

## CHAPTER 113: PEDDLERS, ITINERANT VENDORS

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**GENERAL PROVISIONS****§ 113.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DOOR-TO-DOOR SELLING.** Going to one or more residences within the city in person or by agent for the purpose of soliciting, selling or taking orders for merchandise or services.

**ITINERANT VENDING.** Engaging in a temporary business in the city in person or by agent for the purpose of soliciting, selling or taking orders for merchandise or services.

**MERCHANDISE.** Used in its broadest sense and shall include property of every kind.

**MOTOR VEHICLE.** Any wheeled vehicle. This definition also includes bicycles, push carts and any other wheeled vehicle of whatever kind or character.

**SERVICES.** Used in its broadest sense and shall include any work done for the benefit of another person.

**TEMPORARY.** Any such business for which definite arrangements have not been made for the hire, rental or lease of premises for at least three months in or upon which the business is to be operated or conducted.

(`97 Code, § 7-136) (Ord. 1987-B, passed 10-13-87)

**§ 113.02 PURPOSE.**

This entire chapter is and shall be deemed to be an exercise of the police power of the state and of the city for the public safety, comfort, convenience and protection of the city and the health, life and property of its citizens, and each provision contained herein shall be construed for the accomplishment of that purpose.

(`97 Code, § 7-137) (Ord. 1987-B, passed 10-13-87)

**§ 113.03 EXCEPTIONS.**

The provisions of this chapter shall not be applicable to salespersons calling upon or dealing with manufacturers, wholesalers, distributors, brokers or retailers at their places of business and in the usual course of their business, nor shall they be applicable to sales made under authority and by order of law.

(`97 Code, § 7-151) (Ord. 1987-B, passed 10-13-87)

*LICENSES*

**§ 113.15 LICENSE REQUIRED.**

It shall be unlawful for any person, personally, by agent or as the agent of another, to engage in door-to-door selling or itinerant vending in the city without a license as provided in this chapter. ('97 Code, § 7-138) (Ord. 1987-B, passed 10-13-87) Penalty, see § 10.99

**§ 113.16 APPLICATION FOR LICENSE.**

Any person desiring to engage in any of the activities named in this chapter shall file a written application with the City Secretary, verified by affidavit as to the truthfulness of its contents and containing the following information:

(A) Name, residence, post office address and telephone number of the applicant, and if the applicant is not a permanent resident of the city, the applicant's permanent residence and post office addresses and telephone number;

(B) A specific description of the occupation in which the applicant desires to engage and for which the license is desired;

(C) A full and complete description of the merchandise or services which the applicant desires to sell;

(D) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery or rendition of the merchandise or services sold;

(E) Source of supply, location and proposed method of delivery of the merchandise to be sold;

(F) Names, residences, post office addresses and telephone numbers of three individuals as character and business references with whom the city shall be requested to communicate with reference to any information the city may require regarding the applicant;

(G) If the applicant has engaged in any of the activities named in this section in other cities, the applicant shall provide for the city the names and addresses of three such cities and the dates of the activities in the cities;

(H) If the applicant is an individual, the applicant shall furnish the applicant's age, sex, height, weight, color of hair, color of eyes and fingerprints;

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(I) If the applicant is an individual, a full and complete statement of applicant's criminal record, if any, including all arrests (regardless of whether or not convicted), charges filed (regardless of whether or not convicted), offenses committed, all convictions, sentences received, jail or prison time served, paroles or pardons received and the date and time, court, city and state relating to each of the above items;

(J) If the applicant is an individual, there shall be attached to the application a recent photographic likeness of the applicant. Photo must be glossy, unretouched and not mounted; dimensions of facial image should be about one inch from chin to top of hair; applicant should be shown in three-quarter frontal view showing right side of face with right ear visible;

(K) If the applicant is the agent of another, the name, address and telephone number of the principal of the applicant and credentials which were issued by the principal to the applicant which set forth the extent of the applicant's authority to act for and legally bind the principal shall be attached to the application. The same information required for an individual in divisions (G), (H), (I) and (J) above shall be filed with the city for each such principal;

(L) If the applicant is a partnership, association or joint venture, the full names, addresses and telephone numbers of all such partners (whether general or limited), associates or joint venturers. Further, the same information shall be furnished to the city for each partner, associate or joint venturer as is required in division (K) of this section;

(M) If the applicant is a corporation, the state of incorporation, the principal place of business (if outside of Texas the principal place of business in Texas), the names, addresses and telephone numbers of its officers, the state charter number, the name and address of the registered agent for service and, if it is a foreign corporation, then whether it has a permit to do business in Texas and the number of the permit.

(`97 Code, § 7-139) (Ord. 1987-B, passed 10-13-87)

**§ 113.17 BOND REQUIREMENT.**

At the time the application for a license under this chapter is filed, the applicant shall also file with the City Secretary a cash bond in the penal sum which is on file in the City Secretary's office, signed by the applicant as principal, as surety, conditioned upon the final delivery or performance of the merchandise or services in accordance with the terms of any order obtained prior to delivery or performance, and also conditioned to indemnify any and all purchasers for any and all defects in material or workmanship that may exist in the merchandise sold or the services performed by the principal at the time of delivery or performance, or that may be discovered within 30 days after delivery or performance. The bond shall be for the use and benefit of all persons that may make any purchase, give any order or enter into any contract with the principal on the bond or the principal's agents.

(`97 Code, § 7-140) (Ord. 1987-B, passed 10-13-87)

**§ 113.18 BLANKET BOND PERMITTED.**

If the applicant for a license under this chapter is an acknowledged agent of a licensee hereunder who has on file with the City Secretary a blanket bond, conditioned as provided in § 113.17 and covering the activities of all the licensee's agents, no additional bond shall be required so long as the applicant acts solely as the agent of the licensee. Acknowledgment of the agent shall be made in writing by the licensee and mailed direct to the City Secretary.

