

ORDINANCE NO. 11-23

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS REGULATING THE ACTIVITIES OF PEDDLERS AND ITINERANT VENDORS WITHIN THE TOWN, PROVIDING DEFINITIONS, PROHIBITING THE USE OF PUBLIC WAYS UNLESS EXEMPTED, REQUIRING SALES TAX PERMITS AND PEDDLER/VENDOR PERMITS AND APPLICATION FEES, PROVIDING THE PROCEDURE FOR PERMIT ISSUANCE, EXEMPTION AND REVOCATION, SPECIFYING WHEN A BOND IS REQUIRED, PROVIDING FOR AN APPEAL FROM THE DECISION OF THE CITY SECRETARY REGARDING PERMITS, PROVIDING FOR A PENALTY OF NOT MORE THAN \$500.00 FOR VIOLATION, PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AND AN EFFECTIVE DATE

WHEREAS, it is the opinion of the Town Council of the Town of Lakewood Village that it is in the best interest of the Town of Lakewood Village to enact regulations governing the activities of itinerant vendors and peddlers within the Town; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, that:

The foregoing recitals are adopted and incorporated herein for all purposes.

I. DEFINITIONS

The following definitions shall apply to this Ordinance:

Itinerant vendor means any individual, whether a resident of this town or not, who offers for sale food, beverages, goods, merchandise, delivery, or services to be performed immediately or in the future, from a certain location which is not within a building or structure for which a certificate of occupancy is required by the town. This term shall not apply to businesses that operate from within a building or structure within the town for which a certificate of occupancy is required but which display or sell food, beverages, goods, or merchandise, outside the building or structure. The term shall include itinerant merchant.

Peddler means any individual, whether a resident of this Town or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future or immediate delivery, or for services to be performed immediately or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales, or for proselytizing by any organization whether or not funds are solicited or exchanged. The word “peddler”

shall include the terms “canvasser” or “solicitor.” The word “peddler” shall not include individuals traveling to businesses, houses, or places at the invitation of the resident or owner.

Special event means any occasion including, but not limited to, fairs, shows, exhibitions, town wide celebrations, festivals, etc., within a specifically defined area of the town for a period of time established by the council.

II. PEDDLER/ITINERANT VENDOR PERMIT REQUIRED

It shall be unlawful for any peddler or itinerant vendor to solicit or to engage in business within the town without first obtaining a permit as provided in this Ordinance.

III. EXEMPTIONS

The following are excluded from permitting provisions:

- (1) Newspaper carriers.
- (2) Farmers who sell agricultural products that were raised or grown by them when located within a public way and a time designated by the Town Council.
- (3) Peddlers and itinerant vendors operating within a designated public way in connection with a special event approved by the Town Council and appropriate body organizing and implementing the special event.
- (4) Boy Scouts, Girl Scouts, and LEISD Fund Raising activities
- (5) Lemonade stands and other similar activities

IV. WRITTEN APPLICATION FOR PERMIT REQUIRED

Any peddler or itinerant vendor desiring to engage in business within the town must file a written application for permit, and which shall provide the following information:

- (a) Applicant’s name, telephone number, address, birth date, physical description and either:
 - (1) Driver’s license number and state; or
 - (2) Social security number and an official, government-issued picture identification card.

- (b) If the applicant is peddling, proselytizing, or making solicitations for any commercial, charitable or political organization, the name, telephone number and address of such organization.
- (c) Full and complete list of goods or services to be sold;
- (d) If different than or in addition to applicant, for each individual involved as a peddler or itinerant vendor: name, telephone number, address, birth date, physical description, and either.
 - (1) Driver's license number and state; or
 - (2) Social Security number and official, government issued picture identification card number.
- (e) Description (year, make, type) and license plate number and state of all motor vehicles to be used in soliciting and peddling.
- (f) A statement that the applicant has not been convicted of any felonies of any nature or any other crimes of moral turpitude in this state or any other state; and, if having been so convicted, a full statement as to the place of conviction and crime for which applicant was convicted.

V. PERMIT APPLICATION FEE

A nonrefundable application fee for an itinerant merchant permit in the amount of \$100.00 shall be paid upon application for such permit, provided, however, when any person, firm, company, partnership, corporation or association acts through one or more agent or employees, such person, firm, company, partnership, corporation or association shall, in addition to such \$100.00 fee, pay an application fee of \$50.00 for each agent or employee so engaged.

