

CITY OF SPRINGFIELD, FLORIDA

ORDINANCE NO.: 390

AN ORDINANCE RELATING TO SOLICITORS, PEDDLERS AND CANVASSERS; PROVIDING DEFINITIONS; REQUIRING PERMITS AND PROVIDING THE TERMS, QUALIFICATIONS AND COSTS THEREOF; PROVIDING FOR DISAPPROVAL OR REVOCATION; ESTABLISHING AN APPEAL PROCESS; PROHIBITING NIGHTTIME AND SUNDAY SOLICITATIONS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SPRINGFIELD , FLORIDA, AS FOLLOWS:

SECTION 1. Repealer. Ordinances, resolutions and charter provisions inconsistent herewith to the extent of the inconsistency are hereby superseded and repealed to the extent of their inconsistency within this Ordinance.

SECTION 2. Definitions.

1. "Applicant" - Any person who applies for a permit.
2. "Charitable, non-profit or veterans' organization" - An organization which has qualified for an exemption from Federal Income Tax as an exempt organization under the provisions of Section 501 (c) of the Internal Revenue Code of 1954, or Section 528 of the Internal Revenue Code of 1986, as may be amended or superseded, which is engaged in charitable, civic, community, benevolent, religious or scholastic works or other similar activities.

3. "Chief" - The individual designated by the City Council to perform the duties of the Chief of Police of the City.

4. "City" - City of Springfield, Florida, a municipal corporation.

5. "Clerk" - Clerk of the City, or other Person designated by the City Council to perform the duties of Clerk under this Ordinance.

6. "City Council" - Governing body of the City.

7. "Law enforcement officer" - Any police officer of the City or any employee of the City or other person duly designated by the City Council to enforce this Ordinance or any other person whether federal, state, county or city as defined in Sections 112.531, 316.1906, and/or 943.10 of the Florida Statutes, as may be amended or superseded from time to time.

8. "Peddler" - Any person, whether a resident of the City or not, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from residence-to-residence or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, farm products, periodicals, books, magazines or provisions, offering articles to prospective purchasers, or who without traveling from place to place, shall sell or offer the

same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance. Anyone who solicits orders and, as a separate transaction, making deliveries to purchasers as a part of a scheme or design to evade the provisions of this Ordinance shall be deemed a peddler. The word "peddler" shall include the words "hawker" and "huckster".

9. "Permit" - Evidence of compliance with this Ordinance by a person issued in written form by the City, and includes some pictorial positive identification of the permit holder.

10. "Person" - Any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, agency of the state, district, federal agency or any other legal entity or its legal representative, agent, or assign, and includes the plural as well as the singular.

11. "Premises" - Separate and identifiable real property including, but not limited to, buildings, habitations, institutions or places of business.

12. "Public lands" - Any park or school yard or open space adjacent thereto, and all waterways and sovereign lands, highways, streets and alleys as designated by the State of

Florida or the United States Government.

13. "Residence" - Every separate living unit for residential purposes by one or more persons, contained in any type of building or structure.

14. "Solicitor"

A. Any person, whether a resident of the City or not, traveling either by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from residence-to-residence or from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or not. Such definition shall include any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery. This term shall include, but not be limited to:

(1) seeking to obtain orders for the purchase of

goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever;

(2) seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(3) seeking to obtain gifts or contributions of money or clothing or other valuable items, tangible or intangible, for the support or benefit of any charitable, non-profit or veterans' organization.

B. The term "solicitor" shall include the terms "canvasser", "peddler", "transient or itinerant merchant or vender" or "transient or itinerant photographer". This term shall not apply to the following:

A. sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business; and

(1) law enforcement officers, receivers or trustees in bankruptcy or other public officials selling goods, wares or merchandise according to law.

15. "Soliciting, peddling or canvassing" - Any word derived

from such words, shall include any act which directs attention to any business, mercantile or commercial establishment, or other activity, for the purpose of promoting, either directly or indirectly, the interests thereof by sales.

16. "State" - State of Florida, its agencies and instrumentalities.

SECTION 3. Permit. It shall be unlawful for any person to engage in or act as a solicitor or peddler within the corporate limits of the City without first obtaining a permit as provided in this Ordinance, except as set forth herein.

SECTION 4. Filing of Application.

1. Applicants for permits under this Ordinance must file with the Chief or the Chief's designee a sworn written application in duplicate, on forms to be furnished by the City, which shall give the following information.

