

TITLE

AN ORDINANCE TO AMEND TITLE 9, TITLED "BUSINESSES, PEDDLERS, SOLICITORS, ETC.," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 1, TITLED "PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS," AND SUBSTITUTING THEREFOR A NEW CHAPTER 1, TITLED "PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS," IN ORDER TO UPDATE THE PROVISIONS.

WHEREAS, the City of Oak Ridge desires to update the provisions on door-to-door solicitations, peddling, and canvassing to provide for clarification of provisions and to increase public safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. The Code of Ordinances, City of Oak Ridge, Tennessee, Title 9, titled "Businesses, Peddlers, Solicitors, Etc.," is hereby amended by deleting Chapter 1, titled "Peddlers, Solicitors and Itinerant Merchants," in its entirety and substituting therefor a new Chapter 1, titled "Peddlers, Solicitors and Itinerant Merchants," which new chapter shall read as follows:

**Chapter 1
Peddlers, Solicitors and Itinerant Merchants**

§9-101. Definitions

Whenever used in this chapter, unless the context requires otherwise, the following definitions shall apply:

"City Manager" means the City Manager of this city or the City Manager's duly authorized designee.

"Merchandise" means and includes all personal property of whatever kind, whether tangible or intangible, including but not limited to, goods, wares, produce, insurance, stocks and bonds.

"Non-profit organization" means and includes any non-profit organization as defined by and qualified under the rules and regulations of the Internal Revenue Service.

"Permittee" means the person holding a valid permit issued under this chapter.

Solicit" means and includes offering merchandise for sale, barter or exchange, whether for present or future delivery, or in any manner disposing of personal property by peddling or hawking the same.

Solicitor" means and includes peddler, huckster or itinerant merchant and all persons of any age who solicit, attempt to solicit, sell, barter, exchange or offer to sell, barter or exchange, and includes person soliciting on behalf of a nonprofit organization.

§9-102. Permit Required

It shall be unlawful for any person to solicit the sale of merchandise or the furnishing of a service within the city without first obtaining a permit therefor in compliance with the provisions of this chapter. Furthermore, no person shall solicit contributions or the sale of merchandise for a nonprofit organization unless the organization first obtains a permit therefor in compliance with this chapter.

§9-103. Application for permit (except non-profit organizations)

- (a) Applicants for a permit under this chapter must file with the Utility Business Office a sworn written application, on a form provided by the City, which shall at a minimum contain the following:
- (1) Name and physical description of the applicant. In the case of a nonprofit organization, a list of all proposed solicitors, if such a list is available.
 - (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
 - (3) Personal identity information as may be required to conduct a thorough background check on the individual.
 - (4) A brief description of the nature of the business and any goods to be sold.
 - (5) If applicant is employed, the name, address and telephone number of the employer, together with credentials therefrom establishing the exact relationship and authority of the employee to act for the employer. If the person is acting as an agent, the name, address, and telephone number of the principal being represented shall be provided along with credentials establishing the relationship and the authority of the agent to act for the principal.
 - (6) The length of time for which the right to do business is desired.
 - (7) The names of at least two (2) reputable local property or business owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
 - (8) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or ordinance violation other than traffic violations; the nature of the offense or violation; and the punishment or penalty assessed therefor, the date and location where such offense or violation occurred and other pertinent details thereof.
 - (9) Proof of possession of any permit or license which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the permitting requirements of this chapter.
 - (10) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
 - (11) The applicant's consent for the City to conduct a background investigation, including a review of the applicant's criminal and civil records.
- (b) At the time of application, the applicant must cooperate in the recording of a digital photograph which will be placed on file and be used in the printing of the solicitor's permit, should such permit be approved.

- (c) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application.

