

ORDINANCE: 02-17

AN ORDINANCE REGULATING PEDDLERS, SOLICITORS, HAWKERS, ITINERANT VENDORS, AND PANHANDLERS WITHIN THE CITY LIMITS OF HAWLEY, JONES COUNTY, TEXAS. PROVIDING REQUIREMENTS FOR PERMITS; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR THE REPEAL OF PRIOR ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAWLEY, TEXAS:

Section I. PURPOSES AND DEFINITIONS

1. The purpose of this article shall be an exercise of the police power of the state and of the city to protect health, life, property, and welfare of the citizens of the City of Hawley, Jones County, Texas against unwarranted and unreasonable solicitations.

2. Peddler. A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A "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 the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor."

3. Solicitor. A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

(A) Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service; or

(B) Distributing a handbill or flyer advertising a commercial event or service.

4. Itinerant vendor or hawk. A person who sets up and operates a temporary business on privately owned property, whether improved or unimproved, in the city, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A temporary business is one that continues for forty-five days or less; and, exists whether solicitation is from a stand, vehicle, or freestanding.

Section IV. RIGHT TO SOLICIT UPON SPECIFIC PROPERTY

It shall be unlawful for any person to use any lot, parking lot, building, structure, or area within the city limits of the City of Hawley, Jones County, Texas for the purpose of soliciting persons passing by the property without written documentation showing the person is the owner or lessee of the property or has specific authorization from the owner or lessee of the property for the specific use of the property to solicit.

SECTION V. PERMIT REQUIRED

It shall be unlawful for "peddlers", "solicitors" or "hawkers" to sell, offer for sale, or take orders for the sale of goods, wares, merchandise, services, or any other commodities for immediate delivery or future delivery without first applying for and obtaining a permit to do so from the City Secretary at City Hall.

SECTION VI. EXCEPTIONS

This article shall not apply to a federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer. Further, this article shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, bakery products, vegetable, poultry, eggs or other farm and garden products which have been raised or produced by the seller; daily deliveries of milk and bakery or other food products; newspaper distribution; ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying and selling and dealing goods or merchandise; sales or exhibits at fairs, rodeos, conventions or events sponsored by the city, the county, civic organizations located in the county, religious organizations, public schools, or the city's chamber of commerce.

SECTION VII. APPLICATION FOR PERMIT

1. Any person desiring to engage in the business of peddling, soliciting, or hawking of goods, wares, merchandise, services, or any other commodities within the city limits of the City of Hawley, Jones County, Texas shall first file a written application for permit with the City Secretary at City Hall. If more than one (1) person is representing an individual or a company each person representing said individual or company shall apply for a permit. No group permits shall be issued under this article.

SECTION VIII. PERMIT FEE

At the time of application each applicant shall be required to submit a non-refundable permit fee payment of seventy-five dollars (\$75.00) in the form of cashier's check or money order made payable to the City of Hawley.

SECTION IX. ISSUANCE OF PERMIT

The peddler/solicitor license shall be issued promptly after application but in all cases within five (5) business days of completion of an application, unless it is determined within that time that:

1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years;
2. With respect to a particular license, the individual for whom a license is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven years; or
3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

SECTION X. INVESTIGATION

During the time following the application for one or more peddler/solicitor permits and its issuance, the city shall investigate as to the truth and accuracy of the information contained in the application. If the city has not completed this investigation within the five (5) business days provided in Section IX, the peddler's license will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation.

SECTION XI. DURATION OF PERMIT

All permits issued under this article shall be valid from 9:00 am to 5:00 pm within the seventy-two (72) consecutive hour period in which said applicant has requested to

hearing on the revocation or denial, the city council shall by majority vote either sustain the action or issue an order reinstating the license.

4. In the event of the filing of an appeal from a revocation issued under the provisions of this article, then, until such appeal has been determined by the city council, such revocation order shall be stayed.

SECTION XV. REVOCATION OF LICENSE BY MUNICIPAL COURT JUDGE

A municipal court judge, in addition to imposing a fine, may institute proceedings to suspend or revoke the license of a person if the person is required by law to obtain a peddler license from the city and the judge finds the person guilty of violating a city ordinance relating to peddlers.