1. Name and description of the applicant, including date of birth;

A. Permanent home address and full local address of the applicant;

B. If applicable, a brief description of the nature of the business and the goods to be sold;

C. Proposed method of operation;

D. Social security or taxpayer identification number of applicant;

E. If applicable, the place where the goods or property(ies) is/are proposed to be sold;

F. Physical description of applicant;

G. If employed, the name and address of the employer;

H. The length of time for which the right to do business is derived;

I. If a vehicle is to be used, a description of the same, together with license number and driver's license number or other means of identification.

J. The date, or approximate date, of the latest previous application for a permit under this Ordinance, if any;

K. Whether a permit of registration issued to the applicant under this Ordinance has ever been revoked;

L. Whether the applicant has ever been convicted of a felony under the laws of this State or any other state or of the United States;

M. Names of magazines, journals or books to be sold, if applicable;

N. Names of the three (3) most recent communities where the applicant has solicited residence-to-residence, if applicable;

O. Such other relevant information as may be required by the City; and

P. Signature of applicant.

2. All statements made by the applicant or in connection therewith shall be under oath.

3. The applicant shall submit to finger printing by a law enforcement officer upon request by the City in connection with the application for the permit.

4. The Chief or the Chief's designee shall keep an accurate record of every application received and acted upon, together with all other information and data pertaining thereto, and all permits issued under the provision of this Ordinance and of the denials of permits. Applications for permits shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it is issued.

5. No permit shall be issued to any person who has been convicted of a violation of any of the provisions of this Ordinance, nor to any person whose permit issued hereunder has

previously been revoked as herein provided.

SECTION 5. Investigation. Upon receipt of an application for a permit required by this Ordinance, the original shall be referred to the Chief or the Chief's designee, who shall investigate the applicant's background for charges of criminal or unethical conduct or civil unfair trade practices.

SECTION 6. Display of Permit Required.

1. Any person issued a permit in accordance with this Ordinance shall prominently display, upon his/her person at all times that he/she is engaged in solicitation or other activities regulated by this Ordinance with the City, the permit issued to him or her by the Chief or the Chief's designee.

2. All permits hereafter issued for residence-to-residence sales and solicitations at residences or other private premises shall have printed the hours during which such sales are permitted, pursuant to this Ordinance or any amendments thereto.

SECTION 7. Fee. The fee for the solicitation permit shall be Twenty-Five and No/100 Dollars (\$25.00) per individual involved.

SECTION 8. Duration of Permits. All permits issued pursuant to this Ordinance shall be dated and signed by the Chief or the Chief's designee and shall be valid during the term

specified, not to exceed ninety (90) days after the date of issuance.

SECTION 9. Permits Nontransferable; Marking. The permits described in this Ordinance shall be inscribed upon a card which shall be endorsed in red letters: "Not Transferable and Not an Endorsement or a Recommendation." The permit shall state the expiration date thereof.

SECTION 10. Unauthorized Use of Permit. A permit issued under the provisions of this Ordinance shall not be used at any time by any person other than the one to whom it was issued.

SECTION 11. Disapproval. If, as a result of the investigation provided for in this Ordinance or for any other lawful reason, the application or the applicant is found to be unsatisfactory, the Chief or the Chief's designee shall endorse on such application the disapproval and reasons for the same, and return the application to the applicant.

SECTION 12. Revocation and Denial.

1. Permits issued under the provisions of this Ordinance may be denied or revoked by the City for any of the following causes:

A. Fraud, misrepresentation or false statement contained in the application;

B. Fraud, misrepresentation or false statement made in the course of the applicant carrying on his business as solicitor or peddler;

C. Any violation of this Ordinance or any other ordinance of the City; or

D. Conducting the business of soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or welfare of the public.

2. Any permit issued hereunder shall be revoked by the Chief or the Chief's designee if the holder of the permit is convicted of a violation of any of the provisions of this Ordinance, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this Ordinance. Immediately upon such revocation, written notice thereof shall be given by the Chief or the Chief's designee to the holder personally of the permit or by certified United States mail addressed to his or her residence address set forth in the application.

3. Immediately upon the giving of such notice the permit shall become null and void.

SECTION 13. Appeals. The denial or revocation of a permit

under this Ordinance may be appealed to the City Council by serving a notice of such appeal upon the Clerk within thirty (30) days after such denial or revocation. Such appeal shall be heard and resolved by the City Council in such a manner as to afford due process within thirty (30) days after the filing of the notice.

SECTION 14. Loud Noises; Use of Streets by Peddlers. In addition to the general provisions set forth elsewhere in this Ordinance, peddlers shall be subject to the following special provisions:

1. No peddler, nor any person on the peddler's behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound-amplifying system upon any private premises in the City where sound of sufficient volume is emitted, or produced therefrom to be capable of being plainly heard upon the public lands for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

2. No peddler shall have exclusive right to any location in the public lands, nor shall any be permitted a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or

inconvenience the public.

