

ARTICLE 4.03 VENDORS, CANVASSERS, DOOR-TO-DOOR SALES

AN ORDINANCE OF THE CITY OF RENO, LAMAR COUNTY, TEXAS REGULATING SOLICITORS AND CANVASORS INSIDE THE CITY LIMITS; DEFINING DOOR TO DOOR SOLICITATION AND CANVASSING; DEFINING VEHICLE SOLICITATION AND CANVASSING, ESTABLISHING CRITERIA FOR CITY ISSUED PERMITS; ESTABLISHING EXCEPTIONS TO PERMITTING REQUIREMENTS; ESTABLISHING BOND REQUIREMENTS IN CERTAIN SITUATIONS; LIMITING THE HOURS AND PLACES WHERE PERMITTED SOLICITATION AND CANVASSING ACTIVITY MAY OCCUR; PROVIDING FOR A CRIMINAL PENALTY; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE; AND REVOKING INCONSISTENT ORDINANCES.

WHEREAS, the City of Reno desires to secure the health, safety and welfare of residents of the City by regulating solicitation and canvassing as hereinafter described within the City limits; and

WHEREAS, restricting door to door solicitation and canvassing at residential districts during times when such activity is most intrusive and disruptive to citizens' privacy is in the interest of health, safety and welfare; and

WHEREAS, regulating the locations in which solicitation and canvassing activity may occur promotes safety and minimizes congestion; and

WHEREAS, regulating the manner in which any solicitation or canvassing activity may occur promotes good order, and protects citizens from aggressive and intimidating practices; and

WHEREAS, requiring solicitors and canvassers to obtain permits from the City is an aid to crime detection and a deterrence to deceptive trade practices and fraud.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RENO, LAMAR COUNTY, TEXAS:

ARTICLE I: DEFINITIONS.

In This Article The Following Definitions Apply.

Canvasser means a person who engages in canvassing activities.

Canvassing means the act of traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building; or Occupying space in or traveling on or through any public place in the City; While personally contacting persons to communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills, leaflets, hand signing or by any other method, direct or implied, for any purpose other than selling or taking orders for goods, wares, merchandise or services or collecting money.

Chief of Police means the duly appointed Chief of the City Police Department or designee.

City means the City of Reno, Lamar County, Texas.

City Secretary means the City Secretary or designee.

City sponsored event means a special event for which the City has issued a permit other than a solicitor's permit or has otherwise authorized an event, and for which the City pays all or a portion of the costs of the event.

Curb means the line adjacent to the edge of the roadway which may be either a raised or lowered or a marked or unmarked surface.

Dark means the time of day identified by the United States Naval Observatory as being after the end of civil twilight on a particular day in the City.

Handbill means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any manner.

Itinerant Vendor Event means a planned, organized and approved collection of what would otherwise be Itinerant Vendors sponsored by one single organization or approved by the City for a City sponsored event which, in either case, last no more than 72 hours. This definition includes event sponsored or organized by a single organization (including a property owner in a retail business district (that involves one or more licensed mobile food service vendors commonly referred to as "Food Trucks" so long as the event sponsor has obtained a temporary vendor's permit with the City.

Minor means a person under the age of 18.

Non-Profit Organization means an organization or entity that is exempt from the payment of tax pursuant to section 501(c)(3) of the Internal Revenue Code.

Permanent established business location means an established place of business at a definite address, operating in a permanent structure on a continuous basis. A Post Office box or similar designation is not a business location.

Permanent structure means a structure for which a certificate of occupancy has been issued or which is otherwise occupied consistent with the Ordinances and regulations of the City.

Public place means any area to which the public is invited or in which the public is permitted, and includes, but is not limited to: the parking lot of any commercial establishment, the right of way of any street or highway, but does not include the offices or work areas of work places not entered by the public in the normal course of business.

Roadway means that portion of a street or highway designed, improved or ordinarily used for vehicular travel, typically delineated by curbs, edge lines or the edge of the pavement.

