

ORDINANCE # 9207131

AN ORDINANCE MAKING IT UNLAWFUL TO SOLICIT, SELL OR OTHERWISE ENGAGE IN PEDDLING OR TEMPORARY BUSINESS WITHIN THE CITY LIMITS OF THE CITY OF MAYPEARL, TEXAS; CALLING FOR A PERMIT FOR SUCH BUSINESSES; AND CALLING FOR PENALTY FOR VIOLATION THEREOF; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYPEARL, TEXAS:

ARTICLE 1. IN GENERAL

Section 1. Definition.

The word "peddler" as used in this ordinance shall mean any person, other than a resident of the city, traveling from house to house, or from street to street, for the purpose of selling or soliciting for sale, goods, wares, merchandise or services, and shall also mean and include any person transacting a temporary business within the city at an established place of business. The word "peddler" shall include the terms "solicitor," "transient or itinerant merchant or vendor," or "transient or itinerant photographer."

Section 2. Exceptions to Ordinance.

The provisions of this ordinance shall not apply to the following except which they must register with the city:

- (a) Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business;
- (b) Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law;
- (c) Solicitations, sales or distributions made by charitable, educational or religious organizations.

Section 3. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, shall be deemed guilty of a misdemeanor.

Section 4. Use of public places.

It shall be unlawful for any peddler to sell or solicit or take orders for or offer to sell or take orders for or display any goods, wares, merchandise, photographs, newspaper or magazines on any public square, park, street, road, highway or alley within the limits of the city.

Section 5. Entrance to premises restricted.

It shall be unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed" or "Solicitations Allowed" or other words to such effect.

Section 6. Misrepresentation.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his goods, wares merchandise or services for the purpose of inducing another to purchase the same.

Section 7. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 8:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

ARTICLE II. PERMIT

Section 8. Required

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so.

Section 9. Application.

The application for a permit required by the provisions of this article shall state or contain the following:

- (a) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction;
- (b) A written certificate of a practicing physician in the county, dated not more than five (5) days prior to the date of filing the application, certifying that the physician has examined the applicant and has found him to be free of infectious, contagious or communicable diseases;
- (c) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;
- (d) The period of time the applicant wishes to engage in business within this city;
- (e) The local and permanent address of the applicant;
- (f) The local and permanent address and the name of the person, partnership or corporation;
- (g) The kind of goods, wares, merchandise or services in which the applicant wishes to engage in such business within the city;
- (h) The last five (5) cities or towns wherein the applicant has worked before coming to this city;
- (i) Such other relevant information as may be required for the investigation of the applicant.

Section 10. Driver's License.

At the time of filing his application for a permit required by this article, the applicant shall present his driver's license and certificate of auto insurance to the Chief of Police.

Section 11. False Information

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this article.

Section 12. Automobile Information

At the time of making application for a permit required by this article, the applicant shall furnish the auto license number.

Section 13. Fee

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, as follows:

Per day.....	\$ 5.00
Per week.....	\$ 15.00
Per month.....	\$ 35.00
Per 3 months.....	\$ 75.00
Per 6 months.....	\$100.00
Per 12 months.....	\$150.00

Section 14. Bond required.

The application for a permit required by the provisions of this article shall be accompanied by a bond in the penal sum of five thousand dollars (\$5,000.00) signed by the applicant and signed, as surety, by some surety company authorized to do business in this state, conditioned for the final delivery of goods, wares, merchandise or services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of such bond, at the time of delivery, and that may be discovered by such purchaser or customer within thirty (30 days after delivery, and which bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on such bond, or to an agent or employee of such principal.

Section 15. Service of process.

Before any permit shall issue under this article, there shall also be filed with the city secretary an instrument in writing, signed by the applicant under oath, nominating and appointing the city secretary his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of such applicant, and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the city secretary.

Section 16. Issuance.

No permit shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this Ordinance.

Section 17. Limitation.

No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for himself or as an agent or representative of another.

Section 18. Contents of permit.

Each permit issued under the provisions of this article shall be signed by the city secretary; shall be dated as of the date of its issuance; and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as herein provided, or which was issued in violation of this section, shall be void.

Section 19. Display.

Every peddler having a permit issued under the provisions of this article and doing business within the city shall display his permit upon the request of any person and failure to do so shall be deemed a misdemeanor.

Section 20. Duration.

Every permit issued under the provisions of this article shall be valid for the period of time stated therein but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

Section 21. Revocation.

Any permit issued under the provisions of this article may be revoked for the violation by the permittee of any applicable provision of state law or city ordinance. Upon such revocation, such permit shall immediately be surrendered to the city secretary and failure to do so shall be a misdemeanor.

Section 22. Penalty

Violation of this ordinance shall constitute a misdemeanor punishable by a fine in the amount of not more than \$200.00, and each day of such violation shall constitute a separate offense.

INTRODUCED, PASSED, APPROVED AND ADOPTED THIS 13<sup>th</sup> DAY OF

July, 1992.

  
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MAYOR

ATTEST:

  
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City Secretary