

CITY OF TIFTON GEORGIA
ORDINANCE NO. 2014 -20

AN ORDINANCE OF THE CITY OF TIFTON, GEORGIA TO ADD ARTICLE V TO CHAPTER 22 OF THE CODE OF ORDINANCES REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The City Council of the City of Tifton hereby ordains that:

I.

AMENDMENT TO CODE OF ORDINANCES

Chapter 22 of the Code of Ordinances shall be amended by adding Article V to Chapter 22 of the Code of Ordinances titled "Peddlers and Transient Merchants" to include the following Sections 22-160 through 22-180:

Article V. – Peddlers and Transient Merchants

- Sec. 22-160. Findings and intent**
- Sec. 22-161. Definitions**
- Sec. 22-162. License required; application**
- Sec. 22-163. Investigation**
- Sec. 22-164. Disqualification**
- Sec. 22-165. Denial**
- Sec. 22-166. Approval; issuance**
- Sec. 22-167. Duration; Required fees prescribed**
- Sec. 22-168. Suspension or revocation**
- Sec. 22-169. Applicability of provisions; exceptions**
- Sec. 22-170. Regulations for solicitors and peddlers; operating on public lands or from vehicle**
- Sec. 22-171. Exemption of disabled or indigent veterans of armed forces**
- Sec. 22-172. Obstruction of street, highway or sidewalk prohibited**
- Sec. 22-173. Unlawful or prohibited activities**
- Sec. 22-174. Violations; enforcement**
- Secs. 22-175-180 Reserved**

Sec. 22-160. Findings and intent.

The intent of the city council in enacting this article is to regulate the sale of goods and services by soliciting at residences in the city, to the end that criminal activity in the city and abusive techniques utilized by any such solicitors which adversely affect the public health, safety and welfare in the city will be curtailed. This article is not intended as a de facto prohibition of door-to-door solicitation, nor

is it an attempt to adversely affect interstate commerce. Instead, this article is intended to balance competing interest, reduce criminal activity and protect city residents from abusive sales techniques versus the conduct of proper commercial sales activity.

Sec. 22-161. 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 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.

Transient Merchant means any person, firm, or corporation, as principal or agent, or both, which is not a regular retail or wholesale merchant with a permanent place of business in Tift County, Georgia, but rather one who displays samples, model goods, wares, or merchandise in any lot, building, room, or structure of any kind, whether fixed or mobile, for the purpose of securing orders for the retail sale of such items or items of like kind or quality for immediate or future delivery. The

term "transient merchant" shall not include any person, firm, or corporation which:

- (1) Sells agriculture or forestry products;
- (2) Makes house-to-house or personal calls for the purpose of displaying samples or taking orders for shipment directly from a manufacturer;
- (3) Conducts business at any industry or association trade show; or
- (4) Sells items at a rummage, garage, antique, or similar sale when such person, firm, or corporation 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, or corporation or when the net proceeds of such sale are to be used for charitable purposes.

Vehicle means motorized conveyance fully functioning and moving under its own power. 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. 22-162. License required; application.

- (a) All persons, firms, companies, corporations or other entities engaging or offering to engage in business as a canvasser, solicitor, peddler or transient merchant shall file an application in the required form, and obtain a solicitor's license for such activity from the city clerk.
- (b) The application shall include, but not be limited to, the following information:
 - (1) Name, address and telephone number;
 - (2) Date of birth;
 - (3) Social Security number;
 - (4) Copy of photo identification;
 - (5) Name, address and telephone number of the applicant's employer;
 - (6) Name, address and telephone number of the applicant's supervisor;
 - (7) Brief description of products or services to be sold;
 - (8) Location(s) where the goods, merchandise or other property will be offered for sale;
 - (9) Description of motor vehicles to be used by the applicant in conducting the solicitation; and
 - (10) Criminal history.

Sec. 22-163. Investigation.

- (a) A review of criminal history records is required prior to the issuance of a solicitor's license. In addition to a review of criminal history, the applicant must provide the following items:
 - (1) Two forms of positive identification (only official United States Government issued pictured identification accepted; e.g., a valid driver's license, military ID card or valid state ID card).
 - (2) Fingerprints may be required on occasion for positive identification.
- (b) The city shall make an investigation, including, but not limited to, an investigation of the police record and moral character of the applicant. The city clerk shall furnish the application to the police chief. The police chief shall furnish a report to the city clerk of the criminal history record, if any, of the applicant.
- (c) The criminal history record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of criminal history records, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

Sec. 22-164. Disqualification.

- (a) No solicitor's license shall be issued to any applicant who provides any false or misleading information in connection with the application for the license required by this article.
- (b) No solicitor's license shall be granted to any person under the age of 18 or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession or sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, or attempts to commit any of these listed offenses, for a period of ten years prior to the date of application for such license and has been released from parole or probation.

Sec. 22-165. Denial.

- (a) If, as a result of the investigation authorized by this article, the applicant's character or business responsibility is found to be unsatisfactory, the police chief shall endorse on such application his disapproval and the reasons for such disapproval, and return the application to the city clerk who will notify the applicant that the application is disapproved and that no license will be issued.

- (b) No application for a solicitor's license shall be received or acted upon if the applicant has submitted the same or similar application for a solicitor's license within the preceding 12 months which was denied.

