

Ordinance

Amending Chapter 38, Section 22 of the Corpus Christi Code to modify the hours soliciting is allowed and to prohibit soliciting at homes with no soliciting or trespass signs; amending Chapter 38, Section 6 of the Corpus Christi Code to require proof of identification and background checks for peddler, commercial solicitor and itinerant merchant permittees and deny permits to applicants convicted of any felony or of any offense involving moral turpitude; amending Chapter 38, Section 4 of the Corpus Christi Code to require the displaying of permit; amending Chapter 38, Section 3 and Section 2 of the Corpus Christi Code to exempt local youth organizations from permitting process; amending Chapter 38, ARTICLE II. SOLICITATIONS FOR CHARITABLE PURPOSES of the Corpus Christi Code in its entirety; providing for severance; providing for publication; providing for penalty; and providing an effective date

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS THAT:

SECTION 1. Chapter 38, Section 22 General regulations, is revised as follows:

Sec. 38-22. General regulations.

All peddlers, commercial solicitors and itinerant merchants, permitted under the provisions of this article shall comply with the following rules and regulations which shall be conditions of the permits:

(1) No peddler or commercial solicitor shall conduct any such business except between the hours of 9:00 a.m. and 9:00 p.m. before 9:00 a.m. or after 6:00 p.m. during standard time, or before 9:00 a.m. or after 7:00 p.m. during daylight savings time, without a prior invitation from the occupants of said private residence.

(2) No peddler, commercial solicitor or itinerant merchant shall represent to any person that any certificate of registration, permit or identification card issued under the provisions of this article in any manner constitutes an endorsement or approval by the City of Corpus Christi, Texas, of a product, good or service or of any particular person or business.

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(5) Every peddler, commercial solicitor and itinerant merchant shall prominently display any certificate of registration or permit issued under the provisions of this article and shall, upon the request of any person, display any identification card issued under the provisions of this article.

(6) No peddler, or commercial solicitor, or itinerant merchant shall remain on any private premises or continue any effort to gain entry to any private premises after being requested by the owner or lawful occupant thereof to depart. For purposes of this provision, any sign posted at the primary entrance to a private premises bearing the words "no peddlers," "no solicitors" or words of similar import, shall be deemed a request that any such peddler or solicitor depart the premises.

(7) No peddler, commercial solicitor, or itinerant merchant shall engage in soliciting activities at any residence or business that has a "No Soliciting" or "No Trespassing" sign posted on the property.

SECTION 2. Chapter 38, Section 6 Permit application, information required, is revised as follows:

Sec. 38-6. Permit application, information required, and criminal background check.

(a)

Every application for a permit required by this chapter shall contain the following:

(1) The name of the applicant and, if applicable, a certified copy of any assumed name certificate and/or corporate or other legal organization charter of record, together with proof of the individual's authority to act in behalf of such entity.

(2) The business address and phone number of the applicant.

(3) The full name, ~~home address and~~ phone number, current residence and place of residence for the five (5) years previous to the date of said application of any individuals who will engage in the business operations in the city.

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(10) Proof of state sales tax certificate, if applicable, and compliance with all other applicable state and federal requirements for the particular business for which a permit is requested.

(11) Each applicant shall provide proof of identification through submission of a valid driver's license or other valid, official government photo identification.

(b)

(1) The applicant must provide all information and any state or federal forms that are required to obtain a criminal history report for the applicant. In addition to the permit fee, the applicant will be responsible to cover any fees imposed by state or federal agencies for the report.

(2) An applicant and any individuals who will engage in the business operations in the city may be denied, revoked, suspended, or denied for renewal if the applicant has been convicted of any felony, or of any offense involving moral turpitude.

SECTION 3. Chapter 38, Section 3 Applicability; affirmative defenses, is revised as follows:

Sec. 38-3. Applicability; affirmative defenses.

This article shall not apply to the following persons, businesses or conduct or under the following conditions; provided, however, that it shall not be necessary in the prosecution

of any violation of this article to negative any of such exceptions or exemptions herein expressed; but the pleading and proof of the same shall be an affirmative defense in any such prosecution:

* * * * *

15) Lemonade stands and the like conducted and operated entirely by children under the age of sixteen (16) and upon the private residential premises of such children.

16) Local youth organizations are exempt from the permitting requirements of this chapter.

SECTION 4. Chapter 38, Section 4 Permit Required, is revised as follows:

Sec. 38-4 Permit Required.

