCATION; PENALTY;
SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, many citizens have complained to the City Council, Chief of Police, and other City officials claiming fraudulent, illegal acts and harassment by overzealous peddlers and solicitors; and

WHEREAS, it is now deemed necessary to license and regulate peddlers and solicitors in order to promote the well-being and harmony of the citizens of DE LEON, Texas; now, therefore,

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

SECTION 1: DEFINITION OF TERMS. The word, "peddler," as used in this Ordinance, shall mean any person, whether a resident of this City or not, traveling from place to place, 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 this State; and shall also mean and include any person transacting a temporary business within

the City at an established place of business. The word, "peddler," shall include the terms "solicitor," "transient or itinerant merchant or vendor," or "transient or itinerant photographer."

SECTION 2: REFUSAL TO LEAVE PREMISES. Any peddler or hawker of goods or merchandise who enters upon premises owned or leased by another and wilfully refuses to leave said premises after having been notified by the owner or possessor of said premises, or his agent, to leave the same shall be deemed guilty of a misdemeanor.

SECTION 3: RESTRICTIONS. It shall be unlawful for any peddler to enter upon any private premises when the same is posted with a sign stating "No Peddlers Allowed" or "No Solicitation Allowed" or other words to such effect.

SECTION 4: TELEPHONE SOLICITATION. It shall be unlawful for any peddler or solicitor to use a telephone for the peddling of goods, wares, merchandise, or services or for solicitation of funds or any other activity connected with peddling or soliciting.

SECTION 5: TIME RESTRICTION. It shall be unlawful for any person coming under the provisions of this Ordinance to engage in any business at any time before eight (8) A. M. and after six (6) P. M. , except when such person has a specific invitation and appointment with the customer.

SECTION 6: REGISTRATION REQUIRED.

- a. Registration Card Required. It shall be unlawful for any person to go from house to house, or from place to place in the City to solicit, sell, or take orders for goods,

wares, merchandise, or services including insurance contracts, subscriptions to magazines or newspapers; to expose plates or film for making negatives; to make pictures, photographs, or any article for future delivery, unless such peddler shall first have registered with the Chief of Police and shall have applied for, and received from the Chief of Police, a registration card showing such registration.

b. Application for Registration Card; Contents;

Fee. Any person desiring a registration card, as required by this Ordinance, shall file an application with the Chief of Police. Such application shall give the applicant's full name; the home address; the name of the last three towns in which applicant worked; the name of the company or individual such applicant represents or works for, if any; the merchandise, service, or product to be sold, disposed of, peddled, or hawked by the applicant; and, if such applicant represents another individual or company, satisfactory proof of the authority to represent such company or individual. The application shall be accompanied by a fee of ^{Twelve} dollars and fifty cents (\$12.50) to help defray expenses of investigation.

c. Additional Requirements. The applicant for a registration card, under the provisions of this Ordinance, shall have his photograph taken at the City Police Department and shall also be fingerprinted. Such person shall also furnish the Chief of Police any further

information which might be necessary or requested for the purpose of identification.

d. Annual Fee. The annual fee for a registration card to be issued under the provisions of this Ordinance shall be thirty dollars (\$30); provided, however, when any person engages in any activity coming under the provisions of this Ordinance through one or more agents or employees, such person shall, in addition to the thirty dollar (\$30) fee, pay a license fee of ten dollars (\$10) for each agent or employee so engaged. All registration cards shall be valid for one year from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incidental to the issuing of said registration cards.

e. Issuance of Cards. No registration card shall be issued until the applicant therefor shall have complied with all the provisions and requirements of this Ordinance.

Such card, when issued, shall be signed by the City Secretary and the Chief of Police, shall be dated as of the date of its issuance, and shall be valid for the length of time indicated on the face of the same. The registration card issued shall be of wallet size and contain the name of licensee, license number, date of expiration of registration card, with the City Seal stamped on the face thereof. Any card not dated and signed as herein required, or which is issued in violation of this section, shall be void.

f. Expiration and Reissuance of Registration Card. After expiration, a subsequent registration card may be obtained by re-registering with the Chief of Police and applying for such subsequent registration card, and in all other respects complying with the provisions of this Ordinance. Any peddler may re-register and apply for subsequent registration cards as often as desired.

The Chief of Police shall issue a subsequent registration card for each applicant therefor within forty-eight (48) hours after such applicant has complied with all requirements therefor as prescribed herein. Such subsequent card shall be similar to the original card, except as to its date.

SECTION 7: BOND REQUIRED. The application for a registration card required by the provisions of this Ordinance shall be accompanied by a bond in the penal sum of one thousand dollars (\$1,000) signed by the applicant and signed as surety by some surety company authorized to do business in the State of Texas, conditioned for the final delivery of goods, wares, merchandise, services, photographs, magazines, and/or newspapers in accordance with the terms of any order obtained prior to the delivery. The bond shall also be conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of said bond, at the time of delivery, or that may be discovered by such purchaser or customer within thirty (30) days after delivery. Such bond shall be for the use and benefit of all persons that may make any purchase or give any orders to the principal of said bond, or to an agent or employee of the principal; provided,

however, that in case applicant is a person engaging in an activity coming under the provisions of this Ordinance through one or more agents or employees, such person shall be required to enter into only one bond in the sum of one thousand dollars (\$1,000), which bond shall be made to cover the activities of all his agents or employees.

