

ORDINANCE NO. 6-04-08-12-12A1

AN ORDINANCE AMENDING CHAPTER 4, SECTION 4.200 SOLICITORS, PEDDLERS, AND CANVASSERS, CODE OF ORDINANCES (1995 EDITION), CITY OF ROUND ROCK, TEXAS, CITY; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS THAT:

I.

Chapter 4, Section 4.200 of the Code of Ordinances of the City of Round Rock is hereby amended in its entirety, and shall read as follows:

**SECTION 4.200 SOLICITORS, PEDDLERS, AND CANVASSERS**

4.201 PURPOSE OF SECTION

This entire Section is and shall be deemed an exercise of the police power of the State of Texas, and of the City of Round Rock, Texas, for the public safety, comfort, convenience and protection of the City and citizens of said City, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

4.202 DEFINITIONS

For the purpose of this Section, the following terms are defined as follows:

- (1) Business Hours means the hours from 8:00 a.m. to 5:00 p.m. on days that the Round Rock City Hall is open for business.
- (2) Canvasser is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- (3) Peddler is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of attempting to sell a good or service. A "peddler" does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence.

- (4) Solicitor is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

4.203 UNLAWFUL TO PEDDLE WITHOUT AN IDENTIFICATION CARD; AVAILABLE FOR SOLICITORS AND CANVASSERS

It shall hereafter be unlawful for any person or persons to act as a Peddler without having first applied for and obtained an Identification Card from the Round Rock Police Department. It shall also hereafter be unlawful for any person or persons to act as a Peddler in the City of Round Rock without carrying such Identification Card while engaged in such soliciting or selling. Canvassers and Solicitors are not required to have an Identification Card, but any Canvasser or Solicitor desiring an Identification Card for the purpose of reassuring City residents of the Canvasser's or Solicitor's good faith may voluntarily submit an application for an Identification Card.

4.204 WRITTEN APPLICATION REQUIRED

Any person desiring to act as a Peddler in the City, shall make written application to the Round Rock Police Department during business hours for an Identification Card in accordance with this Section. Any person desiring to act as a Canvasser or Solicitor has the option of making a written application for an Identification Card. The applicant shall provide the following information:

- (1) Name of applicant.
- (2) A photo-identification card, including a driver's license, state identification card, student identification card, passport, or other photo-identification card issued by a government within the United States.
- (3) The permanent and (if any) local address of the applicant.
- (4) A brief description of the proposed activity related to this identification card. (Copies of literature to be distributed may be substituted for this description at the option of the applicant).
- (5) Date and place of birth and (if available) the social security number of the applicant.
- (6) A list of all misdemeanor and felony convictions of the applicant for the seven years immediately prior to the application.
- (7) The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by the applicant.

- (8) If a card is requested for a Peddler, the following information is also required:
  - (a) The name and permanent address of the business offering the event, activity, good or service (i.e., the Peddler's principal or employer).
  - (b) A copy of the principal's sales tax license as issued by the state of Texas.
  - (c) The location where books and records are kept of sales which occur within the City and which are available for city inspection to determine that all city sales taxes have been paid.
- (9) If a card is requested for a Solicitor, the following information is also required:
  - (a) The name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted.
  - (b) The web address for this organization, person, or group (or other address) where residents having subsequent questions can go for more information.
- (10) Any other information the applicant wishes to provide, such as copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

#### 4.205 IDENTIFICATION CARD FEE

The Identification Card fee for each Peddler shall be fifty dollars (\$50.00). A Canvasser or Solicitor desiring an Identification Card will not be charged a fee. Identification Cards shall be valid for ninety (90) days from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said Identification Cards.

#### 4.206 INVESTIGATION

During any time following the application for one or more Identification Cards and its issuance, the City may investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within sixteen (16) business hours, the Identification Card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. If a Canvasser or Solicitor requests an Identification Card, the investigation will proceed as described above, but if the City refuses to issue the Identification Card (or revokes it after issuance), the Canvasser or Solicitor will be advised that the failure to procure an Identification Card does not prevent him/her from canvassing or soliciting the residents of the City.

#### 4.207 ISSUANCE OF IDENTIFICATION CARD

The Identification Card(s) shall be issued promptly after application but in all cases within sixteen (16) business hours of completion of an application, unless it is determined within that time that:

- (1) the applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years, or

- (2) any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

#### 4.208 DENIAL; ADMINISTRATIVE REVOCATION.

If the issuing officer denies (or upon completion of an investigation revokes) the Identification Card to one or more persons he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) business hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant.