§9-104. Application for non-profit permit

- (a) Applicants for a permit under this chapter for non-profit purposes must file with the Utility Business Office a sworn written application, on a form provided by the City, which shall at a minimum contain the following:
 - (1) Name of the non-profit organization represented, its principal address or place of business, tax exempt certification number and the nature of the beneficiaries of its efforts.
 - (2) The name, contact information and complete permanent home address and local address of a local representative of the organization who will be responsible for all canvassers; in the case of such not being local, the local address from which solicitations will be made, along with such personal identity information as may be required to conduct a thorough background check on that individual.
 - (3) A brief description of the nature of the solicitation.
 - (4) The length of time for which the permit is desired.
 - (5) The names, addresses and contact information of all canvassers to be involved in the effort and a statement by the local representative that all canvassers are personally known to be of good moral character and not to have been convicted of any felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property, or fraud, deceit or misrepresentation, or moral turpitude within the last ten (10) years.
 - (6) The applicant's consent for the City to conduct a background investigation, including a review of the applicant's criminal and civil records.
- (b) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application.

§9-105. Fees

At the time of application, the applicant shall pay a non-refundable fee to cover the cost of processing the application and investigating the facts stated therein. The permit fee shall be established by resolution of City Council.

§9-106. Investigation of Applicant; Issuance or Denial of Permit

- (a) Upon receipt of the application and payment of the fee, the Utility Business Office shall cause an investigation to be made of the applicant's moral reputation or business responsibility and conduct a background investigation of the applicant. If the applicant's application is complete and the investigation is satisfactory, a permit shall be issued to the applicant. The permit shall be prepared by the City and shall include a current photo of the permittee. A list of all permits issued shall be kept for two (2) years from the date of issue.
- (b) The City may deny the application for any of the following reasons:

- (1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - (2) An investigation reveals the applicant falsified information on the application;
 - (3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property within the last ten (10) years;
 - (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the last ten (10) years;
 - (5) The applicant has been convicted of a crime of moral turpitude within the last ten (10) years;
 - (6) There is no proof of authority for the applicant to serve as an agent of the principal; or
 - (7) The applicant has been denied a permit under this chapter within the last year, unless the applicant can and does show to the satisfaction of the City that the reasons for such earlier denial no longer exist.
- (c) The reason(s) for denial of a permit shall be noted on the application and the applicant shall be notified that his or her application has been denied and that no permit will be issued. The notice shall also inform the applicant of the appeal process. Notice shall be mailed to the applicant's address as listed on the application.

§9-107. Bond

All solicitors requiring cash deposits shall furnish to the City a bond in the amount of ten (10) times the solicitor's highest deposit amount and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with the permittee that the merchandise purchased will be delivered according to the representations of the permittee. Action on the bond may be brought by any person aggrieved and for whose benefit the bond is given, but the surety may by paying the face amount of the bond pursuant to court order to the clerk of court in which the suit is commenced be relieved without costs of all further liability.

§9-108. Proper Conduct During Solicitation

- (1) **Hours of Solicitation.** Solicitation is allowed between the hours of 9:00 a.m. and 9:00 p.m. from April through October and between the hours of 9:00 a.m. and 7:30 p.m. from November through March, it being the intent that door-to-door solicitation occur during daylight hours for safety and visibility of the solicitors and at times when citizens feel secure in their homes to receive unexpected visitors. Solicitation outside of these hours is a violation of this chapter.
- (2) **Not Transferrable.** It is a violation of this chapter a permit issued under this chapter to be used at any time by any person or organization other than the one to whom it is issued.
- (3) **Display of Permit.** Every person issued a permit under this chapter shall clearly display said permit on his or her person at all times while solicitation is in process and allow inspection of said permit by the occupant of the private premises upon which the person

is soliciting. Further, every person issued a permit under this chapter shall produce the same at the request of any police officer or city employee. Failure to adhere to these requirements is a violation of this chapter.

