

Council considered on second reading an updated ordinance to regulate solicitation in the City of Thomasville. The ordinance would bring together in one article of the Code of the City of Thomasville all relevant ordinances which now address both canvassing and charitable and for-profit solicitation. The City Attorney stated the revised ordinance will bring the city into compliance with recent Supreme Court rulings, will establish procedures to register and issue permits to peddlers, and will establish a no-call list for people who do not want canvassers or door-to-door solicitors coming to their homes. On motion of Councilmember Campbell, and seconded by Councilmember Lewis, the following ordinance was ordered read for the second time, passed unanimously, and adopted:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF THOMASVILLE, GEORGIA, BY AMENDING ARTICLE VII, CAPTIONED "CANVASSERS AND SOLICITORS FOR CHARITABLE ORGANIZATIONS OR CAUSES," OF CHAPTER 18, CAPTIONED "TAXATION, REVENUE AND MISCELLANEOUS BUSINESS REGULATIONS" SO AS TO PROVIDE FOR THE REGULATION OF DOOR-TO-DOOR SALES AND RELATED ACTIVITIES; SO AS TO PROVIDE CERTAIN LIMITED REGULATION OF CANVASSERS AND SOLICITORS FOR CHARITABLE ORGANIZATIONS AND CAUSES; TO PROVIDE FOR A PROHIBITION AGAINST PANHANDLING AND BEGGING; TO PROVIDE FOR A PROHIBITION OF THE DISPLAY OR SALE OF MERCHANDISE ON STREETS AND SIDEWALKS; TO PROVIDE FOR CERTAIN TEMPORARY VENDING SITUATIONS; TO PROVIDE FOR THE REPEAL SECTION 11-16, CAPTIONED "SOLICITORS AND PEDDLERS GOING IN PRIVATE RESIDENCES WITHOUT INVITATION DECLARED NUISANCE AND UNLAWFUL," OF CHAPTER 11, CAPTIONED "OFFENSES"; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

SECTION I

BE IT ORDAINED by the Council of the City of Thomasville, Georgia, and it is hereby ordained by the authority of the same, that the Code of Thomasville is amended by deleting in its entirety Article VII, captioned "Canvassers and Solicitors for Charitable Organizations and Causes," of Chapter 18, captioned "Taxation, Revenue and Miscellaneous Business Regulations" and substituting therefor an entirely new Article VII of Chapter 18, which shall read as follows:

Section 18-165A Article VII Regulation of peddlers; regulation of canvassers, solicitors of funds for charitable organizations and causes and related activities; prohibition against panhandling; temporary vending provisions for licensed businesses.

Section 18-165B Purpose.

The purpose of the Article is to promote the health, safety and welfare of residents of the City of Thomasville; to protect the privacy of residents of the City of Thomasville; and to prevent fraud and crime against residents of the City of Thomasville.

Section 18-166 Definitions.

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

Aggressive begging shall mean begging with the intent to intimidate another person into giving money or goods.

Applicant means any person who or which applies for a certificate of registration under this article.

Begging shall mean asking for money or goods as a gift, whether by words, bodily gestures, signs or other means.

Canvass or canvassing means such activities as are directed at dissemination of religious, political or public interest information, taking polls, seeking opinions and determining attitudes of individuals or groups of individuals including uninvited contact at any residence by any institution, organization or cause having a charitable purpose as defined in this section for purposes of making the message, aim or purpose of such institution, organization

or cause known to the occupant of such residence, but shall not include the solicitation of funds as defined in this section.

Charitable purpose means philanthropic, benevolent, religious, public interest or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group, order or cause; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization; or the benefit of any educational, environmental, civic or public interest institution, organization, or cause. The term "charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation.

City means the City of Thomasville, Georgia.

Code means the Code of the City of Thomasville, Georgia.

Individual means only a natural person.

Intimidation shall mean the coercion, threat, or frightening into submission or obedience of one person unto another whether by words, bodily gestures, or other means.

Local nonprofit organization shall mean any bona fide charitable or nonprofit organization having an office, place of business, chapter or the like located in the corporate limits of the City or in Thomas County.

Panhandling shall mean to detain or distract a person or persons in a public place for the purpose of soliciting money or goods.

