

AN ORDINANCE OF THE CITY OF PORT ST LUCIE, FLORIDA, AMENDING CH. 112, PEDDLERS AND SOLICITORS, ARTICLE I GENERAL PROVISIONS, BY AMENDING SECTION 112.01, DEFINITIONS; AMENDING SECTION 112.02, EXECEPTIONS; AMENDING SECTION 112.03, PERMISSION OF HOMEOWNER OR OCCUPANT TO ENTER PREMISES; AMENDING SECTION 112.05, HARASSMENT; AMENDING SECTION 112.06, POSTING OF SIGNS; AMENDING SECTION 112.07, HOURS OF SOLICITATION; AMENDING SECTION 112.08, ENFORCEMENT; AMENDING SECTION 112.09, RECORDS OF VIOLATION; CREATING SECTION 112.10, RIGHT TO SOLICIT AT REASONABLE TIMES, PLACES AND UNDER REASONABLE CIRCUMSTANCE; AMENDING CHAPTER 112, PEDDLERS AND SOLICITORS, ARTICLE II PERMITS AND FEES, BY AMENDING SECTION 112.20, PERMIT REQUIRED; AMENDING SECTION 112.21, APPLICATION; FEE FOR INVESTIGATION; AMENDING SECTION 112.22, INVESTIGATION; AMENDING SECTION 112.24, ISSUANCE; IDENTIFICATION CARD; AMENDING SECTION 112.25, FEE; ADJUSTMENT BY CITY MANAGER; AMENDING SECTION 112.27, EXPIRATION; RENEWAL AND DUE DATE; DELIQUENCY; AMENDING SECTION 112.28, BADGE TO BE WORN; AMENDING SECTION 112.29, EXHIBITATION OF PERMIT UPON REQUEST; AMENDING SECTION 112.31, APPEAL OF DECISION; AMENDING SECTION 112.99, PENALTY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Port St Lucie, Florida (“City”) desires to update Chapter 112, Peddlers and Solicitors; and

WHEREAS, The City recognizes and affirms that persons and entities have an interest in communicating commercial speech through the use of solicitation; and

WHEREAS, The City wishes to prevent fraud and criminal activity, such as burglary, theft, and assault and to protect the privacy of residents in their homes by requiring commercial solicitors to be licensed; and

WHEREAS, The City has determined that the City would benefit by adopting rules and regulations that are applicable and enforceable across the City.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are made a part of this Ordinance.

Section 2. Title XI, Business Regulations, Chapter 112, Peddlers and Solicitors, is amended as follows:

CHAPTER 112. PEDDLERS AND SOLICITORS

Article I. GENERAL PROVISIONS

Sec. 112.01. Definitions.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~*Agent.* A person engaged in telephone canvassing or solicitation, or in a house-to-house canvass demonstrating or taking orders for any goods, wares, or merchandise, or taking orders from samples where goods are to be delivered later.~~

~~*Canvasser or solicitor.* Any individual whether or not a resident of the city, soliciting by telephone or traveling, either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from state to state, taking or attempting to take orders for sale of goods, wares, or merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said times, or in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject for sale, or whether he is collecting advance payments on sales or not. Provided, however, that this definition shall include any person who, for himself or for another person, firm, or corporation hires, leases, uses, or occupies any building, structure, tent, boat, hotel room, lodging house, apartment, shop,~~

~~or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.~~

~~*Goods, wares, and merchandise.* Includes , but is not to be restricted to, a photograph and coupons to tickets good in whole or in part for a photograph, magazine article, or other merchandise.~~

~~*Itinerant peddler or hawker.* A nonresident of the city, who, by telephone sales or by going from house to house or place to place, exposes for sale and sells goods, wares, and merchandise under the conditions and circumstances stated for a peddler.~~

~~*Peddler.* A person who solicits by telephone or who brings goods, wares, and merchandise from outside the city or state, or where the goods, wares, or merchandise are manufactured in the city for sale at retail and is in this state at the time that all negotiations prior to and at the sale thereof are had, and the goods, wares, or merchandise is not sold in the original packages in interstate commerce, but at retail in small quantities by means of telephone solicitation or house to house, or place to place canvass. Goods ordered or in transit which were so ordered without reference to particular sales, shall be deemed to be in the state.~~

Commercial Solicitor, vendor, itinerant merchant or transient vendor of merchandise or services. A “ commercial solicitor, vendor, itinerant merchant or transient vendor of merchandise services” is defined to be any person who solicits or attempts to solicit orders for the sale of goods, wares, merchandise or services, whether the sale is consummated in the city or to be consummated when approved by some other person elsewhere, or bargains to sell any goods, wares, merchandise or services from house to house, for cash or other consumer credit transaction, installment contract, loan agreement, or other evidence of indebtedness.

