

## **ARTICLE 4.200 ITINERANT MERCHANTS, PEDDLERS AND VENDORS\***

### **Sec. 4.201 Definitions**

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

Charitable. Means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.

Contributions. Mean and include the words alms, money, subscription, property or any donations under the guise of a loan or money or property.

Peddler. Means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as art of the scheme to evade the provisions of this article.

Peddling. Includes all activities ordinarily performed by a peddler as indicated under the definition of peddler above.

Person. Means a natural person or any firm, corporation, association, club, society or other organization.

Solicitor. Means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof 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 also includes any person who, without invitation, goes upon private property to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious or other non-commercial purposes.

Solicitation. Includes all activities ordinarily performed by a solicitor as indicated under the definition of solicitor above.

### **Sec. 4.202 Permit Requirements and Exemptions**

It shall be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of Sanger without first obtaining a permit issued by the city secretary; provided however, that the following are exempted from the provisions of this section:

- (1) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
- (2) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;
- (3) Any solicitation in the form of a collection at a regular meeting, assembly or service of charitable organization;
- (4) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.

 **Sec. 4.203 Permit for Sponsoring Juvenile Peddlers**

- (a) No person under the age of eighteen (18) shall be permitted to engage in peddling except as provided in this section.
- (b) A permit shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of one (1) or more persons under eighteen (18) years of age.
- (c) The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.
- (d) The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling or soliciting.

 **Sec. 4.204 Permit Application**

Every person subject to the provisions of this article shall file with the city secretary an application in writing on a form furnished by the city which shall provide the following information:

- (1) Date of birth, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors) or other legally recognized form of identification;

- (2) Names, addresses, driver's license numbers or other legally recognized form of identification of all persons who may act as agent or employee of the applicant;
- (3) A brief description of the business or activity to be conducted or goods to be sold;
- (4) If employed, the name, address and telephone number of employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
- (5) The length of time for which the right to peddle or solicit is desired;
- (6) The applicant's state sales and use tax permit number, if required by law in order to conduct the proposed business, or proof of exemption if none is required;
- (7) If a vehicle is to be used, make, model, color and license number shall be provided;
- (8) Whether applicant, upon sale or order, shall demand, receive or accept deposit or total payment in advance of final delivery.

(Ordinance 10-11-98 adopted 10/19/98)

- (9) Signed authorization for the city police department to conduct an individual criminal background check by all persons who may act as an agent or employee of the applicant and who may be going door to door within the city. (Ordinance 08-32-07 adopted 8/6/07)

#### **Sec. 4.205 Fees**

A fee which is set out in the fee schedule in the appendix of this code shall be paid prior to the issuance of a permit for each solicitor or peddler. When any solicitor or peddler shall engage in an activity through one or more agents or employees, in addition to the fee for the applicant, a permit fee shall be paid for each agent or employee so engaged, and the fee shall entitle the agent or employee to a permit for the same term and upon the same conditions as that of the primary permit. No permit fee shall be refunded. (Ordinance 10-11-98 adopted 10/19/98)

#### **Sec. 4.206 Exemption From Fees**

No fee shall be required of those persons engaging in interstate commerce. (Ordinance adopting Code)

 **Sec. 4.207 Application Review and Permit Issuance**

- (a) Upon receipt of an application, the city secretary shall review the application as deemed necessary to ensure compliance with Section 4.204.
- (b) If the city secretary shall endorse his/her approval on the application and shall, upon payment of the prescribed fee, issue the required permit to the applicant.
- (c) The permit shall show the name, address and driver's license number of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance and the length of time that the permit will be in effect. The permit will also show the permit number.

 **Sec. 4.208 Denial of Permit**

- (a) Upon the city secretary's review of the application, he/she may refuse to issue a permit to the applicant 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 that the applicant falsified information on the application;
  - (3) There is no proof as to the authority of the applicant to serve as an agent to the principal; or
  - (4) The applicant has been denied a permit under this article within the immediate past year, unless the applicant can and does show to the satisfaction of the city secretary that the reasons for such earlier denial no longer exist.


- (b) The city secretary's disapproval and reasons for disapproval shall be noted on the application, and the applicant shall be notified that his application is disapproved and that no permit be issued.

 **Sec. 4.209 Permit Expiration**

All permits issued under the provisions of this article shall expire twelve (12) months from the date of issuance, unless an earlier expiration date is noted on the permit.

 **Sec. 4.210 Permit Exhibition**

Every person required to obtain a permit under the provisions of this article shall exhibit the permit when requested to do so by any prospective customer, city employee or police officer.

 **Sec. 4.211 Transfer Prohibited**


It shall be unlawful for any person other than the permittee to use or exhibit any permit issued under the provisions of this article.

 **Sec. 4.212 Entry Upon Signed Premises Unlawful**

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a solicitor or peddler, to enter upon any residential premises 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.

 **Sec. 4.213 Hours of Solicitation**

No person, while conducting the activities of a solicitor or peddler, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 8:00 p.m. and 8:00 a.m.

 **Sec. 4.214 Permit Revocation**

Any permit issued under this article may be revoked or suspended by the city secretary after notice and hearing for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for a permit;
- (2) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
- (3) Conducting solicitation or peddling activities contrary to the provisions contained in this article;
- (4) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute breach of peace or endanger the health, safety or general welfare of the public.

 **Sec. 4.215 Notice and Hearing**

Notice of a hearing for revocation of a permit issued under this article shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on a permit application or at the last known address of the permittee.

#### **Sec. 4.216 Appeals**

(a) Any person aggrieved by the action or decision of the city secretary 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 form, or to his last known address.

(b) An appeal shall be taken by filing with the city secretary a written statement setting forth the grounds for the appeal.

(c) The city secretary shall transmit the written statement to the city manager within ten (10) days of its receipt and the city manager shall set a time and place for a hearing on a appeal.

(d) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.

(e) Notice of 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.

(f) The decision of the city manager on the appeal shall be final and binding on all parties concerned.

#### **Sec. 4.217 Enforcement**

It shall be the duty of any police officer of the city to require any peddler or solicitor who is not known by such officer to be duly permitted, to produce his permit and to enforce the provisions of this article against any person found to be violating the same.

#### **Sec. 4.218 Claims of Exemption**

Any person claiming to be legally exempt from the regulations set forth in this article, or from the payment of a permit fee shall cite to the city secretary the statute or other legal authority under which exemption is claimed and shall present to the city secretary proof of qualification for such exemption.


(Ordinance 10-11-98 adopted 10/19/98)

 **Sec. 4.219 Solicitation in Streets and Public Rights-of-Way**

No person shall stand in any public street, highway, roadway, street or road right-of-way to stop or attempt to stop a vehicle to engage any person in such vehicle for the purpose of:

- (1) Soliciting contributions;
- (2) Selling or attempting to sell any service or thing to any person in any vehicle;
- (3) Handling or attempting to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift;
- (4) Soliciting or attempting to solicit a ride in such vehicle; or
- (5) In any manner attempting to interfere with, impede, slow or stop the normal flow of vehicular traffic for any other similar purpose.

(Ordinance 01-01-10 adopted 1/4/10)

 **Sec. 4.220 Violations and Penalty**

(a) Violation of any of the provisions of this article shall upon conviction be punishable by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code for each offense, and each and every day such violation shall continue shall constitute a separate offense.

(b) In addition to any criminal enforcement, the city or any individual may pursue any available civil remedies deemed appropriate and necessary.

(Ordinance 09-25-02 adopted 9/16/02)