

ORDINANCE NO. 2020-

AN ORDINANCE AMENDING CHAPTER 78 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY, TEXAS ENTITLED “PEDDLERS AND SOLICITORS” TO UPDATE AND REORGANIZE VARIOUS PROVISIONS TO BE COMPLIANT WITH STATE LAW AND REPEALING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY, TEXAS, ENTITLED “ADVERTISING”; PROVIDING FOR CODIFICATION, PUBLICATION, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

Section 1. That the Code of Ordinances is hereby amended to AMEND Chapter 78 entitled “PEDDLERS AND SOLICITORS” by deleting it in its entirety and replacing it with the language located on Exhibit A, which is attached and incorporated herein.

Section 2. That the Code of Ordinances is hereby amended to REPEAL Chapter 6 entitled “ADVERTISING” by deleting it in its entirety and replacing it with the following language:

Chapter 6 - RESERVED

Section 3. Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repealer. All other ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 6. Codification. It is the intent of the City Council of the City of League City, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

Section 7. Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of League City, upon passage of such Ordinance. The Ordinance shall take effect upon passage.

PASSED first reading the ____ day of _____, 2020.

PASSED second reading the ____ day of _____, 2020.

PASSED AND ADOPTED the ____ day of _____, 2020.

PAT HALLISEY
Mayor

ATTEST:

DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:

NGHIEM V. DOAN
City Attorney

EXHIBIT A

Chapter 78 - PEDDLERS AND SOLICITORS

ARTICLE I. - IN GENERAL

Secs. 78-1—78-30. - Reserved.

ARTICLE II. - SOLICITORS

DIVISION 1. - GENERALLY

Secs. 78-31—78-38. - Reserved.

Sec. 78-39. - Definitions.

As used in this division the following words have the meaning indicated:

Applicant is a person who submits the completed city application with the required documentation for a permit to canvas, peddle, or solicit in the city for commercial purposes. An applicant may be an individual person, organization, or corporation.

Application is the city's form for information, documentation, and any required attachments as described in the city's form, for submission by applicant to the chief of police or his designee for consideration of approval for a permit. The chief of police or his designee shall prescribe the city's form for the application. The application must be completed with all required information as described herein, including, but not limited to, the name, address, contact telephone number, current photograph, and driver's license number, of applicant, and each individual canvasser, peddler, or solicitor listed in the application. If applicant is an organization or corporation, the required information shall be provided by applicant's designated individual representative, including the designated individual representative's name, address, contact telephone number, current photograph, and driver's license, in addition to all other required information as described herein. Failure by applicant to provide all information as required may result in disapproval of the application.

Canvasser is a person who distributes commercial handbills or flyers door to door (without personal contact with an owner, resident, or occupant, of the residence) advertising any commercial goods, events, or services, for which a fee is required to be paid to by the occupant in order to obtain the advertised goods, services, or to attend or participate in the advertised event.

Crimes of moral turpitude include, but are not limited to, murder, voluntary manslaughter, rape, statutory rape, domestic violence, prostitution, fraud and crimes where fraud is an element, all theft offenses, blackmail, malicious destruction of property, arson, alien smuggling, harboring a fugitive, bribery or perjury.

Identification card is a document issued upon approval of an application by the chief of police or his designee to each individual canvasser, peddler, or solicitor, as listed in the application, pursuant to these regulations. The identification card shall be worn as described in section 78-65.

Individual means only a natural person.

Peddler is a person who attempts to make personal contact with an owner, resident, or occupant at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell any commercial goods or services for profit.

Permit is the document issued to an applicant by the chief of police or his designee upon approval of an application for canvassing, peddling, or soliciting under this division. Identification cards, with the name and current photograph of each individual canvasser, peddler, or solicitor shall be issued upon approval of the permit. If the applicant fails to provide the photographs as required, the permit shall be revoked.

Solicitor is a person who attempts to make personal contact with an owner, resident, or occupant at his/her residence without prior specific invitation or appointment from the owner, resident, or occupant, for the primary purpose of taking or offering to take orders for future delivery of any commercial goods or services for profit, by going upon private premises from house to house or place to place without prior consent of the owner, resident, or occupant.

Sec. 78-40. - Exceptions.

This division 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. This division finds and presumes the community supports a universal invitation to solicitation by and shall not apply to minor or adolescent member participants in local nonprofit youth organizations such as youth sports organizations or boy scout or girl scout soliciting, door to door, in his/her official uniform, for scholarships or expenses for organized competition for which the solicitor's team or group is eligible or for products expressly endorsed by the nonprofit organization(s), such as girl scout cookies or similar products. Such youthful uniformed solicitors may be accompanied by a parent or responsible adult, who also shall not be regulated hereunder as a solicitor or peddler. The regulation of door to door commercial canvassing, peddling, and/or solicitation requires a sensitive balance between the goal of identification of unknown persons at our doorsteps and freedom of speech. Any regulation and any exception must be clear and justifiable. All commercial canvassers, peddlers, and solicitors shall comply with these regulations unless council has found herein or finds hereafter that the type of solicitation, they perform is inherently local, protected by law and/or deserving of exemption. Henceforth the addition of a category of exempt solicitors may be by resolution instead of ordinance so the process may be expedited and timely.