SECTION 8: EXCEPTIONS AND EXEMPTIONS.

- a. Commercial Travelers or Sales Agents. The provisions of this Ordinance shall not apply to the sales made to dealers by commercial travelers or sales agents in the usual course of business, nor to sales made under authority and by order of law, nor to vendors of farm and dairy products or other articles of food grown and produced by them in this county, and they shall not be required to pay the fees required by this Ordinance. However, the registration card required hereby shall be issued to such persons by the Chief of Police upon satisfactory proof that they have produced or grown the product to be peddled, and such cards shall so state.

The provisions of this Ordinance shall not apply to solicitation, sale, or distribution made by charitable, educational, or religious organizations, as well as community drives such as the United Fund.

- b. Interstate Commerce.

1) The provisions of this Ordinance shall not apply to persons engaged in interstate commerce; provided, however, that it shall be unlawful for a person engaged in interstate

commerce to go from house to house or place to place in the City without having first registered with, and obtained from, the Chief of Police a permit therefor giving the following information:

- a) Name, birthplace, home address, and local address, if any, of registrant;
- b) Physical description—including color of hair and eyes, height, weight, complexion, and distinguishing scars and marks, if any;
- c) Statement of whether or not applicant has ever been convicted of a crime (other than minor traffic violations), and, if so, what, when, and where conviction occurred;
- d) Name and address of person, if any, that individual represents or from whom or through whom orders are to be solicited or cleared;
- e) Description of product and method of selling;
- f) Period of time during which registrant wishes to solicit or sell;
- g) Statement of whether or not such activity is involved in interstate commerce;
- h) Character references.

2) The applicant for such registration may be fingerprinted and photographed for purposes of identification.

3) The applicant, at the time of the application, shall submit for inspection to the Chief

of Police written proof of his identification, in addition to the above-named items. Such identification may be in the form of an automobile operator's license, or a letter of identification or a card issued to the applicant by the person for or through whom orders are to be solicited or cleared. The City shall have a reasonable time to check such information before issuing a registration card.

SECTION 9: REQUIRED WAITING PERIOD. All peddlers must comply with the provisions of this Ordinance at least seven (7) days prior to going in or upon any private residence within the City to solicit orders for the sale of magazines, goods, wares, services, or merchandise of any kind or character, and/or for the purpose of disposing of and/or peddling, and/or hawking the same; to expose plates or film for making negatives; and to make pictures or photographs for future delivery, unless requested or invited to do so by the owner or owners, occupant or occupants, thereof.

SECTION 10: LIMITATIONS ON LOCATION. No peddler or itinerant vendor shall have any exclusive right to any location on a public street, nor shall any peddler be permitted a stationary location, nor shall be permitted to operate in any congested area where the operation might impede or inconvenience the public. For the purpose of this Section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

SECTION 11: PENALTY. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to a fine


of not more than two hundred dollars (\$200). Each transaction in violation of any of the provisions hereof shall be deemed a separate offense.

SECTION 12: SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are separable, and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

SECTION 13: DECLARING AN EMERGENCY

THE FACT THAT SUCH AN ORDINANCE IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, PROPERTY, HEALTH, SAFETY AND WELFARE OF THE CITY OF DE LEON, CREATES AN IMPERATIVE PUBLIC NECESSITY AND DEMAND REQUIRING THAT THE RULES PROVIDING FOR THE READING OF ORDINANCES UPON TWO SEPARATE OCCASIONS BEFORE THEIR FINAL PASSAGE BE SUSPENDED AND IT IS ACCORDINGLY ORDERED THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT IMMEDIATELY FROM AND AFTER THE DATE OF ITS PASSAGE.

PASSED ON THE 30th DAY of AUGUST, 1979.


MAYOR, CITY OF DE LEON, TEXAS

ATTEST:


CITY SECRETARY

AMMENDMENT TO ORDINANCE NO. 79-104

PEDDLERS AND SOLICITORS

Section 6 b line 15 to read the application shall be accompanied by a fee of twenty five dollars (\$25).

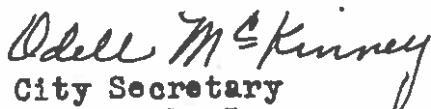
d. line 1 annual fee for a registration card to be issued under the provisions of this Ordinance shall be sixty dollars (\$60).

lines 6 and 7 in addition to the sixty dollars (\$60) fee pay a license fee of twenty dollars (\$20) for each agent or employee so engaged.

Passed and approved August 25th, 1981.


Mayor, City of De Leon

Attest:


City Secretary
City of De Leon