Selling means to sell, dispense, peddle, hawk, display, offer to sell or solicit for sale by offering or exposing for sale any goods, wares, merchandise or services.

Sidewalk means the portion of a street or highway that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Solicitation means:

- (1) The act of:
 - a. Traveling either by foot or vehicle, going door-to-door, house-to-house, building-to building; or
 - b. Occupying space in or traveling on or through any public place in the City;
- (2) While personally contacting persons to ask, barter or communicate in any other manner, whether orally, by written or printed materials including but not limited to handbills or leaflets, hand signing or by any other method, direct or implied, for the purpose of:
 - a. Selling or taking orders for goods, wares, merchandise or services; or
 - b. Collecting money for any purpose.

Solicitation does not include:

- (1) Activity of a salespersons with an appointment calling upon or dealing with manufacturers, wholesalers, distributors, brokers or retailers at their place of business or homes and in the usual course of business;
- (2) Activity approved in conjunction with a City sponsored event;
- (3) Activity conducted in conjunction with a residential yard or garage sale;
- (4) Activity of a business conducted at the permanent established location of that business;

- (5) Activity conducted on property not owned or under control of the City, with the consent of the owner or person in control of the property, and the activity is not conducted while traveling either by foot or vehicle from door-to-door, house-to-house or building-to-building;
- (6) Activity for which a special use permit has been issued pursuant to the City's zoning ordinance;
- (7) Activity conducted in connection with a mass gathering event consistent with the City's permit and/or zoning under ordinance; or
- (8) Activity conducted at a City park consistent with an agreement or permit with the City or in accordance with applicable park ordinances and policies.

Solicitor means: Any person, whether a resident of the City or not, traveling by foot, wagon, motor vehicle or any type of convenience, from house to house or from street to street, or operating from a fixed location on or near a street or house not owned by that person, taking or attempting to take orders for the sale of goods, wares or merchandise, subscriptions or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of such merchandise, or whether the person is collecting advanced payments on sales or not; or whether the person is soliciting money or anything of value on behalf of the person, another person, or an entity, whether or not an exchange for goods wares, merchandise or services. Solicitors are classified as follows:

1) Itinerant means any person, firm or corporation who or which attempts to engage or engages in any temporary or transient business transaction in the City, either in one locality or location or while traveling in or from place to place conducting the sale of goods, wares, or merchandise. Itinerant vendors include those who conduct activities from leased or rented premises building or other structures, motor vehicles, tents, cars, boats, public rooms, or any part thereof including but not limited to rooms and hotels, lodging houses, or homes of private individuals as well as those who transact business in any public road in the City for a period for less than one year, for the exhibition or sale of goods, wares, or merchandise. This definition includes principals, their agents, employees, and persons who are in partnerships. No person shall be exempt from the provisions of this Ordinance by reason of temporary association with the local dealer, trade or merchant, or by reason of conducting a temporary or transient business in connection with or as a part of a local dealer or business in the name of that local dealer, trader, or merchant including an auctioneer.

2) Peddler means any person who shall carry from place to place any goods, wears, or merchandise and offer to sell or barter the same, or actually sell or barter the same, and includes all persons who do not keep a regular place of business, whether it be a house, vacant lot, or structure open at all times and regular business house. In addition, all persons who keep a regular place of business open at all times during regular business house at the same location but who shall elsewhere other than at the regular place of business personally or by agent offer to sell or sale goods, wares, and merchandise shall also be deemed a peddler for purposes of this Ordinance. This Ordinance shall not include any peddler who sells to licensed dealers or retailers only, but only applies to persons who solicit orders as a separate transaction.

Solicitor's permit or permit means a permit issued by the Chief of Police which allows a person to conduct solicitation activities within the City.

Street or highway means the width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular traffic.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Youth projects involve an organization where the majority of memberships are minors, the organization is sponsored or representative of a recognized youth program within a 50 mile radius of the City; the solicitation efforts involve fundraising for nonprofit purposes, educational purposes, religious purposes, civic purposes, or charitable purposes, all proceeds collected from solicitation efforts including sales or delivery of product, are turned into the sponsoring youth organization; and the solicitation for the youth project is limited in time to not greater than sixty (60) days.