Home Solicitation Sale. A “Home Solicitation Sale” means a sale, lease, or rental of consumer goods or services with a purchase in excess of \$50 which includes all interest, service charges, finance charges, postage, freight, insurance, and service or handling charges, whether under single or multiple contracts, made pursuant to an installment contract, a loan agreement, other evidence of indebtedness, or a cash transaction or other consumer credit transaction.

Licensing Official. The “licensing official”, for purposes of this chapter, refers to the City’s Police Department and any divisions or any individuals instructed to handle and review permitting applications under this Chapter.

Panhandling. A “panhandler,” for purpose of this chapter, means a person who is soliciting for money, food, or other items for their own personal benefit and not for the monetary gain of a business.

Sec. 112.02. ~~Exceptions~~ Exemptions.

~~Any nonprofit organization, upon petition to the city council, may be granted a waiver of any of the provisions of this chapter by a majority vote of the council. The organization shall be restricted in such manner as the council may direct, but in no event will any restrictions be more than those restrictions contained in this chapter.~~ Individuals engaged in solicitations for bona fide educational, literary, scientific, religious, or charitable organizations are exempt from the provisions of this chapter. Panhandling is exempted from the provisions of this chapter.

Sec. 112.03. Permission of homeowner or occupant to enter premises.

It shall be unlawful for any person regulated by this chapter to enter permanently or stopping upon any private premises without permission, license or invitation from the occupant or homeowner.

Sec. 112.04. Refusal to leave premises.

It shall be unlawful for any solicitor or peddler to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant, or person in charge of the premises.

~~Sec. 112.05. Harassment.~~

~~No solicitor or peddler shall vex, annoy, or harass any person by importuning the person to purchase or look at his or her goods or wares use words or actions, which by their utterance, inflict injury on any person or cause a disturbance of the peace by importuning the person to purchase or look at his or her goods or wares.~~

~~Sec. 112.06. Posting of signs.~~

~~No solicitor or peddler shall enter in or upon any house, building, or other structure upon any land or property without the prior consent of the owner or occupant thereof where there is placed or posted on the premises in a conspicuous position, at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant forbids or otherwise does not desire persons engaged in soliciting or any similar activity to enter upon the premises.~~

~~Sec. 112.07. Hours of solicitation.~~

~~No person shall solicit in any way, for any purpose in the city, except between the hours of 10:00 a. m. and 4:00 p. m. and only then providing the person has complied with the regulations of this chapter . Any solicitor, peddler, itinerant merchant or transient vendor of merchandise or services who obtains a permit and who complies with all other applicable laws or ordinances shall have the right at reasonable times to solicit orders for the sale of goods, wares, merchandise or services. A reasonable time for uninvited solicitation is defined as between the hours of 8:00 a.m. and 8:00 p.m., each day.~~

Sec. 112.08. Enforcement.

~~It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing who is not known by the officer to be duly licensed, to produce his solicitor's or canvasser's license, and to enforce the provisions of this chapter against any person found to be soliciting.~~

Sec. 112.10. Right to solicit at reasonable times, places and under reasonable circumstance

Any solicitor, peddler, itinerant merchant or transient vendor of merchandise or services who obtains a permit and who complies with all other applicable laws or ordinances shall have the right at reasonable times and places and under reasonable circumstances to solicit orders for the sale of goods, wares, merchandise, or services.

- (a) A reasonable time for uninvited solicitation is defined as between the hours of 8:00 a.m. and Sunset as determined by the National Weather Service (NWS) Forecast office each day.
- (b) A reasonable place is any public or private property where the solicitor has not already been requested to leave with the exception that solicitor may not solicit:
 - (a) Within 25 feet of any bank, ATM, or other financial institution.
 - (b) Within 500 feet of any property used for school purposes (preschool, elementary, secondary) on all school days between the hours of 7:00 a.m. and 4:30 p.m.
 - (c) Within 100 feet of any driveway entrance to a police or fire station, or within 20 feet of any other driveway.
 - (d) Within five feet of the entranceway to any building.
 - (e) Within 20 feet of any bus stop zone.
 - (f) Within five feet of the pedestrian crosswalk at any intersection, or designated pedestrian crossing point.
 - (g) Within ten feet of any ADA assigned parking space, or access ramp.
- (c) Reasonable circumstances are those except when a solicitor uses words or actions, which by their utterance, inflict injury on any person or cause a disturbance of the peace by importuning the person to purchase or look at his or her goods or wares.