The following types of door to door charitable solicitation are hereby found and declared to be exempt:

- (1) The representatives of youth sports organizations described hereinabove.
- (2) The representatives of scouting organizations described hereinabove.
- (3) A federal, state or local government employee or public utility employee engaged in the performance of his/her duty for his/her employer.
- (4) Those who solicit for political or religious organizations or purposes.

Sec. 78-41. - Penalty.

Any person violating any of the provisions of this article shall, upon conviction, be fined the maximum fine allowable by state law.

Secs. 78-42—78-57. – Reserved.

DIVISION 2. - REGISTRATION

Sec. 78-58. - Registration required for peddlers, canvassers and solicitors.

No person shall act as a commercial peddler, canvasser or solicitor within the city without first registering with the office of the issuing officer, during regular office hours at the city, and obtaining a permit or identification card. Initially, the issuing officer shall be the chief of police or his designee in the police department.

Sec. 78-59. - Fee.

The permit fees under this chapter are to cover the administrative costs of processing the permit. A nonrefundable fee of \$10.00 will be charged per individual commercial canvasser, peddler, or solicitor for each business, entity, or organization before the permit will be processed. If the canvasser, peddler, or solicitor is renewing a permit, the same process and fee will be charged as if it were a new permit.

Sec. 78-60. - Contents of application form.

The applicant (person or organization) shall provide the following information under oath:

- (1) Name of applicant;

- (2) The name, physical description and photograph of each person who registers, or, in lieu of this information, a driver's license, state identification card, passport, or other government-issued identification card (issued by a government within the United States) containing this information may be provided, and a photocopy taken. If a photograph is not supplied, the city will take an instant photograph of each person for which a card is requested at the application site;
- (3) The permanent and (if any) local address of the applicant;
- (4) The permanent and (if any) local address of each person for whom registration is sought;
- (5) The employer information to include the name of the company, name of the immediate supervisor, address, and phone numbers to include office and cell phone;
- (6) A statement that the applicant has not been convicted of a felony or of a crime of moral turpitude. A false statement hereunder shall be grounds for cancellation of the issuance of a certificate of registration;
- (7) A brief description of the proposed activity related to this registration. (Copies of literature to be distributed may be substituted for this description at the option of the applicant);
- (8) Date and place of birth for each person for whom registration is requested by applicant and (if available) the social security number of such person;
- (9) The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by each person for whom registration is requested by applicant; and
- (10) Any other information the applicant wishes to provide, that may include copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

Sec. 78-61. - Investigation.

During any time following the application for one or more permits and its issuance, the city may investigate as to the truth and accuracy of the information contained in the application. If the city has not completed this investigation within three business days, the identification card shall be issued, subject, however, to administrative revocation upon completion of the investigation.

Sec. 78-62. - Issuance of permit.

The permit shall be issued promptly after application but in all cases within three business days of completion and filing 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;
- (2) Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable error or neglect;
- (3) The applicant has had a permit revoked within the previous 12 months; or

- (4) If the city determines, for any reason, that issuing the permit or registration card requested is not in the best interests of the public.

Sec. 78-63. - Denial; administrative revocation.

If the issuing officer denies (or upon completion of an investigation revokes) a permit to one or more persons, he shall immediately convey the decision to the applicant orally and shall within three business days after the denial prepare a written or electronic statement of the reason for the denial which shall be immediately made available to the applicant.

Sec. 78-64. - Registration documentation.

The issuing officer shall issue to each applicant, documentation or certification of registration (hereafter "registration documentation") that shall be dated for the date of actual registration and that documentation is only valid for the date of registration and the 30 days immediately following the date of issuance.

Sec. 78-65. - Display of identification card.

Each identification card issued pursuant to a permit shall be worn on the outer clothing of the individual canvasser, peddler, or solicitor during door to door solicitation activities, so as to be reasonably visible to any person who might be approached by said person. The name, and a current photograph of, each individual canvasser, peddler, or solicitor, shall be attached, laminated, or otherwise made a part of, the individual's identification card so issued.

Sec. 78-66. - Validity of identification card.

Identification card documentation is only valid for the date of registration and the 30 days immediately following the date of issuance.

Sec. 78-67. - Revocation of permit or identification card.