ARTICLE II: SOLICITOR'S PERMITS, EXEMPTIONS AND BONDS

Sec. 1 - Permit required for solicitation.

- A. A solicitor's permit is required for all solicitation activities defined in this Ordinance and shall be valid for one (1) year following the date of issuance unless a shorter period is requested by the applicant or designated by the City.
- B. An applicant for a solicitor's permit shall pay a permit fee at the time the application is submitted, and if required, shall submit a bond. The amount of the solicitor's permit fee shall be set forth in the City's schedule of fees as approved by the City council.
- C. A person commits an offense if the person engages in solicitation activities in the City without first obtaining a solicitor's permit from the Chief of Police.
- D. **Exceptions:** The following activities are exceptions from the provisions of this Ordinance:

- 1. Persons, including farmers or farmer cooperative associations that sell, offer to sell, or solicit orders for items grown or produced by them and not purchased by them for sale or resale including but not limited to newspapers, firewood, vegetables, fruits;
- 2. Persons participating in an Itinerant Vendor Event where the sponsor of the event has obtained a permit consistent with this Ordinance, other applicable Ordinances, and regulations of the City;
- 3. Person soliciting on behalf of a candidate for public office or on behalf of political party;
- 4. Agents for wholesale houses or firms who solicit orders from or sale to retail dealers in the City for resale or other commercial purposes to manufacture, build, repair structures or buildings.
- 5. Yard sales conducted on residentially zoned property consistent with City rules and Ordinances.
- 6. Persons selling or offering for sale goods, or merchandise; or soliciting orders for the sale of goods or merchandise who qualify as a bonified non-profit organization under Section 501c of the Internal Revenue Code; or which are organized and operated exclusively for nonprofit religious charitable education or civic purpose; or
- 7. Verified Youth Projects.

Sec. 2 - Solicitor's Permit Application.

- A. A person or organization desiring to conduct solicitation activities within the City shall make a written application on a form provided by the City for a solicitor's permit. The application shall contain at a minimum the following information:
 - (1) The name, driver's license or state issued identification, date of birth, phone number and address of each person/organization applying for a permit;
 - (2) A valid state driver's license number or a state-approved identification card number with a photograph (the Chief of Police will make a photocopy and attach to the application);
 - (3) A description of any and all vehicles to be utilized in the solicitation or canvassing, together with the license number and the vehicle identification number;

- (4) Except as provided by [section 3(c), two photographs of the applicant, measuring at least 1.5" × 1.5" and showing the head and shoulders of the applicant in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;
- (5) Proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed solicitation. Copies of all such licenses and permits shall be attached to the application;
- (6) If the applicant is:
 - a. Employed by another, the name and physical street address (not a post office box) of the employer;
 - b. Acting as an agent, the name, the physical street address (not a post office box), and telephone number of the principal being represented, with credentials in written form establishing the relationship and authority of the employees or agent to act for the employer or principal; or
 - c. Acting as a volunteer, the name and physical street address (not a post office box) of the business or organization being represented must be provided;
- (7) The nature of solicitation activity (i.e. the merchandise to be sold or offered for sale; or the nature of the services to be furnished; or the type of pamphlets or handbills to be distributed);
- (8) The approximate time period within which the solicitation is to be made, stating the date of the beginning of the solicitation activity, its projected conclusion and the proposed dates and times of solicitation;
- (9) The names of all other cities in which the applicant has conducted solicitation activities in the past six months;
- (10) Whether the applicant, upon any sales or order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery, and if so, the bond hereinafter described will be required;
- (11) If the applicant has plead guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, misrepresentation, a sex offense, trafficking a controlled substance, or any act of violence against persons or property within five years preceding the date of application, a description of each such conviction or plea and the date of the offense;
- (12) If the applicant claims that the solicitation activity is to be conducted on behalf of a non profit organization, proof of such status shall be attached to the application;
- (13) If the applicant is an entity that sponsors or employs minors as solicitors and is submitting one application, the information set forth in section 3(b).