PASSED AND APPROVED ON THIS 14 DAY OF FEB 2017.

Mayor- William Richardson

ATTEST:

City Secretary- Surenda Lord



5. Panhandling. The term "panhandler" or "panhandling" shall be defined as any solicitation made in person, requesting an immediate donation of money or other thing of value.

Section II. GENERAL PROHIBITIONS

No peddler, hawker, or solicitor shall:

1. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting and/or trespassing. Such sign need not exceed one square foot in size and may contain words such as "no soliciting" "no solicitors" or "no trespassers" in letters of at least two inches in height.
2. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting", "no solicitors", or "no trespassers" and which is clearly visible to the peddler, solicitor or trespasser.
3. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.
 - (A) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
 - (B) Enter upon the property of another except between the hours of 9:00 a.m. and 5:00 p.m. Except that the above prohibitions shall not apply when the peddler, hawker, solicitor, or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.
5. For a commercial solicitor, peddler, or hawker to solicit for a purpose other than that set out in the application upon which the permit was issued.

SECTION III. PANHANDLING

It shall be unlawful for anyone to panhandle within the city limits of the City of Hawley, Jones County, Texas.

2. Application for Permit shall be filed a minimum of five (5) working days before the seventy-two (72) consecutive hour time period on which the applicant intends to peddle or solicit goods, wares, merchandise, services, or any other commodities.

3. Application for Permit shall contain the following information:

- A. Applicants name and current address;
- B. The name and address of any person or company of which said applicant represents;
- C. A copy of a state issued photo I.D. or Drivers License
- D. The name of the immediate last three (3) preceding towns in which the applicant has worked; if any;
- E. The kinds of goods, wares, merchandise, services, or commodities offered or to be offered for sale;
- F. Whether such applicant upon any such order obtained will demand, accept, or receive payment or deposit of money in advance of the final delivery;
- G. The exact day the applicant wishes to start too sell, solicit, or take orders within the city limits of the City of Hawley, Jones County, Texas
- H. The Right Thumb Print of the applicant. The thumb print shall be kept as a permanent record by the Police Department;
- I. A copy of the sales tax permit of said applicant or the company that said applicant represents;
- J. A complete description of the vehicle (Make, Model, Year, License Number, Vehicle Identification Number, and Color) said applicant will be using for transportation to and from or within the city limits of the City of Hawley, Jones County, Texas.

4. If applicant is representing another person or company, said applicant shall provide satisfactory written proof of his/her authority to represent said person or company.

sell or solicit on permit application. Once permit has expired, applicant must re-apply for permit. **No permits will be valid on Sundays.**

SECTION XII. POSSESION OF PERMIT

Each peddler/solicitor permit shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the individual or otherwise displayed, as so to be reasonably visible to any person who might be approached by said person. Each peddler/solicitor shall carry the state issued DL or ID used to apply for permit on them at all times.

SECTION XIII. VIOLATIONS

Any person violating any part of this article or failing to observe any provision of this article shall be deemed guilty of a class C misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars plus court cost and fees. Every day the violation continues shall be deemed as a separate offense.

SECTION XIV. REVOCATION

1. Grounds. Any license issued hereunder may be revoked if the license holder is convicted of a violation of any provisions of this article or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a license under the terms of this article. Any permit issued hereunder may be revoked if the Police Department or any Texas Peace Officer, Mayor, City Council, or City Secretary deem it necessary due to complaints or concerns by citizens or the general public due to aggressive selling tactics, rude behavior, refusal to leave property, or any other behavior that is not deemed appropriate.

2. Notice. If the issuing officer denies (or upon completion of an investigation revokes) the peddler license to one or more persons he shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant.

3. Appeal: hearing. The licensee shall have ten (10) days from the date of revocation or denial in which to file notice of his appeal to the city council from the order denying or revoking the license. The applicant shall have at his option an appeal of the denial of his application before the city council, at its next regular meeting subject to the applicable posting requirements of the Texas Open Meetings Act. After holding the