

## Chapter 54 PEDDLERS AND SOLICITORS<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 54-1. Definitions.

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

*Charitable purpose* means the use of money or property for the benefit of:

- (1) Charity or philanthropy, or poor, impoverished, destitute, underprivileged, needy, refugee, diseased, injured, crippled, disabled, or handicapped persons, or persons in need of rehabilitation;
- (2) A church, religious society or other religious sect, group or order;
- (3) Patriotism, that is, for the teaching of patriotism or the relief or assistance of veterans or veterans' organizations; or
- (4) Existing educational institutions or for the establishment or endowment of educational institutions or in aid of the education of any person or group of persons.

*Charitable solicitation* means the conduct whereby a person, organization, society, corporation, or its agent, member or representative:

- (1) Solicits property, financial aid, gifts in money, or any article representing monetary value;
- (2) Sells or offers to sell a product, article, tag, service, publication, ticket, advertisement or subscription; or
- (3) Holds, promotes, or participates in an entertainment, sports event, benefit dance, fair, bazaar, or other type of organized social entertainment;

on the plea or representation, whether express or implied, that the proceeds from the solicitation, sale, or entertainment are for a charitable purpose.

*Engaging in interstate commerce* means the soliciting, selling or taking orders for any goods, wares or merchandise which, at the time the order is taken, are in another state or will be produced in another state and shipped into this state in fulfillment of such orders.

*Solicitor* means any person who goes from house to house or from place to place in the city soliciting, selling or taking orders for any services, goods, wares or merchandise, or any nature or kind whatsoever.

Cross reference(s)—Definitions generally, § 1-2.

#### Sec. 54-2. Penalties; civil remedies; license forfeiture.

- (a) Any person violating any of the terms or provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-14.

---

<sup>1</sup>Cross reference(s)—Businesses, ch. 26; noise regulations, § 34-246 et seq.; noises involving peddling, § 34-251.

- 
- (b) In case of any willful violation of any of the terms and provisions of this chapter, the city, in addition to imposing the penalties provided in this section, may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations; and the definition of any violation of the terms of this chapter as a misdemeanor 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 hereinabove prescribed for such violations.
- (c) Each day's engaging in the business regulated by this chapter without the payment of the fee due thereon, and procuring a receipt, or license therefor, 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 hereof shall, upon conviction, be punished therefor as provided in this section; provided 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 decree a part of the judgment in such cause, a forfeiture of such license as such person may have procured under this chapter. However, in the event of such forfeiture of license, no part of such license fee as may have been so paid shall be refunded to such person, and no further license shall be issued to such person for the remaining period of such license year under this chapter.

**Secs. 54-3—54-30. Reserved.**

***ARTICLE II. LICENSE***

**Sec. 54-31. Required.**

It shall be unlawful for any person to conduct himself as a solicitor without having first obtained a license therefor from the city, except that where the person who will be soliciting is under the age of 16 years, such person shall be supervised by a person who is over the age of 16 years and who shall obtain a license on behalf of the person to be supervised.

**Sec. 54-32. Application.**

Each application for a license shall be in writing under oath and shall set out the following:

- (1) The name of the applicant, with his permanent residence.
- (2) The name and address of the person he represents.
- (3) The kind, type and character of goods he will offer for sale.
- (4) The names of any cities where the applicant has worked in the previous 30 days.
- (5) Whether or not the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude, and if the applicant has been so convicted, state the nature of the offense and the punishment or penalty assessed thereof.

**Sec. 54-33. Fees; term; exemptions from fees.**

The license fee for a solicitor under this chapter shall be listed in appendix A. Provided, however, when a person engages in such activity, through one or more agents or employees, such person shall, in addition to such fee, pay a license fee listed in appendix A for each agent or employee so engaged, all of which licenses shall be valid for one year from the date of their issuance. The fee for the replacement license that is within one year from the date of original issuance of license shall be as listed in appendix A. The license fee shall not be required of

---

those engaging in interstate commerce, nor those conducting charitable solicitations, nor of vendors of farm or dairy products.

**Sec. 54-34. Investigation of applicant.**

It shall be the duty of the chief of police to investigate each applicant for a license under this chapter and make a report thereof to the city manager before issuance of such a license.