Sec. 3 - Solicitation by minors: applications.

- A. A minor who conducts solicitation activities shall be sponsored or employed by a person over the age of 18, a corporation, company or organization. The person, company, corporation or organization that is sponsoring or employing the minor(s) is responsible for controlling the conduct of the minors.
- B. Except as provided by subsection (d), a person, company, or organization that sponsors or employs one or more minors as solicitors may submit one solicitor's permit application and pay one permit fee for the registration of the minors regardless of the number of minors who conduct solicitation activities. The sponsor

or employer shall provide the City the name(s), date(s) of birth, address(es) and driver's license number(s) (if applicable) of all minors that will be conducting solicitation activities.

- C. A minor not required to submit an application must carry on their person while conducting solicitation activities:
- (1) A copy of the approved solicitor's permit application obtained consistent with this Ordinance; and
 - (2) Identification that contains the name of the minor, the name of the sponsor or employer of the minor and phone contact information regarding the person, company or organization that is sponsoring the minor for solicitation purposes.
- D. A minor 16 years of age or older that is sponsored or employed by another person, company, corporation or organization consistent with Section 3, other than a non-profit organization or youth project, shall submit an individual application to obtain a solicitation permit and pay an individual registration fee.

Sec. 4 - Bond.

- A. Solicitors who require cash deposits or advance payments for future delivery or who require an agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall furnish to the City a bond with the application in the amount determined in subsection (c) below, signed by the applicant and a surety company authorized to do business in the state, conditioned:
- (1) Upon the final delivery of goods or services in accordance with the terms of any order obtained;
 - (2) To indemnify purchasers for defects in material or workmanship that may exist in the Goods sold and that are discovered within 30 days after delivery; and
 - (3) For the use and benefit of persons, firms, or corporations that may make a purchase or Give an order to the principal of the bond or to the agent or employee of the principal of the bond.
- B. If the applicant is a person, firm, or corporation engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agent or employee solicitors.
- C. The amount of the bond is determined by the number of solicitors acting as agents or employees of the same person, firm, or corporation as follows:
- 1—3 solicitors\ \$500.00
 - 4—6 solicitors\ 750.00
 - 7 or more solicitors\ 1,000.00.

Sec. 5 - Issuance of solicitor's permit.

- A. The Chief of Police shall approve or deny the issuance of a permit upon an application, and then provide a notice of this decision to the applicant either in person or by certified mail sent to the address shown on the application within 30 days following the receipt of the application. The permit shall be approved unless the Chief of Police finds one or more of the following to be true:

- (1) The application for a solicitor's permit does not contain the information required by article 2 section 2;
- (2) False or misleading statements are found to be included in the application for a solicitor's permit;
- (3) The applicant, employer or principal is a person against whom a civil judgment based upon fraud, deceit, or misrepresentation has been entered within five years;
- (4) Within five years preceding the date of the application, the applicant, employer or principal has pleaded guilty or nolo contendere to, or has been convicted of, a felony, misdemeanor, or ordinance violation involving fraud, deceit, misrepresentation, a sex offense, trafficking a controlled substance, or any act of violence against persons or property;
- (5) The applicant is a registered sex offender;
- (6) Within the six months preceding the date of the application, the applicant has failed to comply with any rule, regulation or ordinance of another City or state concerning solicitation activity;
- (7) The applicant has an outstanding warrant of arrest for any offense described in Article II Section 2(a)(11); or
- (8) The type of solicitation activity requires a bond, and the applicant has not complied with the bond requirements in Article II Section 4.

B. If an application is denied, the reasons for denial shall be noted on the application.

C. Except as otherwise provided in this chapter, the Chief of Police shall issue to each approved permit holder a photo identification (ID) tag(s) consistent with Article. The photo ID shall be worn constantly in a conspicuous place by the permit holder or other sales person soliciting under a permit, while conducting solicitation activities in the City, and returned immediately to the Chief of Police upon cessation of solicitation.

