

**Proposed Ordinance # 0-5-09**  
**Subject Matter: Peddlers and Solicitors Ordinance**  
**Date First Presented at Council Public Meeting: 3-19-09**  
**Date of Public Hearing Before City Council: 3-19-09**  
**Date of Second Reading and Adoption: 4-2-09**  
**Date of Notice Published in Fayette County News: 3-17-09**

**CITY OF FAYETTEVILLE**  
**COUNTY OF FAYETTE**  
**STATE OF GEORGIA**

**ORDINANCE NUMBER 0-5-09**  
**CITY OF FAYETTEVILLE, GEORGIA**

**PREAMBLE AND FINDINGS**

**AN ORDINANCE OF THE CITY OF FAYETTEVILLE**

**WHEREAS**, the City of Fayetteville (the "City") has determined that to serve the needs of the community certain amendments are needed in the City's Code; and

**WHEREAS**, these amendments are necessary to further the general health and welfare of the community; and

**WHEREAS**, the City hereby adopts, ordains, and enacts the foregoing ordinance as follows:

**WHEREFORE THE CITY OF FAYETTEVILLE HEREBY ADOPTS AND  
ORDAINS THE FOLLOWING ORDINANCE:**

**ARTICLE ONE**

The City Council ordains and enacts the following language, which shall be the City's Peddlers and Solicitors Ordinance and which shall be codified at Chapter 91 of the City's Code of Ordinances and shall be entitled "Peddlers and Solicitors", to wit:

## Chapter 91 PEDDLERS AND SOLICITORS\*

### \*Editor's note:

**State law references:** Peddlers and itinerant traders, O.C.G.A. § 42-32-1 et seq., exception from local peddler or itinerant vendor licensing requirements for persons selling agricultural products, O.C.G.A. § 43-32-6; Transient Merchant Act of Georgia, O.C.G.A. § 43-46-1 et seq.

- Sec. 91-1. Definitions.
- Sec. 91-2. Registration required.
- Sec. 91-3. Registration fee prescribed; application for identification or registration form.
- Sec. 58-4. Evidence of good character; issuance of permit, possession, display.
- Sec. 91-5. Applicability of provisions; exceptions.
- Sec. 91-6. Revocation of permit.
- Sec. 91-7. Regulations for solicitors and peddlers; operating on public lands or from vehicle.
- Sec. 91-8. Applicability of provisions to farm products and food products.
- Sec. 91-9. Exemption of disabled or indigent veterans of armed forces.
- Sec. 91-10. Obstruction of street, highway or sidewalk prohibited.
- Sec. 91-11. Enforcement.

### **Sec. 91-1. 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:

*Canvasser, peddler, or solicitor* means any person who sells or solicits for sale in the city any new or used goods, wares, merchandise, services, produce or other things of value and goes about from place to place within the city selling or offering for sale any of such things to either merchants or customers shall be deemed a peddler or solicitor. Excluded from this definition are persons who sell or solicit for sale goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

*Charitable organization* means any benevolent, philanthropic, patriotic, or eleemosynary (of, relating to, or supported by charity or alms) corporation, partnership, limited liability company, association, joint-stock company, trust, governmental agency or entity, unincorporated organization or individual who solicits or obtains contributions solicited from, or conducts the sale of merchandise to, the general public, which contributions are used for charitable purposes or governmental purposes.

*Charitable purpose* means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose for religion, health, education, social welfare, arts and humanities, environment, civic or public interest.

*Door-to-door salesperson* means any person who shall solicit orders on behalf of a firm, corporation, company, association, partnership or individual of any goods, wares or merchandise, or other things of value from house to house shall be deemed a door-to-door salesperson. Any person who obtains orders for merchandise or other things of value shall be deemed a door-to-door salesperson. Excluded from this definition are persons who solicit orders for goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

*Vehicle* means motorized conveyance fully functioning and moving under its own power with valid vehicle tag. A vehicle shall include a trailer or anything pulled by the vehicle. Vehicles shall not be in excess of 20 feet in length, ten feet in width, and eight feet in height.

**Sec. 91-2. Registration required.**

It shall be unlawful for any person to engage in business as a canvasser, solicitor, or peddler, without first having registered at the business license department. Each registrant shall be required to fill out a registration form giving complete identification, signature, name of employer, products sold, name of manufacturer of products, name of organization he is representing, time of operation in the city and proposed method of operation within the city and to provide such other identification of information as may be required. Any person selling or peddling any objects or goods shall, before being issued a permit, file with the city proof that the applicant or their business proposed to be conducted pursuant to the license or permit possesses a valid state sales tax number issued by the commissioner of revenue of the state.