#### 4.209 REVOCATION OF IDENTIFICATION CARD

In addition to the administrative revocation of an Identification Card, a card may be revoked by the chief of police, the acting or assistant chief of police, the city manager, or the acting or assistant city manager for any of the following reasons:

- (1) Any violation of this Section by the applicant or by the business or organization that the applicant is representing;
- (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity;
- (3) Conviction of any felony or a misdemeanor involving moral turpitude within the last seven years; or
- (4) Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

Any police officer shall have the authority to confiscate the Identification Card of any person reasonably believed to have violated one or more of the above provisions for up to 16 business hours pending a revocation decision as set forth above.

#### 4.210 AGGRIEVED PERSONS MAY APPEAL TO CITY COUNCIL

Any Solicitor, Peddler or Canvasser aggrieved by the denial or revocation of an Identification Card or in the decision with reference to the revocation of the Identification Card, shall have the right of appeal to the City Council.

Such appeal shall be taken by filing a petition with the city secretary within ten (10) days after notice of the action complained of has been mailed to the address on such person's application, or personally served with notice. The petition shall contain a written statement setting forth fully the grounds for appeal.

The city secretary shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant. The decision and order of the City Council on such appeal shall be final and conclusive.

4.211 CHIEF OF POLICE TO KEEP RECORD OF IDENTIFICATION CARDS

The chief of police shall keep a permanent record of all Identification Cards issued. This record shall be open for inspection during business hours.

4.212 DISPLAY OF IDENTIFICATION CARDS

Each Peddler shall display the Identification Card on the outer clothing of the individual in a manner that it is reasonably visible to any person who might be approached by said Peddler.

4.213 CRIMINAL PROSECUTION FOR VIOLATIONS

The revocation of any Identification Card for violation of any provision of this Section shall not preclude a criminal prosecution for such violation.

4.214 GENERAL PROHIBITIONS

It shall be unlawful for any Peddler, Solicitor or Canvasser to:

- (1) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser;
- (2) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property;
- (3) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- (4) Enter upon the property of another except between the hours of 9:00 a.m. and 8:00 p.m.

The above prohibitions shall not apply when the Peddler, Solicitor, or Canvasser has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

4.215 EXEMPTIONS

The provisions of this Section shall not apply to any federal, state or local government employee or to a employee of a public utility in the performance of his/her employment.

II.


A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

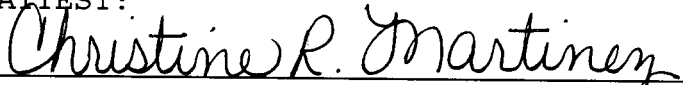
B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ and APPROVED on first reading this the 22 day of July, 2004.

READ, APPROVED and ADOPTED on second reading this the 12 day of August, 2004.

  
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NYLE MAXWELL, Mayor  
City of Round Rock, Texas

ATTEST:  
  
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CHRISTINE R. MARTINEZ, City Secretary

**DATE:** August 6, 2004

**SUBJECT:** City Council Meeting – August 12, 2004

**ITEM:** \*12.A.1. Consider an ordinance amending Chapter 4, Section 4.200 of the Round Rock Code of Ordinances, Solicitors, Peddlers, and Canvassers. (Second Reading)

**Department:** Police Department  
**Staff Person:** Bryan Williams, Police Chief

**Justification:**

The existing door-to-door solicitations ordinance was adopted in 1974. At the request of citizens for stronger regulations for door-to-door solicitations, these proposed amendments updates and strengthens those regulations. This will provide the Police Department with an enforceable set of laws governing door-to-door solicitations as they occur in the City.

**Funding:**

**Cost:** N/A

**Source of funds:** N/A

**Outside Resources:** N/A

**Background Information:**

A few years ago, City Council directed staff to prepare a set of revisions to the City's ordinance regarding solicitors. At the time, the City was experiencing a glut of door-to-door sales operations from Dallas and other areas to the point where it had become a quality-of-life issue. The existing ordinance for dealing with such issues was found to be difficult to enforce. During the development of the new ordinance, a U.S. Supreme Court decision required alterations in the City's approach toward dealing with solicitations by religious organizations.

The first part of the changes to this ordinance occurred in 2003 with regulations regarding solicitations made on arterial roadways. The proposed set of revisions address the door-to-door solicitation issue and is a response to concerns raised by City Council when an earlier draft was presented at a June Council meeting.

The revised ordinance requires peddlers to obtain a \$50 identification card from the Police Department; solicitors and canvassers also may obtain such cards. The card application provides the Department with information about the applicant, the vehicle to be used in activity covered by the Section, criminal convictions, the proposed activity, a copy of their sales tax license, and other information to ensure City sales tax is being paid on merchandise sold. Peddling without a card becomes an ordinance violation in this ordinance revision. The ordinance also provides protections for residents, including enforcement of "no soliciting" signs.

**Public Comment:** N/A