VI. PERMIT EXEMPTIONS

The following are exempt from the permit fee, however, must complete permit process:

- (a) Any individual soliciting or peddling for a philanthropic, charitable, political or religious organization provided such activity is for the sole exclusive benefit of that organization and so long as the person engaging in such activity does not receive compensation in the form of a commission, salary, or other monies paid to him for such activity.

VII. PERMIT ISSUANCE; INVESTIGATION

A copy of the application for permit may be referred to the Denton County Sheriff who may undertake an investigation of the applicant's record and background such as shall be

reasonably necessary to protect the public. An applicant for permit under this Ordinance may be reasonably denied if he or she is currently wanted on warrant for arrest, or if the applicant has been convicted of a felony involving theft, fraud, bribery, perjury, or any proof is developed that false information was presented for purposes of permit issuance.

VIII. PROCEDURES FOR PERMIT ISSUANCE

The Town Secretary shall review all information relevant to the issuance of a peddlers/itinerant vendor's license and make the determination of whether said license is granted or denied. Said determination shall be made within five (5) working days of the filing of an application or registration information.

If the Town Secretary finds that all of the conditions precedent to the issuance of an itinerant vendor permit has been met and the applicant is qualified to receive a peddler and itinerant vendor permit, the Town Secretary shall issue the permit. Permits will be issued for a period of 14 days.

Any changes to agents or itinerant vendors must be submitted as an addendum to the original application and subject to the same permit fees and investigation. Failure to register new agents will be grounds for cancellation of the permit.

IX. BOND REQUIRED

- (a) Solicitors requiring cash deposits or payment for future delivery or who require a contract of 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 Town a bond with the application in the amount listed below. This bond is to be signed by the applicant and surety company authorized to do business in the state of Texas, conditioned:

 - (1) For the final delivery of goods or services in accordance with the terms or 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 agents or employee solicitors.

- (1) The amount of the bond is determined by the number of solicitors acting as agents or employees of the same person, firm, or corporation with a \$1000.00 bond to be posted for each such person.

X. PERMIT REVOCATION.

After the registration provided for in this article has been issued, the Town Secretary of the Town or his/her duly authorized representative may revoke such registration if it is found that:

- (a) The registration was obtained by false representation;
- (b) The holder of the registration has violated any Ordinance of the Town, or any law of the State in connection with any soliciting by such holder or in connection with the collecting or attempted collection of any account due to such registration holder or his employer or in connection with the repossession or attempted repossession of goods sold;
- (c) The holder of the registration is convicted of a felony, misdemeanor, or Ordinance violation involving a sexual offense, assault, possession or sale of a controlled substance, or any violent act against person or property. Also any judgment based upon or conviction for fraud, deceit, or misrepresentation or involving moral turpitude; or
- (d) If the holder of registration has endangered the health or safety of a citizen of the Town.

XI. APPEALS FROM DECISIONS OF THE TOWN SECRETARY

If the applicant for a permit under this section or the holder of such permit is dissatisfied with any holding or finding of the Town Secretary, he or she shall have the right to appeal to the Town Council by filing a written notice of such appeal with the Town Secretary within ten (10) days from the making and filing of such decision of the Town Secretary. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the Town Secretary in connection with such application and such permit shall be delivered to the Town Council. The appeal shall be heard by the Council at its next available meeting after the filing of the notice of appeal.

XII. DISPLAYING “NO SOLICITING” NOTICE

It shall be unlawful for any peddler or itinerant vendor to go to any property establishment for the purpose of taking orders or the selling of merchandise or services if the establishment has posted a sign which states “No Soliciting”. This warning must be displayed prominently at the entrance to the business.

XIII. PENALTY

Any person, firm, or corporation violating any provision of this article or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and each day or fraction of a day during which this article or any part thereof is further violated shall be deemed a separate offense and punishable as such.

XIV. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are severable.

XV. CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

XVI. EFFECTIVE DATE.

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

ADOPTED AND APPROVED on this 3rd day of November, 2011 by the Town Council of the Town of Lakewood Village, Texas.

**TOWN OF LAKEWOOD VILLAGE,
TEXAS**

**Mike Schnittker
Mayor**

Attest:

**Linda Asbell
Town Secretary**