- (4) **No Solicitation Signs.** It is a violation of this chapter and deemed to be trespass for any person, whether permitted or not, while conducting the business of a peddler or solicitor to fail to comply with posted signs such as "no solicitors," "no peddlers," "no solicitation," and signs of similar meaning when posted on private property unless such person is or has been invited upon the premises by the occupant thereof.
- (5) **Trespass.** It is a violation of this chapter and deemed to be trespass for any permittee acting under this chapter to fail to promptly leave the private premises of any person who requests, asks or directs the permittee to leave.
- (6) **Aggressive Manner.** It is a violation of this chapter for permittees to act in any manner which could be reasonably be considered aggressive, coercive, threatening, harassing or abusive, such as using obscene or profane language, intimidation, or unwelcome physical contact.
- (7) **False or Misleading.** It is a violation of this chapter for permittees to knowingly make a false or misleading statement or representation in the course of soliciting. This includes, but is not limited to, stating that a donation is needed to meet a specific need when there are already sufficient funds to meet that need or stating that a donation is needed to meet a need that does not exist.
- (8) **Shouting, using horns, bells, etc.** No person holding a permit under this chapter, or any person on his or her behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell.
- (9) **Use of Streets.** No person holding a permit under this chapter shall have any exclusive right to any location near the public streets or be permitted a stationary location thereon, nor shall any such person be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets, nor shall any such person be permitted to accept orders for goods or sell directly from a vehicle of any kind while standing in a public street. For the purpose of this section the judgment of the City Manager, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

§9-109. Expiration and Renewal of Permits

Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed, without cost, if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year, except permits issued to non-profit organizations, which shall be issued for two (2) years. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed.

§9-110. Revocation or Suspension of Permit

- (1) Permits issued under the provisions of this chapter may be revoked by the City Manager, after notice and hearing, for any of the following causes:
 - (a) Fraud, misrepresentation, or incorrect statement contained in the application (that was not revealed during the initial investigation), or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
 - (b) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, 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, or general welfare of the public.
 - (c) Conviction of any crime, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, fraud, theft, deceit, misrepresentation or any violent act against persons or property within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application;
 - (d) Conviction of any crime involving moral turpitude within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application; or
 - (e) Any violation of this chapter.
- (2) Notice of the hearing for revocation of a permit under this section shall be given by the City Manager in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at the address listed on the application at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.
- (3) When reasonably necessary in the public interest, the City Manager may suspend a permit issued under this chapter pending the revocation hearing.
- (4) No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the date of revocation.

§9-111. Appeal

- (1) Any person aggrieved by the action or decision to deny, suspend or revoke a permit applied for under the provisions of this article shall have the right to appeal such action or decision to the City Manager within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application.
- (2) An appeal shall be taken by filing with the City Manager a written statement setting forth the grounds for the appeal.
- (3) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.
- (4) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.

- (5) The decision of the City Manager on the appeal shall be final and binding on all parties concerned.

§9-112. Exemptions

The provisions of this chapter shall not be applicable to persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business, sellers responding to a prior invitation by the owner or occupant of a residence, or to bona fide candidates, campaign workers and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency. The provisions of this chapter are also not applicable to students enrolled in grades K through 12 while engaged in fundraising activities, or any persons under the age of eighteen (18) except when they are agents of a for-profit organization.

Any other person or organization claiming to be legally exempt from the regulations set forth in this chapter, or from the payment of a fee, shall cite to the Utility Business Office the statute or other legal authority under which exemption is claimed and shall present proof of qualification for such an exemption.

§9-113. Violations.

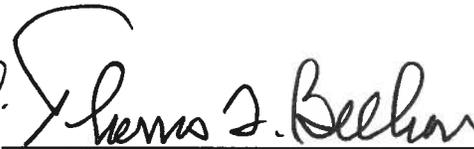
Any person violating the provisions of this chapter shall, upon conviction, pay a fine not to exceed fifty dollars (\$50.00) for each offense. Every day such violation continues shall constitute a separate offense.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

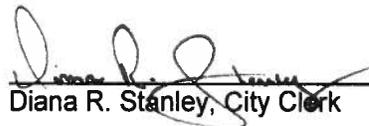
APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney



Thomas L. Beehan, Mayor



Diana R. Stanley, City Clerk

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