3. No person shall solicit, canvass or peddle within the City on Sunday, or between the times of sunset and sunrise daily, except in conjunction with a recognized and publicized charitable fund drive.

SECTION 15. No Soliciting or Peddling at Posted Residences.

It shall be unlawful for any person for the purpose of soliciting, canvassing or peddling, whether holding permit or not, to go on the private residence of any person in the City that displays a sign near the place of entrance reading "No Soliciting" or "No Peddling", or words of similar meaning.

SECTION 16. Prohibited Areas Designated; Permit Conditions; Application Procedure; Issuance.

1. No person, without prior permission of the Mayor and/or City Council, shall solicit, canvass, or otherwise take orders for the sale of merchandise, goods, or property of any kind or character in the following areas situated within the City:

A. All of the beach areas upland of the mean high water line.

B. All public lands, including parks.

SECTION 17. Permit Required for Charitable Endeavors.

1. It shall be unlawful within the City for any person to

solicit or to accept alms, gifts or monies for any person, any charitable, non-profit or veterans' organization to promote or participate in any entertainment, fair, bazaar, or carnival, or offer for sale tickets therefor, in the name of charity, patriotism, religion, fraternalism, or philanthropy, or to solicit or accept gifts except by an organization on its own premises; without first obtaining a permit from the City as provided in this Ordinance. All provisions of this Ordinance dealing with solicitors shall apply to such persons, except as specifically noted.

2. It shall be unlawful within the City for any person to hold a rummage sale, or sell or offer for sale any merchandise or property, which has been given for sale to any charitable, non-profit or veterans' organization or for any charity, religion, philanthropy, fraternalism or patriotism, except on their own respective premises, without first obtaining a permit from the City as provided in this Ordinance.

3. In addition to the other information required for a permit, should a charitable or benevolent organization that is unknown or of a new origin apply for a permit to collect funds or donations of any kind, it shall also supply in writing a statement of where such organization was organized, where its

chief office is located, and for what purpose it solicits funds, and also whether or not any federal entity, state, city or town has supervision of its expenditures, or whether the public is fully appraised of the manner in which the donations are to be distributed.

4. If the Chief or the Chief's designee shall be satisfied from the application so filed and from such other information as may be gathered from any other source: (1) that the statements contained in the application are true; (2) that the applicant is a person in good standing and a bona fide solicitor for a reputable charitable organization or for a deserving and bona fide charitable purpose; and (3) that there is a reasonable certainty that the funds so required will be devoted to the purpose or purposes for which they are solicited, less a reasonable commission or salary to be paid the solicitor; then the Chief or the Chief's designee shall issue such permit as required by this Section.

SECTION 18. Exemptions.

1. The provisions of this Ordinance shall not apply when solicitation is conducted on an appointment basis, with a time for such appointment set either by telephone or through the United States Mail, or by other than residence-to-residence

solicitation and/or sale.

2. Any person peddling or soliciting under the terms of this Ordinance who holds a valid current license from a State agency authorizing such peddling and solicitation, and which State agency regulates any person so licensed by the State, is hereby exempt from the provisions of this Ordinance relating to permits.

SECTION 19. Occupational License Required. In the event that the applicant desires to or does conduct any activity being regulated hereby in excess of the ninety (90) day permit within any given calendar year period, the person shall comply with the terms and conditions of City Ordinance No. 98-237, as may be amended or superseded, in lieu of obtaining a permit as required by this Ordinance. Aside from the issuance of an occupational license in lieu of a permit, the person shall comply with all other terms and conditions of this Ordinance.

SECTION 20. Penalties. Any person violating the provisions of this Ordinance shall be fined not more than Five Hundred and No/100 Dollars (\$500.00) or imprisoned not more than sixty (60) days, or both. Every day of a violation of this Ordinance shall constitute a separate offense.

SECTION 21. Severability. If any section, subsection,

sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 22. Effective Date. This Ordinance shall take effect upon its passage and approval in accordance with law.

PASSED, APPROVED AND ADOPTED at a meeting of the City Commission of the City of Springfield as of this 5th day of April, 1999.

CITY OF SPRINGFIELD, FLORIDA



JERRE DEASON, Mayor

ATTEST:



CHARLES A. YAUTZ, City Clerk

First Reading: 03/01/99
Second Reading: 04/05/99
Date Published: 03/15/99

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