No person shall engage in the business of selling, offering for sale, renting or offering for rent any goods or services as a vendor, peddler, commercial solicitor or itinerant merchant within the City of Corpus Christi without first obtaining a permit therefor in accordance with the terms and provisions of this article.

When engaged in the business of selling, offering for sale, renting or offering for rent any goods or services, such permit shall be attached or hung on the vendor, peddler, commercial solicitor or itinerant merchant so that it is visible to the public and law enforcement officials.

SECTION 5. Chapter 38, Section 2 Definitions and construction, is revised as follows:

Sec. 38-2. Definitions and construction.

- (a) As used in this article, the following definitions shall apply:
 - (1) Bay front seawall shall mean the protective retaining wall running along the shore of Corpus Christi Bay and along Shoreline Boulevard from Buford Street to the entrance ramp to the barge dock, including the sidewalk thereon.
 - (2) Business shall mean any marketing activity conducted for the sale or rental of goods or services for private profit on any premises in this city.
 - (3) City shall mean the City of Corpus Christi, Texas, or where the context indicates, the city manager or his designated representative or other authorized representative of the city.
 - (4) Commercial solicitor shall mean any person without a permanent business establishment within the city who takes or offers to take orders for the future delivery of any goods or services by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof.
 - (5) Itinerant merchant shall mean any person without a permanent business establishment within the city who engages in a temporary business of selling, offering for sale, renting or offering for rent any goods or services from a

permanent, established structure. Temporary association with an established resident business or person shall not excuse any itinerant merchant from the terms of this article.

- ~~(6)~~ Local youth organization means an organization that meets all of these requirements: (i) is a charitable or non-profit entity, or a public or private primary or secondary school, or a program unit authorized by any such school (such as a band, athletic team, student club, etc.); and, (ii) which raises funds for the organization by predominantly using children; (iii) has not been accused by any law enforcement agency of fraud, child labor law violations, or other crime against residents in the course of soliciting. All local youth organizations must have a physical address in City of Corpus Christi.
- ~~(7)~~ Panhandle means the employment of the spoken, written or printed word or other acts as are conducted in the furtherance of the purpose of immediately collecting money or any other item of value for the use of one's self or others.
- ~~(6)-(8)~~ Peddler shall mean any person without a permanent business establishment within the city who sells, offers for sale, rents or offers for rent any goods or services by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof, and who makes delivery at or near the time of any such transaction.
- ~~(7)~~ (9) Permanent business establishment means a building or part of a building or space within a building owned or occupied for use in the operation of an on-going commercial or industrial enterprise which has been or is intended to be conducted for more than forty-five (45) days and for which use a certificate of occupancy has been issued by the city.
- ~~(8)~~ (10) Person shall mean any individual, firm, company, corporation, organization, partnership, association or other legal entity.
- ~~(9)~~ (11) Vending unit shall mean any vehicle, stand, cart, craft, or other equipment or device used by a vendor for the storage or display of goods for sale or rent or in the actual rendering of services.
- ~~(10)~~ (12) Vendor shall mean any person who engages in the business of selling, offering for sale, renting or offering for rent and delivering from stock at or near the time of sale or rental any goods or services from any vehicle, cart, stand, or other equipment or device or from his person, from, in or upon any public street, alley, sidewalk, park, beach or any other public way or premises or from, in or upon any private premises; and outside a permanent, established structure.

SECTION 6. Chapter 38, Article II. SOLICITATIONS FOR CHARITABLE PURPOSES of the Corpus Christi Code is hereby amended in its entirety to read as follows:

Article II. UNLAWFUL SOLICITATION

Sec. 38-40. Definitions

As used in this Article, the following terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

(1) Aggressive panhandling means any of the following acts:

1. Making any physical contact with or touching the solicitee in the course of the solicitation without the solicitee's consent.

2. Following a solicitee, if that conduct is:

A. Likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession or

B. Reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

3. Continuing to solicit after the solicitee has made a negative response to a solicitation, but does not include a request for reconsideration of the denial of a request for a commercial or consumer loan under normal business terms.

4. Blocking the safe or free passage of a solicitee or requiring the solicitee, or the driver of a vehicle to take evasive action to avoid physical contact with the solicitor.

5. Using obscene or abusive language or gestures toward the solicitee.

6. Approaching the solicitee in a manner that:

A. Is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession or

B. Is reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

(2) Charitable purpose means any purpose, whether actual or purported, which an ordinary citizen reasonably could classify as charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, eleemosynary, cultural, artistic, or for a public service or association of public servants.