D. A person commits an offense if: 1) a person wears or displays a photo ID issued to another person; 2) a person displays an expired photo ID or displays a photo ID of a permit that has been revoked; 3) fails to return a photo ID to the Chief of police within 24 hours of permit expiration or revocation; 4) uses or displays a forged, copied, photo ID tag, or a photo ID not issued by the Chief of Police. An Offense prosecuted under this under this section does not require proof of a culpable mental state.

Sec. 6 - Revocation or suspension of solicitor's permit.

A. A permit may be revoked or suspended by the Chief of Police for any of the following reasons:

- (1) The Chief of Police finds that any fact or event in Article II, Section 5 has become true or apparent or has become true since the application was completed; or
- (2) The solicitor conducts solicitation activities in violation of any provision of this Ordinance.

B. Upon revocation, the Chief of Police shall immediately deliver written notice to the permit holder stating the action and the reasons supporting such action. A written notice shall be delivered in person or mailed by certified mail to the solicitor's address as shown on the application.

- C. The Chief of Police shall have the authority to seize any and all permits, or photo identification tags possessed by persons conducting business as a solicitor while official notification process is underway. All solicitation activities being conducted consistent with the permit are suspended upon a decision to revoke the permit and all such activities under the authority of the revoked permit must cease.

Sec. 7 - Appeals.

- A. A person who is denied a solicitor's permit, or whose permit is revoked or suspended by the Chief of Police, may appeal the decision to the City Secretary by filing a written notice of appeal with the Chief of Police within 15 days after the notice of revocation or suspension of a solicitation permit is delivered.
- B. Within ten days of the receipt of the notice of appeal, the City Secretary shall set a time and place for a hearing on the appeal which shall be not later than 30 days from the date of receipt of the notice of appeal.
- C. Notice of the time and place of the hearing shall be delivered to the person by certified mail, sent to the address indicated on the application. Notice shall be sent within ten days of the receipt of the notice of appeal.
- D. The decision of the City Secretary on the appeal is final. There are no other administrative procedures are provided by the City.

ARTICLE III. - REGULATIONS

Sec. 1 - Regulation of solicitors; generally.

- A. A solicitor shall identify him or herself as a solicitor upon approaching a person at a residence or at any other location in the City, and explain the purpose of the contact, including but not limited to direct sales, solicitation of orders or services, or the demonstration of merchandise, or any combination of such purposes. Failure to identify as a solicitor and/or to explain the purpose of the solicitation contact is an offense.
- B. A person who utilizes any vehicle in conjunction of solicitation activities, shall post a sign located in a conspicuous place on the vehicle, in a position so that the sign may be read from bystanders who are located adjacent to the vehicle, identifying the name of the person, company or organization that the person represents. If the vehicle is being utilized by an individual person, the name of that individual followed by the word "solicitor" must appear on the sign. The lettering on the sign must be at least two and one-half inches in height. This provision however is satisfied if the vehicle being utilized by the solicitor (as reflected in the permit application) is painted/covered/wrapped, or otherwise contains signage indicating the company, solicitor, and a telephone contact number.
- C. A solicitor who is permitted to solicit edible merchandise shall keep all articles for sale to the public in a clean and sanitary condition, as well as the wagons, vehicles, or other conveyances used in the transportation of such merchandise and shall meet all applicable federal, state and local regulations.
- D. A person commits an offense if that person sells or offers to sell any unsound or unwholesome merchandise or give a false weight of measure to such offered for sale.

Sec. 2 - Solicitation and canvassing in public right of way.

- A. A person commits an offense if the person engages in solicitation or canvassing activity within the roadway, or on any median or traffic island within the right-of-way of any street or highway within the City.
- B. A person commits an offense if the person engages in solicitation activity by a direct transaction or exchange with the occupant of any vehicle stopped or traveling on any public roadway, any street, any highway within the City. An offense of this section occurs when the offer, solicitation, or distribution is made regardless of whether or not the transaction is completed.
- C. A person commits an offense if the person engages in solicitation or canvassing activity on a sidewalk within the City in a manner that impedes the flow of pedestrian traffic.
- D. It is a defense to prosecution under subsections (a) or (b) above if the person engages in solicitation activity to operate a taxi cab, mail carrier, vehicle for hire such as commercial servicing or repair of any disabled motor vehicle.

