

**ORDINANCE #09-0914A**

**AN ORDINANCE TO AMEND THE CITY OF MERIDIAN CODE OF ORDINANCES ADDING TO CHAPTER 112: PEDDLERS, SOICITORS, AND ITINERANT MERCHANTS, BY REPLACING CHAPTER 112 WITH THE AMENDED CHAPTER 112.**

**WHEREAS**, the City of Meridian has received numerous complaints concerning solicitation on the streets of Meridian, Texas,

**WHEREAS**, the City Council of the City of Meridian has met at a regularly scheduled meeting to discuss the matter and allowed public comment,

**WHEREAS**, the City Council has reviewed the proposed regulations and feel that these regulations will benefit the citizens of Meridian, Texas,

**THEREFORE, LET IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF MERIDIAN, TEXAS, that:**

1. CHAPTER 112: PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS BE REPLACED WITH THE ATTACHED AMENDMENTS

**APPROVED AND PASSED** this the 14<sup>th</sup> day of September, 2009.

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Mayor

ATTEST:

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City Secretary

**Attachment to ORDINANCE #090414A**

Chapter 112: PEDDLERS AND SOLICITORS\*

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Sec. 112.01. Definitions.

The following words and phrases [when used in this chapter] shall have the meanings respectively ascribed to them by this section.

*Charitable purpose or charitable purposes* shall mean philanthropic, or other non-profit objectives, including the benefit of poor, needy, sick, refugee or disabled persons; the benefit of any religious organization; 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 institution. Charitable purpose shall not be construed to include the direct benefit of the individual making the solicitation.

*City* shall mean the City of Meridian, Texas.

*Consumer* shall mean an individual who seeks or acquires real or personal property, services, money, or credit for personal, family, or household purposes.

*Consumer transaction* shall mean a sales transaction in which one (1) or more of the parties is a consumer.

*Handbills* shall mean any printed or written matter, any sample or device, circular, flyer, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by United States mail pertaining to home solicitation transactions and solicitation of funds and not exempted by section 112.05.

*Home solicitation transaction* shall mean a consumer transaction for the purchase of goods, services, or realty, payable in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation transaction shall not include a sale made pursuant to a

pre-existing revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

*Mobile Vendor Operation* shall mean any vehicle, stand, cart, craft or other equipment or device used by a vendor for the storage or display of goods for sale or rent or in the actual rendering of services.

*Peddler or Solicitor* shall mean any person without a permanent business establishment within the city who sells, offers for sale, rents or offers for rent any goods or services by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof, and who makes delivery at or near the time of any such transaction.

*Residence* shall mean any separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

*Solicit funds or solicitation of funds* shall mean 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, tickets, publications or subscriptions to publications. A solicitation of funds is complete when the solicitation is communicated to any individual then located within the corporate limits of the city.

*Vendor* shall mean any person who engages in the business of selling, offering for sale, renting or offering for rent and delivering from stock at or near the time of sale or rental any goods or services from any vehicle, cart, stand, or other equipment or device or from his person, from, in or upon any public street, alley, sidewalk, park, beach or any other public way or premises or from, in or upon any private premises; and outside a permanent, established structure.

Sec. 112.02. Permit; registration required.

No person, directly or through an agent, shall solicit funds for home solicitation transactions or engage in home solicitation transactions without first having obtained a written permit, or shall solicit funds for charitable purposes without first having registered with the city.

Sec. 112.03. Non-charitable solicitations permit.

(a) Any person desiring, directly or through an agent, to solicit funds for home solicitation transactions or engage in home solicitation transactions within the city shall make written application on a form provided by the city to the chief of police for a permit which application shall include at least the following:

- (1) The name of the applicant;
- (2) Whether the applicant is a natural person, partnership, corporation, or association; and,
  - a. If a natural person, the applicant's full name; residence and business address, telephone number, driver's license number and state of issuance and social security number.
  - b. If a partnership, the name and address of all partners, and the principal business address.
  - c. If a corporation, the date and place of incorporation, the mailing address, business address, telephone number, name of the main individual in charge of the local office of the corporation, if any, and the names of all officers, directors or trustees of the corporation.
  - d. If an association, the association's business address and telephone number, the names, business or residence address and telephone number of all members of the association unless they exceed ten (10) in number, in which case the applicant may alternatively list the names, business or residence address and telephone number of the officers and directors or trustees of the association. If the association is part of multi-state organization or association, the address of its central office and local address of the parent organization.
- (3) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation;
- (4) The license number of any motor vehicle to be used in the operation of the business within the city.
- (5) A description, photograph or drawing of any vending unit to be used in the business for which the permit application is filed.
- (6) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its conclusion; and how often the applicant will solicit during the specified time period;
- (7) A description of methods and means by which the solicitation is to be accomplished;
- (8) Names of any other cities in which the applicant has made solicitations during the previous twelve (12) months;
- (9) The nature of the merchandise to be sold or offered for sale, or the nature of the service to be furnished;
- (10) Whether applicant will demand, accept, or receive payment or the deposit of money in advance of final delivery;
- (11) If the applicant is unable to provide any of the foregoing information, an explanation of the reasons why the information is not available;

- (12) Name, address, telephone number and social security numbers of each adult who will be responsible for supervising any juvenile solicitor (under seventeen (17) years of age);
- (13) When the applicant will be represented by more than one (1) person, the applicant shall include the name, address and telephone number for each solicitor employed, and a permit is required for each person who will solicit for the applicant;
- (14) Whether the applicant, or any person employed by applicant, or any person who applicant will use to solicit for applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude.
- (15) Any applicant who will sell or solicit on private property shall have written permission from the property owner of the property from which sales, solicitations or consumer transactions will occur, and such written permission must be presented at the time of the application for a permit.
- (16) A surety bond approved by the city bonding applicant to reimburse the city for damages caused by applicant during the time applicant is permitted by the city, shall be presented at the time of application. The bond will be in an amount no less than five hundred dollars (\$500.00), but a larger bond may be required depending on the nature and type of the application and solicitation of applicant.
- (17) A sales tax permit properly issued by the taxes comptroller of public accounts or evidence that the applicant is exempt from the collection of sales tax.
- (18) No permit authorized to be issued under this article shall be issued to any applicant for the purpose of selling or offering for sale any food or beverage unless the applicant shall have first obtained all health permits, certificates and inspections required by the city ordinances concerning food establishments and the Health Department for the particular type of business for which the permit is requested.
- (19) The applicant must sign the application if the person is an individual; if the person applying is a partnership, by the partner in charge with the disbursement of funds; if the person applying is a corporation or an association, by its officer charged with disbursement of funds. Applicant shall also provide satisfactory written proof of authority to represent the company or individual. The individual signing the application must acknowledge that the applicant has carefully read the application and that all the information contained therein is true and correct.
- (20) A non-refundable permit fee established by resolution of the city council shall accompany the application and no permit hereunder shall be issued until the applicant has paid the fee. A permit fee shall be required for each person making a solicitation for the applicant.
- (21) The chief of police, or designee of the chief of police, shall be entitled to deny any application or permit unless the application has been properly completed, complies with all the terms and provisions required in this chapter and has been deemed approved in all respects by the chief of police or his designee. The chief of police, or designee of the chief of police, shall have the authority to deny any application or permit after completing a criminal background check on the applicant.

#### Sec. 112.04. Charitable solicitations registration.

- (a) All persons desiring to solicit funds for charitable purposes, as defined in section 112.01, in the city shall file with the chief of police a registration statement on forms provided by the city. The chief of police is authorized to verify and confirm the charitable purpose before issuing a permit.

(b) The solicitation of funds for charitable purposes by an organization or association from its members, or the solicitation of funds for charitable purposes by persons when such solicitation occurs on premises owned or controlled by the person soliciting funds, or with the permission of the person who owns or controls the premises, or when previously invited to the premises for solicitation, is exempt from this section.

#### Sec. 112.05. Exemptions.

The provisions of this chapter do not apply to public utility companies or others operating under franchises granted by the city, nor to insurance salesmen, distributors of newspapers, real estate salesmen, political organizations that are subject to state financial disclosure laws, political candidates, religious proselytizing, door to door advocacy of a political cause, and distribution of handbills and canvassing unrelated to home solicitation transactions.