Peddler means any person who goes to any residence or place of business, without prior invitation of the resident or occupier thereof, for the purpose of selling, offering for sale or exposing for sale any goods, merchandise, wares or services; or for the purpose of taking orders for the purchase of goods, merchandise, wares or services, whether by samples, catalogs or the like; or for the purpose of selling subscriptions to periodicals or magazines. The term "peddler" does not include the sale or offering for sale of goods or services by representatives of local nonprofit organizations.

Peddling means any of the activities described in the definition of "Peddler," immediately above.

Person means any natural person, corporation, partnership or other entity which has legal existence under Georgia law.

Public Place shall mean any road, alley, lane, parking area, sidewalk, building, or any place, private or otherwise, adopted or fitted for vehicular or pedestrian travel, that is in common use by the public with the consent, expressed or implied, of the owner or owners, and further, any public playground, school grounds, recreational facility, parks, parkways, park drives, park paths, and rights-of-way open to the use of the public.

Residence means and includes every separate living unit occupied for residential purposes by one (1) or more persons contained within any type of building or structure.

Resident means any individual residing, temporarily or permanently, within the corporate limits of the City.

Solicit funds, solicitation of funds or soliciting 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, 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 defined in this section. A "solicitor of funds" is also included in this definition. A solicitation of funds is complete when the solicitation is communicated to any individual when located within the corporate limits of the city.

(Code 1958, § 14-36)

Cross reference--Definitions and rules of construction generally, § 1-2.

Section 18-167 Registration statement required for Peddlers.

Any person desiring to engage in peddling within the corporate limits within the city shall pay a non-refundable application fee of \$50.00 and shall provide, on an application form to be supplied by the city clerk, the following information:

- (1) The name of the applicant registering and desiring to engage in peddling;
- (2) Whether the applicant is a natural person, partnership, corporation or other legal entity; and:
 - a. If a natural person, the person's business or residence address and telephone number;
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner;
 - c. If a corporation, information shall be given as to whether the corporation is organized under the laws of the state or is a foreign corporation and the mailing address, telephone number and business location of any local or regional office making the application and mailing address of home office of the corporation and telephone number of the home office shall be given;
 - d. If an association or other legal entity, the registration statement shall show the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees; if the association is part of a multi-state organization or association, the mailing address and business location of its home office shall be given, in addition to the mailing address and business location of any local office the association may operate;
- (3) The time period within which the peddling effort is to be made, giving the date of beginning of the effort and the projected date of conclusion;
- (4) A description of the methods and means by which the peddling is to be accomplished;
- (5) The names of any other cities in which the person registering has engaged in peddling within the past five (5) years but if the person has engaged in peddling in more than ten (10) other cities, the person registering may list the five (5) cities in which the most peddling activities occurred;
- (6) Whether the person registering or any officer, director, trustee, partner, or any current agent or employee thereof who has been convicted of a felony or misdemeanor involving moral turpitude within the past five (5) years, and, if so, the nature of the offense, the city and state where the conviction occurred, and the year of such conviction;
- (7) A list of the persons, including their home addresses and telephone numbers who will actually be participating in the peddling effort;
- (8) If the person registering is unable to provide any of the foregoing information, an explanation of the reasons why such information is not available;
- (9) A statement to the effect that when a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the city or any of its elected officials or employees;
- (10) The registration statement must be signed by the person registering if that person is an individual; if the person registering is a partnership, by a partner thereof; if the person registering is a corporation or an association by an officer thereof; the individual making the registration statement shall sign the statement and swear or affirm before an officer authorized to administer oaths that he or she has carefully read the registration statement and that all the information contained therein is true and correct;
- (11) The city clerk shall maintain on file in the clerk's office the registration statement provided for in this section for the period of time the certificate of registration, referred to in section 18-168, is in effect, or for ninety (90) days, whichever period of time is shorter, and the city clerk shall make such registration statement available for review by any member of the public, upon request.
- (12) The provisions of this section shall not apply to businesses which are registered with the city and which pay an occupation tax to the city.

(Code 1958, § 14-37)

Section 18-168 Issuance of certificate of registration.

After a review of the registration statement to determine its compliance with section 18-167 and within ten (10) working days of the receipt of the registration statement, the city clerk shall either issue a certificate of registration as provided in section 18-169 or notify the person

registering that the registration statement does not comply with the requirements of section 18-167 and shall specifically designate what information or explanation has not been furnished that is required before a certificate of registration can be issued.
(Code 1958, § 14-39)

Section 18-169 Form of certificate of registration.