Sec. 3 - Solicitation from a vehicle.

- A. A person commits an offense if the person conducts solicitation activities from a vehicle and:
 - (1) The solicitation is conducted at a location within the right of way of any street or Highway within the City; or
 - (2) The solicitor stops the vehicle within a roadway to conduct business before the vehicle has been approached, called, or waived down by a prospective customer.
 - (3) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the City and the vehicle is not equipped with warning lights that are in actual operation, whether or not the vehicle is stopped or moving.
 - (4) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the City in a manner that blocks or impedes access to or from any alley, street or driveway, or impedes the flow of traffic on any public street or highway.

Sec. 4 - Regulation of solicitors and canvassers.

- A. A person commits an offense if the person engages in solicitation or canvassing activity at a residence:
 - (1) Before 9:00 a.m.; or
 - (2) After dark or 9 p.m., whichever is earlier on a given day.
- B. A person commits an offense if the person engages in solicitation or canvassing activity at a premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation and canvassing activity is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of a premises, a sign, not less than one inch by three inches in size, containing the words "NO SOLICITORS," "NO TRESPASSING," or words of similar meaning.
- C. A person commits an offense if the person engages in solicitation or canvassing activities in an aggressive or intimidating manner. The term "aggressive or intimidating manner" means:
 - (1) Blocking the path of a person who is the object of the activity;
 - (2) Following behind, ahead or alongside a person who walks away from the solicitor or canvasser after being solicited, approached, accosted or offered a handbill, leaflet or any other item; or

- (3) Shouting, making any outcry, blowing a horn or whistle, or using any sound device, including any loud speaker or sound amplifying system in violation of the City's noise ordinance for the purpose of attracting attention to one's location.

ARTICLE IV – CIVIL REMEDIES AND CRIMINAL PENALTIES

Section 1- Criminal

Any person violating any provision of this Article shall be guilty of a Class C Misdemeanor and maybe punished upon conviction of a fine not to exceed \$500 per occurrence. A culpable mental state need not be alleged or proved in criminal prosecutions under this Ordinance. Each act in violation of this Ordinance is a separate offense, and maybe charged and prosecuted separately. Each act in violation of this Ordinance that occurs at different locations, even though on the same date, is a separate offense, and maybe charged and prosecuted separately.

Section 2- Civil and Injunctive

In addition to any criminal penalties that may be imposed, the City may also seek remedies including injunctive relief, and restraining orders.

ARTICLE V – SEVERABILITY

Section 1

Should any part or portion of this Ordinance be held to be invalid or otherwise unconstitutional by any Court of competent jurisdiction, that ruling and/or decision does not affect or impact the remaining portions of this Ordinance.

ARTICLE VI – REVOCATION

Section 1

Any and all Ordinances inconsistent with this Article are revoked. This Ordinance revokes and replaces Chapter 4, Business Regulations; Article 4.03 Vendors and Door-to-Door Salesmen

ARTICLE VII – FEE SCHEDULE

Section 1. Fees.

The City Council shall review Door-to-Door sales/solicitation/canvassing activities on a regular basis, or as suggested by the City Staff in order to establish a Fee Schedule for permits granted under this Ordinance. Once adopted the Fee Schedule becomes effective immediately, and is in place until further modified by the City Council. The City Secretary and the Chief of Police will maintain the current Fee Schedule in their respective offices to assist in application and enforcement of this Ordinance.

THIS ORDINANCE BECOMES EFFECTIVE UPON THE DATE OF PASSING AND PUBLICATION AS REQUIRED.


Bart Jetton, Mayor

APPROVED AS TO FORM:


Tricia Smith, City Secretary


David Hamilton, City Attorney