

## CHAPTER 23

### SOLICITORS, PEDDLERS AND DISTRIBUTORS

#### SYNOPSIS

- 23.100 Regulation and Licensing (Revised by Council 01/15/91);(Amended 2004-05, 06/16/04);(Amended 2006-08; 08/16/2008)
- 23.200 Telephone Solicitors
- 23.300 Offense (Amended 2000-01; 01/19/2000)

#### SEC. 23.100 REGULATIONS AND LICENSING

##### 23.101 DEFINITIONS

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

Charitable purpose means for the benefit of a charity or philanthropy, or for the poor, underprivileged, needy, crippled, or handicapped persons.

Code enforcement officer means anyone authorized by the City to act on its behalf to enforce this chapter.

Peddler or solicitor means any individual person, firm, company, partnership, corporation, society, religious sect, organization or league including, but not limited to, a trustee, receiver, agent, or similar representative of the same, who engages in peddling or soliciting, whether or not payment is collected at the time of such transaction.

Peddling or soliciting means engaging in conduct whereby a person, organization, society, corporation, or its agent, member or representative seeks property, financial aid, gifts, money, or any article representing monetary value; or sells or offers to sell merchandise, goods, any article of value, service, publication, ticket, advertisement or subscription.

##### 23.102 PLACES WHERE SOLICITING IS PROHIBITED

It shall be unlawful for any person or entity to peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service in the following places in the City:

- a. On any public street, alley or traffic island
- b. On any public sidewalk or parkway, except for persons engaged in dissemination sales of, or subscriptions solicitation of, literary items, written or printed matter distributed for the purpose of disseminating information or news; or
- c. Any residence which shall exhibit in a conspicuous place upon or near the main entrance to the residence a weatherproof card, not less than three inches by four inches in size, containing the words "NO SOLICITORS".

## SOLICITORS, PEDDLERS AND DISTRIBUTORS

It shall be unlawful for any person to block, obstruct or hinder the free flow of traffic in the lawful use of the street or free passage of pedestrians in the lawful use of the sidewalk. No solicitations, sales, or distribution of merchandise, products, or service shall be offered or made to occupants of motor vehicles moving or stopped in traffic on a public street or alley.

The City Manager is authorized to waive any or all of the prohibitions of this section by issuing a special event permit stating the location, terms, and conditions under which the peddler or solicitor shall be allowed to operate.

Any permit for soliciting and peddling on any public location may require that the permittee provide proof of insurance in any amount to be required by the City Manager and/or other safety requirements to be required by the City Manager.

The City Manager is authorized to deny any and all permits for peddling or soliciting on public property for any lawful reason; to limit the number of permits allowed for any given location; and to set location, operational and aesthetic requirements for any permits issued for peddling or soliciting on public property.

No organization shall be permitted to solicit or peddle on a public location for more than two days in one calendar year.

### 23.103 TIMES WHEN SOLICITING IS PROHIBITED

No person shall peddle, solicit, hawk, take orders for or offer to take orders for any item or service at a private residence in the City between the hours of 5:00 p.m. and 9 a.m. Monday through Saturday or at any time on Sunday unless the transaction is the result of a request made to such person by the occupant of such private residence. (Amended 2006-08; 08/16/2011)

### 23.104 PERMIT REQUIRED

It shall be unlawful for any person to peddle, sell, solicit, canvass, or take orders for any services, merchandise, or goods, or any article of value including, but not limited to, plants, flowers, paintings, novelties, painting house numbers on streets, firewood, books, magazines, photographs, articles for future delivery, or amusement park event tickets, on a sidewalk, greenbelt, or parkway, in any public place, or from door to door within the City without having first obtained a permit therefor from the City stating the location at which such activity is authorized.

Each person engaged in peddling, soliciting or selling must have a permit issued under the terms of this section, and such permit shall be personal to the applicant and shall not be reproduced nor assigned nor transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.

Permits are issued for either one day or 30 days. Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this chapter, and such permit shall indicate the hours when peddling, soliciting and selling within the City are permitted in accordance with the provisions of this chapter.

A permit shall not be issued to any person under 14 years of age, except students of a local school, and members of the Girl Scouts of America, the Boy Scouts of America, or similar public or non-profit organizations. A permit application by a person under 14 years of age must be cosigned by an adult teacher, school administrator, leader, or

sponsor of the organization.

#### 23.105 PERMIT APPLICATION

Each application for a permit required by this chapter shall be submitted to the City Secretary or designate in writing and shall set out the following:

- a. The name of the applicant, with his permanent residence
- b. The name and address of the firm or persons represented
- c. The license plate number of any/all vehicles to be used by the permittee
- d. The kind, type and character of goods or services the applicant proposes to offer for sale
- e. The names of any cities where the applicant has worked within the previous 30 days
- f. Whether or not the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude
- g. The state driver's license number or a state-approved identification card number, to be verified by the city official issuing the permit
- h. The social security number
- i. A copy of limited state sales tax permit or proof that the goods are not subject to such sales tax
- j. Whether or not the applicant has ever had a similar license or permit revoked and, if so, the reasons therefore and the city in which the revocation occurred
- k. Whether the applicant seeks a one day or 30-day permit

#### 23.106 PERMIT DISPLAY

The permit shall be carried on person or posted in public view while selling. It shall be unlawful for any person to sell or solicit in the City without carrying the permit or displaying it in a booth or place of business while engaged in such soliciting or selling.

