

CITY OF ANGUS, TEXAS  
ORDINANCE NO. 47

*See Ordinance  
No 49 repealing  
Deleting Chapter 3 + 4  
and providing for repeal  
of Ordinance 47.*

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ANGUS, TEXAS, TO ADD SECTION 3, CHAPTER 4, ENTITLED PEDDLERS AND SOLICITORS; PROVIDING FOR PERMIT FOR PEDDLERS AND SOLICITORS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION I

THAT CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF ANGUS, TEXAS, IS HEREBY AMENDED TO ADD SECTION 3 WHICH SHALL READ AS FOLLOWS:

SECTION 3: PEDDLERS AND SOLICITORS

A. PURPOSE

This section is and shall be deemed an exercise of the police powers of the state and of the city for the public safety, comfort, convenience, and protection of the city and the citizens thereof, and all of the provisions of this section shall be constructed for the accomplishment of that purpose.

B. PEDDLER OR SOLICITOR DEFINED

For the purpose of this section, a "peddler" or "solicitor" shall mean any person, partnership, firm, or corporation going from house to house or from place to place in the city soliciting, exhibiting, selling, canvassing for or taking orders for, or offering to sell or take orders for any goods, wares, merchandise, meats, fish, and subscriptions to magazines, publications, newspapers, or photographs. The same shall also include any persons, partnerships, firms, or corporations soliciting, exhibiting, selling, taking orders for, or offering to sell or take orders for such goods, wares, merchandise, meat, fish, publications, or services upon or from a truck or other vehicle on the streets of the city or who hire, rent, lease, or occupy any room or space in any

building, structure, other enclosure, vacant lot, or any other property whatever in the city. Also anyone who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade these provisions shall be deemed a "peddler" or "solicitor." The terms "peddler" and "solicitor" shall also be synonymous with "itinerant merchant" and "transient vendor."

#### C. PERMIT REQUIRED

It shall be unlawful for any person, partnership, firm, or corporation defined in subsection B to peddle, sell, solicit, exhibit, or take orders for or offer to take order for any goods, wares, merchandise, meat, fish, or subscriptions to magazines, publications, newspapers, photographs, or services without first having obtained a permit to do so from the city.

#### D. APPLICATION FOR PERMIT

Every person desiring to obtain a permit as required by this section shall make written application to the city secretary, which application shall show at least the following:

- (1) The full name and post office address of the applicant.
- (2) The state, county, town, or city in which the applicant permanently resides.
- (3) The applicant's date of birth, height, weight, color of hair and color of eyes, social security number, and driver's license number, if existent.
- (4) The occupation in which the applicant desires to engage and for which he desires a permit.
- (5) A full and complete description of the goods, wares, and merchandise or other articles or tokens which applicant desires to sell, which description shall give in detail the grade and character of the property to be sold.
- (6) Whether the applicant has ever been convicted of a felony or a misdemeanor involving theft, fraud, bribery, or perjury.

In addition, there shall also be attached to each application for a permit the following:

- (7) A recent photographic likeness of the applicant's face.
- (8) A certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager, or district or area manager of the company for which the applicant works, sells, or solicits, stating that the applicant is an employee and/or agent of such company.
- (9) A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization.

In the event that the applicant is an individual who is not working, selling, or soliciting for any firm or company, letters of recommendation from two (2) citizens of the applicant's permanent residence shall be submitted.

#### E. INVESTIGATION OF APPLICANT

It shall be the duty of the city secretary to investigate each applicant for a permit. The city secretary shall as promptly as possible make a report of his investigation to the mayor before a permit is issued.

#### F. ISSUANCE AND DURATION OF PERMIT

Upon completion of the investigation, the mayor shall issue or refuse to issue a permit. Such permit shall either be issued or denied no later than two (2) weeks from the date of such application. All permits issued shall be valid for a period of one (1) year, unless sooner revoked. In the event the permit is denied, the applicant may appeal such denial to the city council.

G. PERMIT FEES

The city secretary shall collect five dollars (\$ 5.00) for each permit issued. Such fee shall be paid by the person desiring such permit and payable at the time of application. This fee shall be charged to help defray the cost of investigation and expenses incident to the issuing of said permit. This fee shall not be prorated nor refunded to the applicant regardless of whether a permit is issued or not.