(`97 Code, § 7-141) (Ord. 1987-B, passed 10-13-87)

**§ 113.19 FEE.**

At the time the application for a license under this chapter is filed with the City Secretary, the applicant shall pay to the city a fee which is on file in the City Secretary's office, which sum shall be compensation to the city for the services herein required of it and to enable the city to partially defray the expenses of investigation, surveillance and the enforcement of the provisions of this chapter. If, under the provisions hereof, no license is issued, a portion of that which is on file in the City Secretary's office shall be refunded to the applicant. No other refund shall be made. If the applicant is a corporation, partnership, association, joint venture or individual having more than one agent engaging in any of the activities named herein, in behalf of the applicant, an additional sum which is on file in the City Secretary's office shall cover the cost of licensing the agents.

(`97 Code, § 7-142) (Ord. 1987-B, passed 10-13-87)

**§ 113.20 ISSUANCE OF LICENSE.**

Within ten days after an applicant for a license under this chapter has fully complied with the provisions, the City Secretary shall issue to the applicant a license to engage in the activities named for a period of one year from the date of issuance. No license shall be issued to an applicant whose application contains one or more statements or answers which are false in whole or in part, nor shall a license be issued to any applicant who has been convicted of a crime involving moral turpitude.

(`97 Code, § 7-143) (Ord. 1987-B, passed 10-13-87)

**§ 113.21 REVOCATION OF LICENSE.**

Any license issued under the provisions of this subchapter shall be automatically revoked and canceled upon the holder's conviction of a crime involving moral turpitude, and the City Council may revoke and cancel the license of any holder who is convicted in the corporation court of three or more

violations of any one or more provisions of this subchapter within any 12-month period, and they may provide that no license shall thereafter be issued to the holder. Revocation of any license, for whatever cause, shall automatically revoke the license of all agents of the licensee.

(`97 Code, § 7-144) (Ord. 1987-B, passed 10-13-87)

#### **§ 113.22 DISPLAY OF LICENSE.**

All licenses required by this subchapter shall be carried by the salesperson and shall upon request be submitted to any police officer or citizen for examination. Otherwise, the license shall be prominently displayed on the premises or place where the business authorized thereunder is being carried on or conducted.

(`97 Code, § 7-145) (Ord. 1987-B, passed 10-13-87)

#### **§ 113.23 LICENSE NOT TRANSFERABLE.**

The license provided for in this subchapter shall not be transferable, nor shall it give authority to anyone other than the licensee named thereon to engage in the activities named in this chapter.

(`97 Code, § 7-146) (Ord. 1987-B, passed 10-13-87)

### ***REGULATIONS***

#### **§ 113.35 ENTERING PREMISES UNDER FALSE PRETENSES.**

It shall be unlawful for any person to enter a private residence under false pretenses for the purpose of engaging in any of the activities named in this chapter.

(`97 Code, § 7-147) (Ord. 1987-B, passed 10-13-87) Penalty, see § 10.99

#### **§ 113.36 REFUSING TO LEAVE UPON REQUEST.**

It shall be unlawful for any person while engaged in any of the activities named in this chapter to remain in a private residence or on the premises thereof after the owner or occupant has requested the person to leave.

(`97 Code, § 7-148) (Ord. 1987-B, passed 10-13-87) Penalty, see § 10.99

**§ 113.37 HOURS OF SOLICITATION.**

It shall be unlawful for any person, while engaged in any of the activities named in this chapter, to go to a private residence in this city for such purpose before the hours of 10:00 a.m. and after the hours of 6:00 p.m. without a prior invitation from the occupants of the private residence. It shall be unlawful for any person while engaged in any of the activities named in this chapter to sell or vend goods or services from the sidewalks or streets of the city before the hours of 10:00 a.m. and after the hours of 6:00 p.m.

(`97 Code, § 7-149) (Ord. 1987-B, passed 10-13-87) Penalty, see § 10.99

**§ 113.38 SAFETY PRECAUTIONS.**

Any motor vehicle stopping to vend on the streets of the city shall observe the following safety precautions:

(A) Upon stopping its motion to vend there shall be a second adult (employed as an agent of the licensee) that will promptly alight from the vehicle and actively give direction and safety to any child or adult pedestrian in and around the vehicle. The adult shall pursue the safety control, including direction of traffic, until the vehicle stops vending and commences to move. The second adult and the driver shall be constantly on the watch for children and pedestrians, even though the vehicle is moving, and ensure their safety.

(B) The second adult shall be in addition to the driver of the vehicle.

(C) The second adult shall be appropriately dressed in a highly visible attire that includes red, orange or yellow colors.

(D) Vending from motor vehicles shall begin only after the motor vehicle has come to a complete stop and the second adult has alighted and has checked around the vending vehicle for the safety of pedestrians or other traffic. The vending motor vehicle shall not stop in such a way as to block street traffic, driveways or crosswalks (whether marked or unmarked).

(E) The motor vehicle shall at all times display, whether moving or not, flashing amber lights on all four sides and the top of the vehicle, plainly visible from a distance of 500 feet in normal sunlight. (`97 Code, § 7-152) (Ord. 1987-B, passed 10-13-87)

**§ 113.39 COMPLIANCE WITH ORDINANCES.**

Any licensee under this chapter or any applicant for the license shall comply with all other applicable ordinances of the city.

(`97 Code, § 7-153) (Ord. 1987-B, passed 10-13-87)