**Sec. 91-3. Registration fee prescribed; application for identification or registration form.**

Each registrant shall pay a non-prorated, non-refundable regulatory fee of \$75.00. Each registrant shall make application with the city for authorization to peddle, canvass or solicit and be issued a permit which shall expire one year from the date of issuance. Permits will be renewed annually prior to the expiration date indicated on the handling permit.

**Sec. 91-4. Evidence of good character; issuance of permit, possession, display.**

(a) No door-to-door salesperson, solicitor, peddler, or transient merchant shall be authorized to sell or to solicit orders until a signed application has been filed with the city in accordance with the provisions of this chapter. The chief of police shall make an investigation, including but not limited to an investigation of the police record of the applicant. The applicant will submit an annual administrative processing fee of \$25.00 to the police department for a thorough background check to be completed. No permit shall be given to any applicant who, based on the information obtained by

the police department, shall have either a pending charge or a conviction for a crime of moral turpitude or an offense involving the elements of assault and battery, or evidence of any other action by the applicant evidencing actions which would constitute fraud and deceit under the laws of the state.

(b) Each person, while peddling, canvassing or soliciting within the limits of the city, shall have the permit available for inspection by any person being solicited or to the police of the city. Possession of this permit shall not in any way represent an endorsement or approval of any product or project by the city.

(c) It shall be unlawful for any person to peddle, canvass or solicit without having first registered with the city in accordance with section 91-2, and obtained a permit from the city in accordance with section 91-3, and this section or to peddle, solicit or canvass without having the permit available in accordance with this section. Any person violating this chapter shall be punished as provided in section 91-11.

**Sec. 91-5. Applicability of provisions; exceptions.**

Except for the regulations set forth in section 91-7, nothing in this article shall apply to the following:

- (1) Officers or employees in the city, county, state or federal governments or the school system, or any subdivisions thereof, when on official business;
- (2) Any local non-profit organization such as boy scouts, civic clubs, religious, charitable, political, or educational organizations and the like, when the membership of such club or organization does the soliciting itself; but it shall apply when the soliciting is done by a paid solicitor or by a solicitor on contract with an individual with only a percentage or portion of any sales or collections to go to the benefit of such non-profit club or organization.
- (3) Any person selling only agricultural or forestry products or selling food for immediate consumption;
- (4) Any person who conducts business at any industry or association trade show;
- (5) Any person selling items at a rummage, garage, antique or similar sale when such person, firm, corporation or other legal entity is a resident of this state or has a permanent place of business within this state and such sale is not part of the regular business activity of such person, firm, corporation or legal entity or when the net proceeds of such sale are to be used for charitable purposes;
- (6) Any person selling such items at a city-sponsored festival or event, provided that such person has obtained the necessary approvals from the city to operate at said festival or event.

**Sec. 91-6. Revocation of permit.**

Any permit may be revoked by the police chief or his/her designated representative because of any violation by the registrant (or any one of a group of registrants) of these regulations, or of any ordinance of the city, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and good character required in this chapter for the original registration.

**Sec. 91-7. Regulations for solicitors and peddlers; operating on public lands or from vehicle.**

- (a) No person shall stand on or adjacent to a street, road, or highway or on rights-of-way within the city limits for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
- (b) No person shall locate and/or conduct a business from a mobile vehicle or upon the public sidewalks, streets, alleys, walkways, parks, parking lots, rights-of-way, or other public lands of the city or upon state rights-of-way within the city limits.
- (c) The provisions of section 94-311 of the city zoning ordinance, pertaining to outside displays, shall be applicable to any solicitor, or peddler.
- (d) The provisions of section 42-188 of the city environment ordinance, pertaining to stormwater and illicit discharges, shall be applicable to any solicitor, or peddler.
- (e) No solicitor, peddler, or door-to-door salesperson shall:
  - (1) Call at residences, offices or businesses clearly displaying a sign stating "No Solicitors Or Peddlers Invited," "No Solicitation," or using similar language;
  - (2) Engage in door-to-door soliciting at residences on Sundays or between the hours of 6:00 p.m. and 9:00 a.m.;
  - (3) Enter any private dwelling without the consent of the owner or occupant, or to remain there after being requested or directed to leave;
  - (4) Fail to register and carry or produce for inspection a permit when required under this chapter;
  - (5) Make any false or deceptive statement on any registration hereunder.
- (f) A person who is soliciting or selling on behalf of a non-profit organization shall be required to verify the nonprofit status of such organization.