H. PERMIT TO BE CARRIED ON PERSON AND PRESENTED ON REQUEST

It shall be unlawful for any peddler or solicitor to be doing business within the city unless he carries such permit on him at all times. Every peddler or solicitor shall display his permit upon request of any person and failure to so display such permit shall be grounds for revocation or constitute a violation of this section.

I. REVOCAION OF PERMIT

If, after the permit as hereinbefore provided, has been issued and the city finds that the permit was obtained by false representation in the application, or that the permit holder has committed any act or practice that violates Section 17.46 et.seq., Texas Business and Commerce Code, otherwise known as the Texas Deceptive Trade Practice Act; any act or practice which violates the Home Solicitation Sales Act; the commission, during the term of the permit, of any crime or misdemeanor involving moral turpitude; or any violation of this section or any city ordinance or state or federal law, such permit may be revoked.

J. PERMIT NOT TRANSFERABLE

No permit issued under this section shall be transferable or assignable nor give authority to more than one (1) person to engage in the business as a peddler or solicitor, but any person having obtained such permit may have the assistance of one (1) or more persons in conducting such business.

K. CONSUMERS RIGHT TO CANCEL

All peddlers or solicitors shall provide to the consumer in writing the right to cancel a solicitation transaction made in person or by telephone until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase any goods, wares, merchandise, meat, fish, photographs, publications, or services.

For the purpose of telephone solicitation, the date of transaction means the day the the consumer receives the goods, wares merchandise, meat, fish, photographs, publications, or services purchased in a solicitation transaction. If the consumer chooses to cancel the solicitation transaction, notification by mail shall be considered given at the time mailed, as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchants designated place of business.

It shall be unlawful for any peddler, solicitor, or company represented to refuse to allow the customer to cancel the solicitation transaction.

#### L. PERMISSION TO ENTER PRIVATE PREMISES

It shall be unlawful for any peddler or solicitor to go in and upon the premises of a private residence in the city unless requested or invited to do so by the owner or occupant of such private residence.

#### M. EXEMPTIONS

The provisions of this section shall not apply to the following:

- (1) Sales of goods, wares, merchandise, publications, and/or services by any bona fide charitable, religious, educational, or philanthropic organization or when donated by owners or merchants of which the proceeds are to be used and applied to some charitable, religious, educational, or philanthropic purposes;
- (2) Ordinary commercial travelers who sell or exhibit for sale goods, wares, merchandise, meat, fish, photographs, publications, or services to firms, persons, or corporations engaged in the business of buying, selling, and dealing in the same;
- (3) Sale of milk, dairy products, bakery products, vegetables, poultry, eggs, and other farm and garden products which have been raised or produced by the vendor;
- (4) Daily deliveries of milk and bakery and other food products or newspaper deliveries;
- (5) Insurance salesmen, real estate salesmen, and other professionals licensed by the state; and

- (6) Persons engaged in interstate commerce. The term "interstate commerce" means soliciting, selling, or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, publications, or services, or acting in any function as a peddler or solicitor, as the terms are used in this section, which, at the time the order is taken, are in or will be produced in any federal district or territory, any commonwealth, or any state other than the State of Texas, and shipped or introduced into this city in the fulfillment of such orders.

## SECTION II

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

## SECTION III

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## SECTION IV

Whenever in this ordinance an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punished by a fine of not exceeding two hundred dollars (\$200.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day any violation of this ordinance shall continue shall constitute a separate offense.

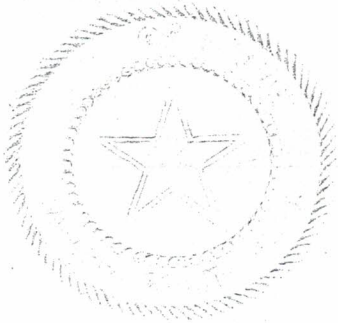
SECTION V

This ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

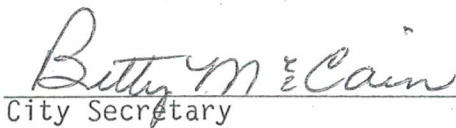
PASSED AND APPROVED on this the 10 day of February, 1987, by the City Council of the City of Angus, Texas.

APPROVED:

  
\_\_\_\_\_  
Mayor



ATTEST:

  
\_\_\_\_\_  
City Secretary