

CITY OF SEALY, TEXAS

APPLICATION FOR ITINERANT MERCHANT LICENSE

APPLICANT INFORMATION

Your name: _____

Street address: _____

Mailing address: _____

Driver's License #: _____ State of Issuance: _____

Height: _____ Weight: _____ Sex: _____ Hair Color: _____

VENDOR INFORMATION

Vendor's name: _____

Street address: _____

Mailing address: _____

PRODUCT/SERVICE INFORMATION

Description of product/service: _____

Upon any sale or order, shall payment or a deposit of money be demanded, accepted, or received in advance of final delivery? Yes No

When would you like to begin going door to door? _____

(Please note that itinerant merchant permits are valid for 180 days, weekdays only, between the hours of 8:30 a.m. and 6:00 p.m.)

Please provide a description, vehicle license number and state of registration of each vehicle, if any, that will be operated under the registration certification being applied for: _____

I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I SHALL ALLOW THE CITY OF SEALY POLICE DEPARTMENT TO PERFORM A RECORD CHECK ON MY PERSONAL BACKGROUND.

Signature: _____ Date: _____

SOLICITOR REGISTRATION FEES AND INFORMATION

The registration fee for an itinerant merchant or itinerant vendor shall be \$30.00 for the effective term, and the beginning and ending dates, not to exceed 180 days. Upon expiration, the registration certificate may be renewed upon compliance with the requirements of Chapter 74 of the City of Sealy Code Book.

The registration fee includes up to five identification cards. An applicant may obtain additional or replacement identification cards by paying to the City a sum of \$5.00 per card.

While conducting activities covered by the registration certificate, an identification card holder shall visibly display the identification card by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

The provisions of this chapter shall not apply to persons engaged in interstate commerce. However, for persons engaged in interstate commerce must first register with the City Secretary of the City of Sealy before going from door to door or place to place. The registrant must submit for inspection by the City Secretary written proof of his identity which may be in the form of an automobile operator's license, identification card or letter issued to registrant by the person, firm or corporation for whom or through whom orders are to be solicited or cleared.

The term "*interstate commerce*" means soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, newspapers or magazines, or subscription to newspapers or magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this city in the fulfillment of such orders.

Activities conducted in accordance with Chapter 74 shall be carried out only between the hours of 8:30 a.m. and 6:00 p.m.

If more information is requested, please provide a copy of Chapter 74 from the City of Sealy Code Book to the applicant.

Chapter 74

PEDDLERS AND SOLICITORS*

Article I. In General

- Sec. 74-1. Sale of merchandise on streets.
Secs. 74-2—74-30. Reserved.

Article II. Peddlers and Solicitors

Division 1. Generally

- Sec. 74-31. Definitions.
Sec. 74-32. Exemption from coverage.
Sec. 74-33. Unlawful conduct.
Secs. 74-34—74-55. Reserved.

Division 2. Registration

- Sec. 74-56. Required.
Sec. 74-57. Fees.
Sec. 74-58. Registration certificate.
Sec. 74-59. Identification cards.
Sec. 74-60. Display of identification card.
Sec. 74-61. Denial of registration certificate or identification card.
Sec. 74-62. Hours.
Sec. 74-63. Trespass.
Sec. 74-64. Appeal of denial or revocation.
Sec. 74-65. Penalty.

***Cross reference**—Streets, sidewalks and other public places, ch. 86.

State law references—Criminal trespass, V.T.C.A., Penal Code § 30.05; persons regarded as retailers under sales tax law, V.T.C.A., Tax Code § 151.024; cancellation of certain consumer transactions, V.T.C.A., Business and Commerce Code ch. 39.

ARTICLE I. IN GENERAL

Sec. 74-1. Sale of merchandise on streets.

(a) It shall be unlawful for any person to peddle or offer for sale any kind of merchandise on any street within the corporate limits of the city.

(b) Any person who shall violate any provision of this section shall upon conviction be punished as provided in section 1-7.

(Ord. No. 7, §§ 1, 2, 10-5-1949)

Secs. 74-2—74-30. Reserved.