(3) Charitable organization means any person who engages in, or purports to engage in solicitation for a charitable purpose and includes a chapter, branch, area office, or similar affiliate or any person soliciting contributions within the city for a parent charitable organization, but does not include an organization whose primary purpose is supporting or opposing any candidate for elective office, or influencing the nomination for election or the election of any candidate for elective office.

(4) Person means any individual, organization, group, firm, association, partnership, corporation, company, trust or joint stock association, church, religious sect, religious denomination, society, or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(5) Professional fundraiser means any person who for financial compensation or profit performs for a charitable organization service in connection with which contributions are, or will be, solicited in this city by the compensated person or by any compensated person the person employs, procures, or engages to solicit; or any person who for compensation or profit plans, manages, advises, consults, or prepares material for, or with respect to, the solicitation in this city of contributions for a charitable organization. No investment adviser, investment adviser representative, broker-dealer, or lawyer, accountant, or banker who advises a person to make a charitable contribution or who provides legal, accounting or financial advice in the ordinary course of a profession or business shall be deemed, as a result of the advice, to be a professional fundraiser. A bona fide salaried officer, employee, or uncompensated volunteer of a charitable organization is not a professional fundraiser.

(6) Public place means an area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, parking meter, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, bus, bus station, bus stop, bank, restaurant, or business establishment.

(7) Response means any reply or imperative instruction by a solicitee to a solicitor, the solicitee has been solicited or approached by the solicitor, whether verbal or non-verbal, to stop the solicitation, including, but not limited to, the use of gestures or words such as "no," "not today," "stop," "back off," "stay back," "get away," "leave me alone," or "withdraw."

(8) Solicit funds or solicitation of funds means any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds for any purpose either by a governmental agency or political subdivision.

(9) Solicitee means any individual to whom a solicitor directs a solicitation.

(10) Solicitor means any person who engages in the act of solicitation.

Section 38-41 Unlawful solicitation.

(a) It shall be unlawful to solicit funds for charitable purposes between the hours of 6:00 p.m. and 9:00 a.m. during standard time or between the hours 7:00 p.m. and 9:00 a.m. during daylight savings time.

(b) It shall be unlawful for any person to solicit funds, directly or indirectly, by the misrepresentation of names, occupation, financial condition, social condition or residence of the persons purported to be benefited thereby or of the solicitor, or misrepresentation of any other material fact.

(c) It shall be unlawful for any person who shall solicit funds for charitable purposes to represent in connection with such solicitation of fund that the city endorses or approves of the purposes of such solicitation by the city or any officer or employee thereof.

(d) It shall be unlawful for any person to stand in a roadway to solicit or accept funds from an occupant of a vehicle without wearing a reflective safety vest.

(e) It shall be unlawful for any person under the age of 16 to stand in a roadway to solicit or accept funds from an occupant of a vehicle.

(f) It shall be unlawful for any person knowingly to solicit funds from another for a particular charitable person or purpose after receiving notice that the other person does not want to be contacted again about contributing to the charitable person or purpose.

(g) It shall be unlawful for any person to solicit funds from another without disclosing to the potential donor his name, the name and address of the charitable organization on whose behalf he is soliciting, the name of any professional fundraiser for whom he is working and a statement that said entity is a professional fundraiser.

(h) Charitable solicitations involving the sale or attempted sale of goods or services shall be subject to the provisions of the Texas Deceptive Trade Practices Act, and the provisions of said Act, as amended, are adopted herein by reference.

(i) It shall be unlawful for any person to engage in aggressive panhandling.

Sec. 38-42. Exceptions.

The following are excepted from this Article:

(1) The solicitation of funds for charitable purposes by any organization or association from its members;

(2) The solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds.

Secs. 38-43 to 38-50 Reserved

SECTION 7. If for any reason any section paragraph subdivision clause phrase word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction it shall not affect any other section paragraph subdivision clause phrase word or provision of this ordinance for it is the definite intent of this City Council that every section paragraph subdivision clause phrase word or provision hereof be given full force and effect for its purpose.

SECTION 8. Publication shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 9. Penalties are as provided in Section 1-6 of the Code of Ordinances.

SECTION 10. This ordinance takes effect after official publication.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the _____th day of _____, _____.

ATTEST:

Rebecca Huerta
City Secretary

Nelda Martinez
Mayor