Sec. 22-166. Approval; issuance.

If, as a result of the investigation authorized by this article, the applicant's character and business responsibility are found to be satisfactory, the police chief shall endorse on such application his approval and reasons for such approval, and return the application to the city clerk, who shall, upon payment of regulatory fees as established by resolution of the city council, issue a solicitor's license. A solicitor's license shall contain the name, address, physical description and organizational affiliation of the licensee; a description of the solicitation activity to be engaged in; an expiration date; and the signature and seal of the city clerk. The city clerk shall keep a record of all solicitors' licenses issued.

Sec. 22-167. Duration; Required fees prescribed

A solicitor's license shall be issued for up to one month in duration upon payment of the following fees: each registrant shall pay to the city clerk an administration fee of \$75.00 together with a registration fee as follows: one day license- eleven dollars (\$11.00); one week license twenty-two dollars (\$22.00) and one month license fifty-five dollars (\$55.00).

Sec. 22-168. Suspension or revocation.

- (a) The license issued to any solicitor charged with any felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, criminal solicitation to commit any of these offenses, or violation of this or any other City of Tifton ordinance shall be deemed suspended and subject to seizure from the time of lawful arrest by the police department. Such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charge is dismissed, "dead-docketed," "nolle prossed," or "no-billed." It shall be the responsibility of the solicitor to present the city clerk with proof that the arrest which lead to the suspension was dismissed, "dead-docketed," "nolle prossed," or "no-billed." Upon representation of proof of such dispositions, the solicitor's license will be reinstated and will be valid until the date of the original expiration.
- (b) The license of any solicitor who is convicted, has entered a plea of guilty, or has received a nolo contendere to a felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, or criminal solicitation to commit any of these offenses, shall be deemed revoked and subject to seizure by the chief of police or his designee from the time of such conviction, guilty or nolo contendere sentencing.

- (c) The license of any solicitor who is convicted, has entered a plea of guilty or received a nolo contendere sentencing for any violation of this article shall be deemed revoked and subject to seizure by the chief of police or his designee from the time of such conviction, guilty or nolo contendere sentencing.

Sec. 22-169. Applicability of provisions; exceptions.

Except for the regulations set forth in section 22-171, 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 and other regulatory agencies to operate at said festival or event.

Sec. 22-170. 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 the City of Tifton's Land Development Code, pertaining to outside displays, shall be applicable to any solicitor, or peddler.
- (d) 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.
- (e) 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. 22-171. 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. 22-172. Obstruction of street, highway or sidewalk prohibited.

No canvasser, solicitor, peddler or transient merchant 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. 22-173. Unlawful or prohibited activities.

The following are prohibited practices for solicitors and any violation shall constitute grounds for suspension, revocation or denial of renewal of license, and/or arrest:

- (1) Solicit on Sunday, or between the hours 6:00 p.m. and 9:00 a.m. Monday through Saturday.
- (2) Solicit at any location where a sign is posted at or near the main entrance or driveway to the residence or business prohibiting such activity.
- (3) Using any entrance, or part of the building, other than the main entrance to the residence or business.
- (4) Entering a residence except at the express invitation of the occupant.
- (5) Failure of the solicitor to inform the occupant in plain terms of the solicitor's identity and the purpose of the call.
- (6) Making more than one solicitation call at the same location within any consecutive 14-day period, unless invited back by the occupant.
- (7) The solicitor to represent that they are participating in any contest, game or other competitive endeavor, or that they are offering the occupant an opportunity to participate in any such contest, game or endeavor.
- (8) The solicitor to use vulgar, insulting or threatening language in the course of any solicitation.
- (9) The solicitor to remain upon the property of the residence or business after the occupant has verbally indicated that they do not wish to make a purchase. For the purpose of this article, a solicitation shall be deemed to continue until the solicitor has left the property of the residence or business.
- (10) Soliciting anyone under the age of 18 years.
- (11) Failure of solicitor to have a valid license or refuse any person's request to examine same.

- (12) For more than two solicitors to engage in solicitation upon any residence or business at the same time for the same goods or services.
- (13) Solicitor to violate any of the provisions of this article, or to violate any other city ordinance while engaging in any solicitation activity.
- (14) Solicitor to lend, rent or sell their license to another, or to solicit using the license of another.
- (15) Solicitor to alter or deface their license or the license of another.

Sec. 22-174. Violations; enforcement.

Any violations of the provisions in this chapter shall subject the license or permit to revocation. In addition, any person violating this chapter shall be punished as provided in section 1-11. The provisions of this chapter may be enforced by the city police department or the city code enforcement staff.

Secs. 22-175—22-180. Reserved.

II.

GENERAL REPEALER


To the extent that any other ordinance, portion of an ordinance or resolution of the City of Tifton now in effect is inconsistent with the provisions hereof, the same are repealed.

III.

EFFECTIVE DATE

The effective date of this ordinance shall be the date of adoption hereof.

Read and passed on first reading and adopted at a meeting of the City Council of the City of Tifton held on the 8th day of September, 2014.



J.G. "Jamie" Cater, JR.
Mayor

Approved as to Form:

Robert C. Wilmot
City Attorney

Attest:

Rona Martin

Rona Martin
City Clerk