**Sec. 91-8. Applicability of provisions to farm products and food products.**

The legal right of the local farmer and producer to sell the products of his own farm, orchard, poultry yard, etc., is recognized. No permit shall be required from any bona fide

farmer who is selling the products of his own farm, orchard, poultry yard, etc.; provided, however, that no such sales shall occur as a door-to-door salesman.

**Sec. 91-9. Exemption of disabled or indigent veterans of armed forces.**

(a) Scope of exemption. It shall be lawful for any disabled or indigent veteran of the armed forces, such veteran is defined in O.C.G.A. § 43-12-1, to peddle without obtaining a permit for the privilege of so doing, and a certificate from the probate court of the county stating the fact of his being such disabled or indigent veteran shall be sufficient proof thereof; provided, that this section shall not authorize peddling ardent spirits. The privileges hereby granted shall not be transferred to or used by any other person.

(b) Effect of exemption. All such persons are authorized to peddle in the city without first obtaining a license therefore from the city and without being subject to any tax therefore.

(c) Affidavit required. Before any such person shall avail himself of the privilege conferred by this section, he shall go before the judge of the probate court of the county and make oath in writing that he served as a soldier and that the business which he proposes to carry on (stating what he proposes to peddle) is his own, and that he will not sell or offer to sell any article for another, directly or indirectly.

(d) Issuance of certificate. Upon making and filing the affidavit provided for in subsection (a), the judge of the probate court shall issue a certificate stating that such person has taken the oath prescribed, which certificate shall authorize such person making such affidavit and holding such certificate to peddle in the city without procuring a license or being subject to any tax therefore.

**Sec. 91-10. Obstruction of street, highway or sidewalk prohibited.**

No canvasser, solicitor, or peddler authorized to engage in any business in the city shall, in carrying on such business, obstruct the whole or any part of any sidewalk, street or highway of the city, and any such person peddling in the city or using the streets or sidewalks in the city for the purpose of selling or offering for sale any goods, wares, medicines or merchandise of any kind, shall continually move from place to place in the city, and shall not in the conduct or carrying on of such business obstruct the whole or any part of any sidewalk, street, or highway in the city.

**Sec. 91-11. Enforcement.**

Citations for violation of this chapter may be issued by the city manager or his/her designee, or a police officer of the city. The citation shall be returnable to and tried before the municipal court of the city. Any person, firm, or corporation violating any provisions of this chapter may, upon conviction, be fined in an amount, and/or imprisoned for such term as authorized by the city's Charter. Each day said violation shall continue shall constitute a separate offense.

## **ARTICLE TWO**

This Ordinance shall become effective after its second reading and upon adoption by the City Council.

## **ARTICLE THREE**

The preamble of these Ordinances shall be construed to be, and is hereby incorporated by reference as is fully set out herein.

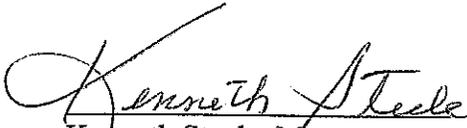
## **ARTICLE FOUR**

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, sentence, paragraph, or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such an illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

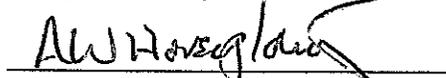
APPROVED BY THE MAYOR AND COUCIL OF THE CITY OF  
FAYETTEVILLE at a regular meeting of the Mayor and Council on the 23<sup>rd</sup> day of  
April, 2009, by the following voting for adoption:

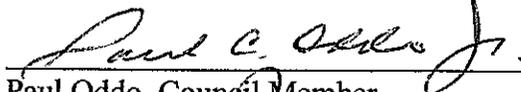
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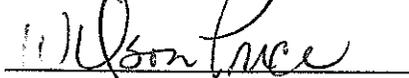
  
Kenneth Steele, Mayor

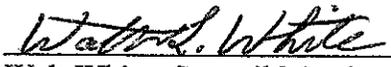
  
Judy Stephens, Clerk

  
Larry Dell, Mayor Pro Tem

  
Al Hovey-King, Council Member

  
Paul Odde, Council Member

  
Wilson Price, Council Member

  
Walt White, Council Member