- (a) A permit or identification card may be revoked for any of the following reasons:
 - (1) Any violation of this division by the applicant or by the person or entity for whom the particular card was issued;
 - (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity or on the registration application;
 - (3) Conviction of any felony or a misdemeanor involving moral turpitude, or the arrest for, or conviction of, any felony or misdemeanor involving moral turpitude, during the term of the permit;

- (4) Three written citizen complaints on the person or entity issued the permit or identification card during the time that the permit is valid;
- (5) Being arrested in the city in the course of carrying on the activity; or
- (6) Evidence that applicant or any individual canvasser, peddler, or solicitor is a potential threat to the health, safety, and well-being of the residents, citizens, and inhabitants of the City of League City.

(b) Any police officer shall have the authority to confiscate the identification card of any person believed to have violated one or more of the above provisions for up to three business days pending a revocation decision as set forth above.

(c) The chief of police or his designee will have the full authority to revoke a permit as a result of the reasons listed.

(d) Applicant shall be notified in writing of the denial or revocation of the permit. Said notice shall set forth the grounds for denial or revocation. Denial and revocation shall be effective 72 hours after receipt of notice of denial or revocation. However, performance under said permit or identification card shall be suspended immediately upon notice. In the event a permit or identification card is revoked, pursuant hereto, the period of revocation shall extend until the date the permit or registration card so revoked would have otherwise expired.

(e) If an applicant has had a permit revoked, this applicant will be ineligible to receive a permit to be a canvasser, peddler, or solicitor for 12 months from the date of revocation.

Sec. 78-68. - Appeal.

In the event a permit is revoked or denied, the applicant shall have the right to appeal said revocation or denial by giving written notice to the city manager within three business days after receipt of notice of revocation or denial. If said notice is timely received, the city manager or his designee shall make inquiry and determine whether the chief of police or his designee properly revoked or denied the permit or identification card and shall schedule a hearing with said applicant within three business days after the city manager receives applicant's appeal. The city manager or his designee shall give applicant notice of the time, date, and place of such hearing. After the hearing, the city manager or his designee shall make a decision in writing affirming or reversing the revocation or denial. In the event of an affirmation of the revocation or denial, the permit or identification card shall immediately be returned to the chief of police or his designee.

DIVISION 3. – RULES AND REGULATIONS

Sec. 78-69. - Reserved

Sec. 78-70. - Soliciting rides or business—Prohibitions.

- (a) No person who is within a public roadway may solicit or sell or distribute any material to the occupant of any motor vehicle stopped on a public roadway in obedience to a traffic control signal light. It is specifically provided, however, that a person, other than a person 12 years of age or younger, may solicit or sell or distribute material to the occupant of a motor vehicle on a public roadway so long as he or she remains on the surrounding sidewalks and unpaved shoulders, and not in or on the roadway itself, including medians and islands.
- (b) No occupant of a motor vehicle may contribute to, accept or purchase material from any other person who is on any public roadway, or from a person 12 years of age or younger who is on the surrounding sidewalks and unpaved shoulders, while the motor vehicle is stopped in obedience to a traffic control signal. It is specifically provided, however, that a person may contribute to, accept or purchase material from a person, other than a person 12 years of age or younger, who is on the surrounding sidewalks and unpaved shoulders, and not in or on the roadway itself, including medians and islands.
- (c) It is unlawful for a person who is 12 years of age or younger to stand on a roadway, traffic median, shoulder, improved shoulder or sidewalk to solicit or attempt to solicit or sell or distribute or attempt to sell or distribute any material to the occupant of any motor vehicle stopped on a public roadway or to assist or be with a person lawfully conducting any such activities otherwise permitted by this section.
- (d) It is unlawful for a person to knowingly cause a person 12 years of age or younger to stand on a roadway, traffic median, shoulder, improved shoulder or sidewalk to solicit or attempt to solicit or sell or distribute or attempt to sell or distribute any material to the occupant of any motor vehicle stopped on a public roadway.
- (e) It is unlawful for a person, without the effective consent of an occupant, to intentionally or knowingly touch or strike or cause an object to touch or strike a vehicle stopped on a public roadway in obedience to a traffic control signal light, during an act of soliciting rides or business from the occupants of the vehicle.
- (f) For purposes of this chapter, the term "cause" shall mean aid, direct, hire, encourage, permit or allow.

Sec. 78-71. - Posted properties, declaration of acceptable times to solicit door to door and restriction of solicitation at all other times.

- (a) No peddler, solicitor or canvasser 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 and/or soliciting.
Such sign need not exceed one square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two inches in height. (The

phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and handbill distributors or canvassers.) A sign posted by a developer, homeowners association, or any representative of an uncontrolled access subdivision with public streets does not meet the requirements to prohibit peddlers, solicitors, or canvassers.

- (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" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser.
- (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.
- (4) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors, peddlers, solicitors and/or canvassers.
- (5) Enter upon the property of another except on Monday through Saturday of each week between the hours of 9:00 a.m. and 7:00 p.m.

(b) Provided, however, the above prohibitions shall not apply when the peddler or solicitor has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property. See section 78-40 for those persons deemed by council to have such an express invitation from all residents of the city.

Sec. 78-72. – Reserved.