#### Sec. 112.06. Issuance of permit; certificate of registration; display.

(a) After review of the registration or permit application, as the case may be, to determine compliance with this chapter, and within ten (10) working days of the receipt of the application, the chief of police or designee shall either issue a certificate of registration or permit, as provided in this chapter, or notify the applicant that the application for registration or permit does not comply with the requirements of this chapter and specifically identify what information or explanation has not been furnished that is required before a permit or certificate of registration can be issued. The registration certificate and permit shall contain the time period for which solicitation has been permitted.

(b) It shall be unlawful for any person to engage in charitable or non-charitable solicitations without having the permit or registration provided by the city visibly displayed on the upper front portion of such person. It shall be unlawful for any person engaged in charitable or non-charitable solicitations to fail or refuse to show or display such permit or registration upon the request of any person demanding the same. It shall be unlawful for any person to display a permit or registration which has expired, been revoked or which has been issued by the city for another person.

#### Sec. 112.07. Revocation; appeal.

(a) Failure to comply with any of the provisions of this chapter shall constitute grounds for revocation of any permit or registration issued in accordance with the provisions of this chapter. Any person may have their permit or registration revoked at the sole discretion of the police chief, or designee, upon the receipt of three (3) or more complaints of behavior that is disruptive to the peace of the citizens of Meridian. Any such complaints may be verbal or written.

(b) Any person whose application for a permit or registration has been denied or whose registration or permit is revoked may appeal such action to the city manager, or designee, by submitting a written request to the city manager's office within ten (10) working days after denial or revocation as the case may be. A hearing shall be held within twenty-one (21) working days after the date of receipt of the notice of appeal. The city manager, or designee, shall render a decision within two (2) days of the hearing. The decision of the city manager or designee shall be final.

Sec. 112.08. Transfer of permit prohibited.

A permit or registration issued under the provisions of this chapter shall not be assigned or transferred to any person, corporation, association, or other entity. Any attempt to assign or transfer a permit or registration issued by the city shall be cause for revocation.

Sec. 112.09. Hours of solicitation.

(a) It shall be unlawful for any person to place or leave a handbill or to conduct a charitable or non-charitable solicitation or to solicit funds or go upon any residential premises and ring the doorbell, or rap, or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purposes of engaging in or attempt to engage in a home solicitation or engage in any consumer transaction:

(1) For no more than three (3) days in a calendar week, before 9:00 a.m. or after 8:00 p.m., Monday through Saturday, but in no event on Sunday.

(2) At any time on a Sunday, New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

(b) This section does not apply if the vendor or solicitor is on the property by prior invitation of the resident or occupant of the premises.

Sec. 112.10. Exhibiting card prohibiting solicitors and/or handbills.

(a) A person, desiring that no merchant or other person engage in a charitable or non-charitable solicitation, or home solicitation or place handbills or other advertisement at such person's residence, shall exhibit in a conspicuous place upon or near the main entrance to the residence any sign posted bearing the words "no peddlers", "no solicitors" or words of similar import and shall be deemed a request that any such peddler or solicitor depart the premises.

(b) Every merchant or other person intending to engage in a charitable or non-charitable solicitation or to place handbills, going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence. If notice-prohibiting soliciting is exhibited, the merchant shall immediately depart from the premises unless the visit is the result of a request by the occupant.

(c) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a charitable solicitation, non-charitable solicitation or home solicitation transaction, or place handbills if a card as described in subsection (a) above is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is a result of a request by the occupant.

Sec. 112.11. Sale of merchandise on city property, public right-of-way; city parks; mobile vendors.

(a) It shall be unlawful for any person to peddle, solicit, engage in consumer transactions, sell, offer for sale, or exhibit for sale any merchandise upon any public sidewalk, city park, public property, street, street right-of-way, parkway, or other public right-of-way ("city property"), except when conducted on public property adjacent to and contiguous with a permanent place of business owned or operated by a merchant regularly conducting retail sales from such place of business and in compliance with all other laws and regulations pertaining to use of such public property. Notwithstanding, charitable organizations having a charitable purpose, as defined in section 112.01, after being properly registered shall be entitled to solicit, sell, offer of sale, or exhibit for sale, merchandise or solicit funds on city property, provided the Meridian City Council has authorized the soliciting or sales prior to the solicitation or sales on city property.