ARTICLE II. PEDDLERS AND SOLICITORS*

DIVISION I. GENERALLY

Sec. 74-31. 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:

Noncommercial or nonprofit purpose or cause shall mean a purpose or cause not created, existing or espoused for the generation of a profit or the remuneration of individuals, including, but not limited to, the solicitation of religious or charitable contributions, the seeking of political support or contributions, the promotion of civic or educational causes, the promotion of conservation of resources, or the advocacy of a philosophy or religion.

Peddler shall mean any individual, firm, organization, or corporation, as well as any representative, agent, or employee thereof, who engages in the business in the city of selling, offering for sale, or exhibiting for sale any commodity or service from house-to-house or from place-to-place, and who delivers the commodity or service at the time of sale.

Solicitor or canvasser shall mean any individual, firm, organization, or corporation, as well as any representative, agent, or employee thereof, who engages in the business in the city of taking orders for future delivery of commodities or services, or who solicits subscriptions, orders, contributions, or any kind of support from house-to-house or from place-to-place.

(Ord. No. 2000-09, § 1, 6-7-2000)

***Editor's note**—Ord. No. 2000-09, §§ 1, 2, adopted June 7, 2000, amended art. II, §§ 74-31—74-33, 74-56—74-65 in its entirety to read as herein set out. Former art. II, §§ 74-31—74-33, 74-56—74-65 pertained to similar subject matter and derived from Ord. No. 97-01, §§ 1—6, 8—10, adopted Feb. 12, 1997.

Sec. 74-32. Exemption from coverage.

A peddler, solicitor, or canvasser who conducts activities on the property of another by express prior invitation of the owner thereof is exempt from the coverage of this article. (Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-33. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, or canvasser to:

- (1) Conduct activities within the city without a valid registration certificate;
- (2) Conduct activities within the city without a valid identification card;
- (3) Conduct activities within the city without visibly displaying the identification card.
- (4) Alter a registration certificate or identification card issued by the city;
- (5) Conduct activities within the city after the expiration of the registration certificate;
- (6) Conduct activities within the city different from those described in the registration statement;
- (7) Provide false, inaccurate, or misleading information in the registration statement;
- (8) Use a vehicle or vehicles in the conduct of a business or related activities not identified in the registration statement;
- (9) Conduct a business from a location or locations within the city not listed in the registration statement;
- (10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise, or services not listed and described in the registration statement;
- (11) Sell, assign, or transfer, or attempt to sell, assign, or transfer a registration certificate or identification card; or
- (12) Conduct activities within the city during hours other than those permitted by this article.

(Ord. No. 2000-09, § 1, 6-7-2000)

Secs. 74-34—74-55. Reserved.

DIVISION 2. REGISTRATION

Sec. 74-56. Required.

Prior to commencement of activities other than noncommercial or nonprofit activities within the city, a peddler, solicitor, or canvasser shall complete a registration statement on a form provided by the city secretary for that purpose, which includes the following:

- (1) Name of applicant (person who completes the registration statement);

- (2) Height, weight, sex, and hair color of the applicant;
- (3) A recent photograph of the applicant, no larger than two inches by two inches;
- (4) State sales tax identification number of the applicant;
- (5) Permanent home address and local address, if different.
- (6) The applicant's driver's license number and state of issuance. If the applicant has no driver's license, other identification showing the applicant's date of birth shall be provided.
- (7) Name of individual, firm, company, or organization represented, if any, and the permanent address and local address thereof.
 - a. If the applicant firm, company, or organization represented is a corporation incorporated under the laws of the state, the applicant shall provide a certified copy of the charter or articles of incorporation.
 - b. If the applicant firm, company, or organization represented is a corporation incorporated under the laws of a state other than Texas, the applicant shall provide a certified copy of its certificate of authority to do business in Texas.
- (8) Description, vehicle license number and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.
- (9) The name, height, weight, sex, hair color, state sales tax identification number, permanent home address, date of birth, and driver's license number and state of issuance for each individual who will be conducting activities under the registration certificate.
- (10) Prior to issuance of the registration certificate and identification cards, each individual whose name is listed by the applicant shall present his driver's license or other identification in person to the city secretary for verification of the information provided by the applicant.
- (11) A recent photograph of each individual who is listed by the applicant, no larger than two inches by two inches.
- (12) A description of the business and related activities to be conducted.
- (13) A copy of the applicant's state sales tax permit, if applicable.
- (14) A description of the commodities, goods, merchandise, or services to be offered for sale or the noncommercial or nonprofit purpose or cause.
- (15) Location or locations from which business and other activities will be conducted.
- (16) The term or period during which the business and activities will be conducted, not to exceed 180 days. Upon expiration of the 180-day period, or shorter period indicated by