**Sec. 54-35. Issuance.**

It shall be the duty of the city manager to issue or refuse to issue a license under this chapter not later than two weeks from the time the application therefor is received by him.

**Sec. 54-36. Bond.**

The application for a license shall be accompanied by a bond in the sum of \$1,000.00, signed by the applicant, and signed as surety by some surety company authorized to do business in the state, conditioned for the final delivery of goods, wares, merchandise, or services of any nature whatsoever in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any purchasers or customers for any defects in material or workmanship that may exist in the article sold by the principal of such bond at the time of delivery, and that may be discovered by such purchaser or customer within 30 days after delivery, and which bond shall be for the use and benefit of all persons who may make any purchase or give any order to the principal of such bond, or to a agent or employee of the principal; provided that in case the applicant is engaging in any activity as defined in section 54-1 through one or more agents or employees, such applicant shall be required to enter into only one bond, in the sum of \$1,000.00 as required in this section, which bond shall be made to cover the activities of all its agents or employees. This section shall not apply to those conducting charitable solicitations nor to vendors of farm or dairy products.

**Sec. 54-37. Exemptions to licensing requirements.**

- (a) *Commercial travelers, sales agents, legal sales, and established trade.* The provisions of this chapter shall not apply to 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 persons, or their authorized representatives, who have previously established with the owners or occupants of such private residences or property a regular business, trade, service or other contractual relationship.
- (b) *Newspaper solicitations.* The licensing requirements of sections 54-31 through 54-36 shall not apply to newspaper solicitations. However, it shall be unlawful for any person, firm or corporation to conduct newspaper solicitations except in compliance with this subsection and the other applicable sections of this chapter.

Each newspaper is required to notify the city secretary during the regular business hours of the city, and at least 12 hours in advance of such solicitation, of the date, time, and general location of the solicitation, and of the number of persons who will be soliciting. Each person conducting himself as a newspaper solicitor shall wear a badge or other form of identification which identifies the newspaper and is worn on a clearly visible location on the person.

**Sec. 54-38. Appeals.**

If the city manager refuses to issue a license under this chapter, the applicant shall have the right to appeal to the city council at its next regular meeting.

---

**Secs. 54-39—54-70. Reserved.**

### ***ARTICLE III. REGULATIONS***

#### **Sec. 54-71. Hours of operation.**

it shall be unlawful for any person acting as a solicitor to go in or upon the premises of a private residence in the city prior to 9:00 a.m. or after 9:00 p.m. of any day, Monday through Saturday, or at any time on Sunday, New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day. This section shall not apply to a visit to the premises as a result of a request or invitation made by the occupant.

#### **Sec. 54-72. Health certificate for peddlers of food products.**

It shall be the duty of the city manager, before issuing a license to peddlers of merchandise of edible quality, to require the applicant for the license to first secure from the health officer a health certificate prescribing that the applicant has been duly examined by the health officer and further that the applicant is free of all contagious and communicable diseases and that the issuance of a peddler's license will not in any way endanger the public health, general welfare and safety of the city and its inhabitants; provided that the health officer may make a reasonable charge to be paid by the applicant for conducting the physical examination and issuing the certificate. This section shall not apply to sale of candy, nuts, or other edibles prepared and packaged by a nationally recognized manufacturer or a manufacturer in this state meeting standards imposed by state and local health codes, if such packages are unbroken.

#### **Sec. 54-73. Cleanliness of food products and vehicles; honest weights and measures.**

Every person who shall comply with this chapter and shall sell, or offer for sale, any produce of edible quality shall at all times keep the produce in a clean and sanitary condition, and shall also keep their wagons, vehicles, or other conveyances in a clean and sanitary condition; and they shall not sell, or offer for sale, any unsound or unwholesome articles, nor shall they give, or make, any false weights or measures of any of the various articles as specified and covered by this section.

#### **Sec. 54-74. Prohibited conduct.**

It shall be unlawful for any solicitor to:

- (1) Misrepresent the purpose of the solicitation;
- (2) Misrepresent the affiliation of those engaged in the solicitation;
- (3) Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or to buy anything from that solicitor; or
- (4) Represent the issuance of any license under this chapter as an endorsement or recommendation of the solicitation.

State law reference(s)—Constitutes criminal trespass, V.T.C.A., Penal Code § 30.05.