(b) No person shall engage in or attempt to engage in any mobile vending operation involving food products, on any public street that is not residential in character or on any street that includes four (4) or more marked traffic lanes or within any city park.

(c) No person shall engage in or attempt to engage in any mobile vending operation involving food products unless such person has in his or her immediate possession a valid solicitor's permit and health permit issued by the city or other proper health authority.

(d) Any person engaged in or who attempts to engage in mobile vending operations involving food products shall stop the motor vehicle only in immediate response to a direct request from a potential customer and for a period not to exceed fifteen (15) minutes.

(e) Any person engaged in mobile vending operations involving food products shall comply with all traffic laws and parking regulations. Sales and deliveries of products shall not be made from any part of the vehicle away from the curbside.

Sec. 112.12. Handbills on public property.

It shall be unlawful for any person to paste, stick, or place any advertisement, handbill, placard, printed matter, pictures, or written matter or any device for advertising purposes upon any fence, railing, sidewalk, telephone, electric light or public utility pole, city property or other public property, or to knowingly permit the same to be done. Notwithstanding, this section shall not prohibit the use of temporary use directional signs used in compliance with Sign Ordinance #05-0509 as amended.

Sec. 112.13. Charitable solicitations on public rights-of-way.

Persons holding a charitable solicitation registration certificate may conduct charitable solicitations in and upon public rights-of-way within the city, subject to the following:

(1) No charitable solicitations shall be conducted upon or within the right-of-way of any streets or roadways that are designated, a state highway or farm to market road.

(2) Persons planning to conduct charitable solicitations in or upon public rights-of-way shall at the time of application for a registration certificate, identify in writing to the chief of police, all locations for the planned solicitations for review of safety conditions and approval prior to any such solicitation, with such approval subject to revocation based on traffic safety conditions.

(3) Charitable solicitations shall be conducted only during hours of daylight and shall be conducted no more than one (1) consecutive thirty-six-hour period each year per organization.

(4) No person under eighteen (18) years of age shall conduct any solicitation in or upon public rights-of-way.

(5) Applicants for a charitable solicitation certificate of registration who contemplates conducting any solicitation in or upon public rights-of-way shall, prior to conducting any such solicitation, furnish the city with a certificate of insurance complying with the standards established by the city and execute a waiver of liability in favor of the city on a form provided by the city.

(6) Persons conducting such solicitations shall, at all times during which the solicitation is being conducted, wear traffic safety vests.

(7) Each organization conducting charitable solicitations in or upon public rights-of-way shall designate a person to be in charge of and responsible for each intersection and/or portion of public right-of-way upon which such solicitation is to be conducted.

#### Sec. 112.14. Expiration of solicitation permit or registration.

Each certificate of registration or solicitation permit issued by the city shall expire at the termination of the period specified in the certificate or permit or six (6) months from the date of issuance, whichever is earlier.

#### Sec. 112.15. False information.

It shall be unlawful for any person to file a false application for a solicitation permit or registration certificate with the city.

#### Sec. 112.16. Prohibited conduct.

A person engaged in a charitable or non-charitable solicitation shall not:

- (1) Misrepresent the purpose of the solicitation or offer to sell;
- (2) Misrepresent the affiliation of the vendor or solicitor;
- (3) Continue efforts to sell or solicit from an individual once that individual informs the vendor or solicitor that he does not wish to give anything to or to buy anything from that vendor or solicitor.
- (4) Represent the issuance of any permit or registration by the city as an endorsement or recommendation of the sale of solicitation;
- (5) Solicit for a purpose other than set out in the application upon which the permit was issued.
- (6) Shall not conduct any consumer transactions, sell or solicit in violation of any zoning or other ordinance restrictions.

Sec. 112.17. Penalty clause.

Any person, firm or corporation violating any of the provisions or terms of this chapter shall be guilty of a misdemeanor and upon conviction in the municipal court of Meridian, Texas, shall be subjected to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, except where a different penalty has been established by state law for such offense, and for any violation of any provision which governs public health or sanitation, which shall be punished by a penalty of fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day such violation is continued shall be deemed to constitute a separate offense.