the applicant on the permit registration statement, the applicant must complete a new registration statement in accordance with the requirements of this article if renewal is desired.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-57. Fees.

Every registration statement, other than a registration statement for a noncommercial or nonprofit cause, shall be accompanied by a registration fee, which is on file in the city secretary's office, to compensate the city for the cost of administration of this article. A fee, which is on file in the city secretary's office, shall be charged for replacement of a registration certificate.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-58. Registration certificate.

(a) The city secretary shall issue a registration certificate to the applicant authorizing the applicant's activities within five working days after the applicant has fully complies with all applicable provisions of this article, unless the city secretary denies the registration certificate or identification card as provided in section 74-61 hereof.

(b) The registration certificate shall state the effective term, and the beginning and ending dates, not to exceed 180 days. Upon expiration, the registration certificate may be renewed upon compliance with the requirements of this article.

(c) A registration certificate issued under this section shall be personal to the applicant and shall not be sold, assigned, or transferred to any other person. Any attempted sale, assignment, or transfer of a registration certificate identification shall be grounds for revocation of the registration certificate.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-59. Identification cards.

(a) In conjunction with the issuance of a registration certificate required by section 74-58 hereof, the city secretary shall issue identification cards for each individual whose name is listed in the registration statement. The identification card shall be laminated in clear plastic; shall have a metal clothing clip, shall contain the photograph of the holder; and shall state the holder's name, driver's license number and state of issuance, and the height, weight, sex, and hair color of the card holder; the term of the permit, and the nature of the business and related activities. The card shall contain a conspicuous disclaimer of any endorsement by the city: THE CITY OF SEALY DOES NOT ENDORSE THESE ACTIVITIES.

(b) An identification card issued in accordance with this section shall be personal to the card holder and shall not be sold, assigned, or transferred to any other person. Any attempted sale, assignment, or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued thereunder.

(c) The city secretary shall issue up to five identification cards with the registration certificate without any additional charge. An applicant may obtain additional or replacement identification cards by paying to the city the sum of \$5.00 per card.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-60. Display of identification card.

While conducting activities covered by the registration certificate, an identification card holder shall visibly display the identification card by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-61. Denial of registration certificate or identification card.

(a) The issuance of a registration certificate or identification card may be denied if:

- (1) Any violation of this article or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under the registration certificate.
- (2) False, inaccurate, or misleading information is contained in the registration statement;
- (3) The applicant is overdue in payment to the city of taxes, fees, fines, or penalties assessed or imposed against him; or
- (4) The applicant fails to fully comply with applicable provisions of this article.

(b) Denial of a registration certificate or denial of an identification card to any individual shall be by written notice, specifically pointing out the reasons for the denial and the action that will be required before a registration certificate can be issued, provided to the applicant by mailing a copy by regular mail to the applicant's local address, if provided, or to the permanent business or home address listed on the registration statement and by affixing a copy of the written notice to the registration statement on file with the city.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-62. Hours.

Activities conducted in accordance with this article shall be carried out only between the hours of 8:30 a.m. and 6:00 p.m.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-63. Trespass.

Nothing contained in this article shall be construed as permitting any person to enter or remain on property of another person without the consent of such other person.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-64. Appeal of denial or revocation.

An applicant or other individual who has been denied a registration certificate or identification card or who has had a registration certificate revoked may appeal that action to the city council by submitting a letter to the city secretary's office within ten days of the action complained of. A hearing on the denial will be scheduled for the next regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is considered.

(Ord. No. 2000-09, § 1, 6-7-2000)

Sec. 74-65. Penalty.

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.

(Ord. No. 2000-09, § 2, 6-7-2000)