(a) The city clerk shall prescribe the form of and issue a certificate of registration to each applicant who complies with the provisions of section 18-167 upon payment of a non-refundable license fee of \$200.00. However, each such certificate of registration shall contain the following language:

The issuance of this certificate of registration is not an endorsement by the City of Thomasville or any of its elected officials or employees.

(b) Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the applicant.

(c) No more than three certificates of registration shall be issued to any one applicant in any calendar year.

(Code 1958, § 14-40)

Section 18-170 Peddlers' identification cards.

(a) The city clerk shall prescribe the form for and issue identification cards for peddlers. However, each such identification card shall bear the name of the person registering, the registration number, the name of the peddling organization or entity, as may be applicable, and the expiration date of the certificate of registration. Each identification card shall have printed prominently thereon and shall read:

This identification card is not an endorsement by the City of Thomasville or any of its elected officials or employees of any product or service sold by the bearer hereof.

(b) The city clerk shall issue each person who has complied with the provisions of section 18-167 a number of identification cards which corresponds with the number of individuals listed as peddlers on the registration statement referred to in section 18-167. The city clerk shall issue five (5) identification cards at no charge. The person successfully obtaining a certificate of registration may obtain additional identification cards by paying to the city the actual cost of each such additional card.

(Code 1958, § 14-41)

Section 18-171 Expiration of certificate of registration.

Every certificate of registration and identification card issued by the city clerk shall expire at the termination of the period specified in the registration statement or ninety (90) days from the date of issuance, whichever is less. If further peddling an extension of the peddling effort is desired at the end of the shorter period of time referred to in this section, a new registration statement shall be completed and signed by the applicant with all other provisions of this article to be in full force and effect therewith, but in no circumstances shall the period of extension exceed the ninety day period for which the certificate of registration would have been issued. If an extension is made for time for a peddling effort is pursuant to this section, no additional application fee or license fee shall be charged.

(Code 1958, § 14-42)

Section 18-172 Unlawful peddling, canvassing or soliciting funds.

(a) It shall be unlawful for any person, directly or through an agent or employee, to engage in peddling within the corporate limits of the city unless such person shall have first obtained a certificate of registration from the city clerk, as provided in this Article.

(b) It shall be unlawful for any individual, as the agent or employee of another, to engage in peddling within the corporate limits of the city unless the individual's principal or employer has received a certificate of registration as provided in this article.

(c) It shall be unlawful for any individual to engage in peddling without visibly displaying an identification card issued that individual by the city clerk as provided in this article.

(d) It shall be unlawful for any individual to alter an identification card issued by the city clerk. Any card issued by the city clerk which is in error may be exchanged for a corrected card.

(e) It shall be unlawful for an individual to engage in peddling while displaying an identification card issued by the city clerk in the name of another individual.

(f) It shall be unlawful to peddle, canvass or to solicit funds between the hours of 8:00pm and 9:00 am.

(g) It shall be unlawful for any person, directly or through an agent or employee, to engage in peddling within the corporate limits of the city after the expiration of any certificate of registration issued as provided in this article.

(h) It shall be unlawful for the person registering or the agents or employees thereof to engage in any peddling activity other than that set out in the registration statement from which the certificate of registration was issued.

(i) Any peddler, canvasser, solicitor of funds, or person selling goods or services on behalf of a local nonprofit organization who enters on private property under a certificate of registration issued pursuant to section 18-168 and section 18-169 shall immediately and peacefully depart such private premises, when requested by the resident of such private premises, and the failure of such peddler, canvasser, solicitor of funds or person selling goods or services on behalf of a local nonprofit organization to depart the private premises after being so requested shall be unlawful.

(j) It shall be unlawful for any person who engages in peddling within the corporate limits of the city to represent in connection with such peddling that the issuance of a certificate of registration or an identification card by the City constitutes an endorsement or approval of the purposes of such peddling effort by the City or any elected official or employee thereof.

(k) The penalty for violations under this section shall be assessed under the provisions of section 1-6 of this Code.

(Code 1958, § 14-43)

Section 18-173 Posted notice that peddlers, canvassers or solicitors of funds are not invited.

(a) Any occupant of a residence or business who does not wish to receive peddlers, canvassers, solicitors of funds or persons selling goods or services on behalf of a local nonprofit organization at that residence or place of business shall give notice of that determination in the following manner: A weatherproof card at least three (3) inches by four (4) inches in size, shall be posted or exhibited at or near the main entrance door to the residence indicating that determination by the occupant in substantially the same language as follows:

"No peddlers, canvassers or solicitors invited."

