

Original

PEDDLERS ORDINANCE No. 22

AN ORDINANCE DEFINING AND REGULATING ITINERANT MERCHANTS, ITINERANT VENDORS, PEDDLERS, AND PERSONS TAKING ORDERS FOR OR OFFERING FOR SALE, GOODS, WARES, MERCHANDISE, SERVICE, PHOTOGRAPHS, MAGAZINES, OR SUBSCRIPTIONS TO MAGAZINES: PROVIDING FOR A LICENSE AND LICENSE FEE: PROHIBITING SELLING OR SOLICITING WITHOUT THEN CARRYING SUCH LICENSE WHILE SO ENGAGED: REQUIRING SUCH PERSON OR PERSONS TO MAKE APPLICATION FOR LICENSE, THEREIN MAKING FULL DISCLOSURE OF ALL MATTERS PERTINENT TO SUCH ACTIVITY: REQUIRING A BOND: EXEMPTING THOSE ENGAGED IN INTER-STATE COMMERCE FROM LICENSE FEE AND BOND BUT REQUIRING SUCH PERSONS TO REGISTER WITH THE CITY CLERK AND SUBMIT ALL INFORMATION PERTINENT TO SUCH ACTIVITY: PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE, INCLUDING A FINE NOT LESS THAN \$10.00 NOR MORE THAN \$200.00 FOR EACH OFFENSE AND DEFINING WHAT SHALL CONSTITUTE A SEPARATE OFFENSE: PROVIDING A SAVINGS CLAUSE: AND REPEALING CONFLICTING ORDINANCES OR PARTS OF ORDINANCES, AND DECLARING AN EMERGENCY IN ITS ENACTMENT.

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

SECTION 1: This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas, and of the City of Wallis, 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.

SECTION 2: That it shall hereafter be unlawful for any person to go from house to house or from place to place in the City of Wallis, Texas, soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, magazines, or subscriptions to magazines, without having first applied for and obtained a license so to do from the City Clerk of said City. It shall also hereafter be unlawful to sell or solicit in said city as aforesaid without carrying such license while engaged in such soliciting or selling.

SECTION 3: That any person desiring to go from house to house or from place to place in the City of Wallis, Texas, to sell or solicit orders for goods, wares, merchandise, services, photographs, magazines, or subscriptions to magazines, shall make written application to the City Clerk of said City for a license so to do which application shall show the name and address of applicant, social security number, age, sex, car license, driver's license, the name and address of the person, firm, or corporation, if any, that he or she represents and the kind of goods offered for sale, and whether such applicant upon any such sale or order shall demand, accept or receive payment or deposit of money in advance of final delivery.

SECTION 4: The application mentioned in Section 3 hereof shall be accompanied by a bond in the penal sum of \$500.00, signed by applicant and signed, as surety, by some surety company authorized to do business in the State of Texas, conditioned for the final delivery of goods, wares, merchandise, services, photographs, magazines

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 said 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, firms, or corporations that may make any purchase or give any order to the principal on said bond, or to an agent or employee of the principal. Provided that in case applicant is a person, firm, company, partnership, corporation, or association engaging in any activity mentioned in Section 2 hereof through one or more agents or employees, such persons firm, company, partnership, corporation, or association shall be required to enter into only one bond, in the sum of \$500.00 as above required, which bond shall be made to cover the activities of all its agents or employees.

SECTION 5: That an itinerant merchant or an itinerant vendor as the terms are used in this ordinance shall be held to be any person, firm, company, partnership, corporation, or association engaged in any activity mentioned in Section 2 hereof.

SECTION 6: That the license fee for an itinerant merchant or itinerant vendor shall be \$60.00; provided, however, when any person, firm, company, partnership, corporation, or association engages in any activity mentioned in Section 2 hereof through one or more agents or employees, such person, firm, company, partnership, corporation, or association shall, in addition to said \$60.00 fee above mentioned, pay a license fee of \$10.00 for each agent or employee so engaged, all of which licenses shall be valid for six (6) months 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 licenses.

SECTION 7: The provisions of this ordinance shall not apply to sales made to dealers by commercial travelers or sales agents in the usual course of business, nor to sales made under authority and by order of law, nor to vendors of farm or dairy products.

SECTION 8: The provisions of Sections 2, 3, 4 and 6 of this ordinance pertaining to licenses, license fees, and bonds shall not apply to persons engaged in interstate commerce as that term is herein defined; provided, however, that it shall be unlawful for persons engaged in interstate commerce to go from house to house or place to place in the City of Wallis, Texas, without having first registered with the City Clerk of said City, giving the following information:

- a. Name, home address and local address, if any of registrant.
- b. Name and address of the person, firm or corporation, if any, that he or she represents or for whom or through whom orders are to be solicited or cleared.
- c. Nature of the articles or things which are to be sold or for which orders are to be solicited.
- d. Whether registrant, upon any sale or order, shall demand or receive or accept payment or deposit of money in advance of final delivery.

- e. Period of time which registrant wishes to solicit or sell in said City.

The registrant at the time of the registration, as herein provided for, shall submit for inspection of the City Clerk written proof of his identity which may be in the form of an automobile operator's license, identification letter or card issued to registrant by the person, firm or corporation for whom or through whom orders are to be solicited or cleared.

The term "Interstate Commerce" means soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, or magazines, or subscriptions to magazines, 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 Texas and shipped or introduced into this City in the fulfillment of such orders.

SECTION 9: Any person, firm or corporation violating any provisions of this ordinance or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$10.00 and not more than \$200.00, and each and every day or fraction of a day during which this ordinance, or any part thereof, shall be violated, shall be deemed a separate offense and punishable as such.

SECTION 10: Each and every provision, paragraph, sentence, and clause of this ordinance has been separately considered and passed by the City Council of Wallis, Texas, and each said provision would have been separately passed without any other provision, and if any provision hereof should be ineffective, invalid or unconstitutional for any cause, it shall not impair, nor affect the remaining portion, nor any other part thereof, but the valid portion shall be enforced just as if it had been passed alone, and all ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 11: Inasmuch as the entire ordinance is deemed an exercise of the police power of the State of Texas and of the City of Wallis, Texas, for the public safety, comfort, convenience and protection of the city and citizens of said City, this ordinance is to become effective immediately; the rules inhibiting the passage of an ordinance on the day on which it is introduced and requiring the reading of an ordinance at three (3) different meetings of the City Council be, and they are hereby, suspended as to this ordinance; that this ordinance be, and it is hereby, declared to be an emergency measure, and that it be placed upon its first, second and third readings and final passage and shall become effective immediately, and it is so passed.

PASSED, EXAMINED AND APPROVED this, the 10th day of March, A. D. 1975.

Jerry J. Shiva
Mayor

ATTEST:

Betty March
City Secretary/Clerk

Be it Ordained by the City of Wallis, Texas

Section 12

That all local churches and non-profit service organizations be exempt from license fee payment (Section 6 of this ordinance), and instead be issued a free permit certificate for door-to-door soliciting upon application to the City Secretary.

Passed and approved this the 28th day of April, A. D. 1975, and made a part of Peddlers Ordinance No. 22


Jerry F. Sliva, Jerry F. Sliva
Mayor

Betty Marek, Betty Marek
City Secretary