Every solicitor, peddler or seller shall identify himself as a salesman upon approaching a citizen in a public place or at a private dwelling and explain his purpose, whether it be direct sales, solicitation or orders on the demonstration of goods or merchandise, or any combination of purposes therefrom, and shall produce for inspection, upon request by any person, the solicitor's permit issued by this City.

#### 23.107 PERMIT FEES

The permit fees for any peddler or solicitor permit shall be as follows:

- |                      |                          |
|----------------------|--------------------------|
| a. One day permit    | \$10                     |
| b. Thirty day permit | \$25 for first solicitor |

A one-day permit applies to each individual actively engaged in peddling or solicitation. Thirty-day permits may provide for one permit per firm, company, partnership, corporation or association, provided that each person, representative or employee wears a company photo identification badge at all times while engaging in such activities. For each additional person on a 30-day permit, a fee of \$10 per additional person is required with a limit of three persons per permit.

All license fees collected under this division shall be collected for purposes of compensation to the City for the services required of it and to partially defray the expenses of enforcement of this chapter.

#### 23.108 EXEMPTIONS

The following persons or entities engaged in the activities set out in this article shall

submit a permit application as set forth in Section 23.105, but shall be exempt from the payment of any permit fees upon showing they qualify as one or more of the following:

- a. Any person attending and representing a local high school, intermediate school, or elementary school, member of the Boy Scouts of America, member of the Girl Scouts of America, or a member of a local religious youth organization who is selling or taking orders for merchandise.
- b. Persons with religious organizations engaged in the sale or distribution of religious literature or in soliciting for subscriptions for religious purposes, including religious newspapers, books and magazines.
- c. Non-profit organizations seeking contributions for a charitable purpose such as United Way, Multiple Sclerosis, American Heart Association, Muscular Dystrophy, American Cancer Society, Boy Scouts of America, and Girl Scouts of America;
- d. Public utility companies operating under a franchise granted by the City; and
- e. Insurance salespersons, real estate salespersons and other licensed by the state.

#### 23.109 INVESTIGATION

If the City Secretary determines that an investigation, either state driver's license check or criminal history, is deemed necessary, the applicant will be required to produce certified copies prior to the determining of qualifications for a permit.

If, as a result of the investigation, the City Secretary finds the applicant does not meet the requirements set forth in this article, or, in the case of a permit for use on public property, for any lawful reasons, the permit may be denied with the reasons for the disapproval noted on the application. Any person denied a license may appeal the denial to the City Council in writing within ten calendar days of receiving notice of the denial.

#### 23.110 PENALTIES; CIVIL REMEDIES; PERMIT FORFEITURE

Any person convicted of violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of up to \$500 per day for each day of violation.

The City, in addition to imposing the penalties provided above, may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations. The definition of any violation of the terms of this section shall not preclude the City from invoking the civil remedies given it by the laws of the state, but such remedies shall be cumulative and subject to prosecution as prescribed in this section for such violations.

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 of this chapter shall, upon conviction, be punished as set forth in this chapter; provided, however, that the court trying such 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 judgment in such cause, a forfeiture of such permit as such person may have procured under this chapter. 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 under this chapter shall be issued to such person for the remaining period of such permit year.

It shall be the duty of any police officer of the City to enforce this chapter. Any police officer of the City may require any person seen peddling or soliciting to produce this permit. If the person fails to immediately produce a permit, the police officer may order the person to cease peddling and issue a citation.

The City Manager may revoke a permit if the permit holder violates this chapter, was dishonest on the permit application, or peddles or solicits in a manner that breaches the peace, or menaces the health, safety, or general welfare of the public.

A person may appeal the action of the City Manager or City Secretary in regard to permit revocation or other matters related to permits under this chapter. Such appeal shall be taken by filing with the City Secretary, within 10 calendar days of the action complained of, a written statement setting forth fully the grounds for appeal and such other relevant information as the appealing party wishes to bring to the attention of the City Council. The City Council will set the date, time, and place of a hearing of such appeal and notice of the date, time, and place of the hearing will be sent to the appealing party by certified mail, return receipt requested, addressed to the address provided by the applicant on the permit application unless the appealing party provides a different address for notice in the written statement appealing the action. The decision and order of the City Council after hearing and considering the appeal shall be final and conclusive.

## **SEC. 23.200 TELEPHONE SOLICITORS**

### **23.201 REGULATIONS**

It shall be unlawful for any person to have installed or to continue to maintain telephone service at any place within the City for the purpose of making solicitations of any kind whatsoever without first obtaining a permit from the City. It shall constitute an offense whether the solicitations intended shall be for profit or non-profit, and whether for the purpose of soliciting orders for any merchandise, or for any service, or to advertise or promote any product, service, organization, enterprise or establishment, or to solicit any dues, contributions, subscriptions, premiums, payments, or donations for any group, organization, person or project whether religious, charitable, fraternal, civil, professional, or commercial.

### **23.202 PERMIT FEES**

Fee for such permit shall be one hundred fifty dollars (\$150.00) for each calendar year, plus fifty dollars (\$50.00) per calendar year for each additional telephone installed or maintained for the purpose indicated on the permit.

### **23.203 CHAPTER PROVISIONS TO APPLY**

All of the other provisions of this chapter, insofar as they can be made applicable, shall apply fully to telephone solicitors.

## **23.300 OFFENSE**

Any person, firm, or corporation violating any provisions of this Chapter shall be guilty of a misdemeanor. (Amended 2000-01; 01/19/2000)