The letters on such notice shall be at least one-third inch in height. For purposes of uniformity, cards giving such notice shall be provided by the chief of police to persons requesting at the cost thereof, although the occupant who wishes to give such notice shall have the option of providing a card which substantially complies with the requirements set out above. Such card so exhibited shall constitute notice to any peddler, canvasser, solicitor of funds, or person selling goods or services on behalf of a local nonprofit organization of the determination by the occupant of the residence or place of business that such persons are not invited at that residence or place of business.

(b) It shall be unlawful for any person to go upon any residential or business premises and ring the door bell upon or near any door or create any sound in any manner calculated to attract the attention of the occupant of such residence or place of business for the purpose of securing an audience with the owner or occupant thereof and engage in peddling, canvassing, soliciting funds or selling goods or services on behalf of a local nonprofit organization as in this article and defined in defiance of the notice posted or exhibited at the residence in accordance with the provisions of this article.

The penalty for violations under this section shall be assessed under the provisions of Section 1-6 of this Code.
(Code 1958, § 14-44)

Section 18-174 "No-call" list to be established by the city clerk

The City Clerk shall maintain a "no-call" list which shall comprise the names and addresses of all residents of the City, to include the owners or occupiers of business premises, who do not wish to have their places of residence or business visited by peddlers, canvassers, solicitors of funds or persons selling goods or services on behalf of a local nonprofit organization. No peddler, canvasser, solicitor of funds or person selling goods or services on behalf of a local nonprofit organization shall call on any resident or owner or occupier of a business premises whose name and address appear on the "no-call" list maintained by the city clerk. Every peddler who or which obtains a certificate of registration pursuant to this article, and every canvasser, solicitor of funds or person selling goods or services on behalf of a local nonprofit organization is charged with the responsibility of obtaining from the city clerk a copy of the "no-call" list established pursuant to this section before beginning any peddling effort, canvassing effort or solicitation of funds. Any person engaged in any peddling effort, canvassing effort, solicitation of funds, sale of goods or services on behalf of a local nonprofit organization who or which calls on a residence or place of business which appears on the "no-call" list established pursuant to this section shall be subject to penalty under the provisions of Section 1-6 of this Code.

Section 18-175 Panhandling, begging prohibited.

It shall be unlawful for any person to engage in aggressive begging, begging, panhandling, solicitation for a non-charitable purpose, or intimidation in any public place within the corporate limits of the city. The penalty for violation under this section shall be assessed under the provisions of Section 1-6 of this Code.

SECTION II

BE IT FURTHER ORDAINED that section 11-5, captioned "Display or sale of merchandise on streets or sidewalks prohibited; exceptions," of Chapter 11, captioned "Offenses," is hereby removed from its current location in the Code and is transferred to Chapter 18 to bear section number 18-176, but otherwise that section remains unchanged as to the title and text.

SECTION III

BE IT FURTHER ORDAINED that section 18-258, captioned "Other temporary vending provisions" is hereby deleted from its current location in the Code and is transferred within Chapter 18 to bear new section number 18-177 with a new caption which shall read "Temporary vending provisions for licensed businesses." The text of section 18-258, as transferred to section 18-177, shall remain unchanged.

SECTION IV

BE IT FURTHER ORDAINED that section 18-48, captioned "Administrative and regulatory fee structure; occupation tax structure" is hereby amended by deleting therefrom the reference to "Itinerant peddlers."

SECTION V

BE IT FURTHER ORDAINED that section 11-16, captioned "Solicitors and peddlers going in private residences without invitation declared nuisance and unlawful," of Chapter 11, captioned "Offenses" is hereby repealed.

SECTION VI

Should any provision of this ordinance be held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are hereby declared to be severable.

SECTION VII

BE IT FURTHER ORDAINED that all ordinances in conflict herewith be and the same are hereby repealed for purposes of this ordinance only.

SECTION - - - - VIII

BE IT FURTHER ORDAINED that the provisions of this ordinance shall be made a part of the official codified ordinances of the City of Thomasville, Georgia.

SECTION IX

This ordinance was introduced and read at a lawful meeting of the City Council for the City of Thomasville held on Monday, November 17, 2003, read a second time, passed and adopted at like meeting held on Monday, December 8, 2003.

SECTION X

BE IT FURTHER ORDAINED that this ordinance shall be effective as of the date of its second reading and final passage.