Sec. 112.09. Sec. 112.11. Records of violations.

The chief of police shall report to the licensing official all convictions for violation of this chapter. The licensing official shall maintain a record of each permit issued and record the reports of violations therein.

Secs. ~~112.10~~112.12—112.19. Reserved.

Article II. PERMIT AND FEES

Sec. 112.20. Permit required.

It shall be unlawful for any commercial solicitor, canvasser, peddler, hawker, itinerant merchant, or transient vendor of merchandise, ~~or agent~~ to engage in such businesses within the city without first obtaining a permit in compliance with the provisions of this chapter.

Sec. 112.21. Application; fee for investigation.

(a) Applicants for permits under this chapter must file with the licensing official a sworn application in writing, which shall give the following information:

- (1) Name and description of applicant;
- (2) Permanent home address and full local address of applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time in which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold or orders taken for the sale thereof, are manufactured or produced, where the goods or products are located at the time the application is filed, and the proposed method of delivery;

- (7) ~~Two photographs of the applicant taken within 60 days immediately prior to the date of the filing of the application, the photograph shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; A current photographic likeness of the applicant sufficient to establish identification.~~
- (8) ~~The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate his character and business responsibility~~
- (9) ~~A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinances, the nature of the offense, and the punishment or penalty assessed therefore; and~~
- (b) ~~At the time an applicant requests permission to solicit within the city, a fee, as prescribed in section 111.45, for each applicant shall be paid to the licensing official to cover the cost of the investigation of the facts stated therein, but in no event shall the application fee be refunded.~~

Sec. 112.22. Investigation.

Upon receipt of the completed application by the licensing official under section 112.21, the original shall be referred to the chief of police who shall cause an investigation of the applicant's application ~~business and moral character to be made as he deems necessary for the protection of the public good. A minimum of at least ten maximum of fifteen days shall be allowed for the investigation.~~

Sec. 112.23. Denial of permit.

If, ~~as a result~~ because of the investigation, the applicant's ~~character or~~ business responsibility is found to be unsatisfactory, the chief of police shall endorse on the application his disapproval and his reasons for the same and return the application to the licensing official who shall notify the applicant that his application is disapproved and that no permit will be issued. The applicant may appeal the denial of the permit, within 15 business days, to the City Manager.

Sec. 112.24. Issuance; identification card.

- (a) If, ~~as a result~~ because of the investigation, the ~~character and~~ business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval. The application, signed by the chief of police or his designated subordinate, along with a permit (identification card), shall be returned by the chief of police to the licensing official. The licensing official shall, upon payment of the prescribed license fee, if any, deliver to the applicant his permit (identification card).
- (b) The permit (identification card) shall contain the following:
- ~~(1) A photograph of the applicant;~~
 - (1) The date of issuance and the date of expiration;
 - (2) The name and address of the applicant and the business which the applicant is representing;
 - (3) A statement that the permit may be revoked at the discretion of the chief of police or the ~~city council~~ City Council;
 - (4) A statement that the permit is not transferable;
 - (5) A statement that the permit shall be carried on the person and shown upon request;
 - (6) A statement that the solicitor may not go to back or rear doors;

- (7) A statement that the issuance of the permit is not an endorsement of the bearer of the merchandise, the service offered, nor the business methods used in selling the merchandise;
- (8) The signature of the licensing official.

Sec. 112.25. Fee; adjustment by city manager.

(a) ~~The fee for a permit under this chapter shall be as prescribed in section 111.45 non-structural.~~

The Port St. Lucie Police Department is authorized to impose a reasonable permit fee sufficient to offset the administrative costs associated with the permitting process.

(b) None of the fees provided for under this section shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a fee is believed by an applicant for a permit to place an undue burden upon interstate commerce, he may apply to the city manager for an adjustment of the fee so that it shall not be discriminatory as to interstate commerce. The application may be made before, at, or within six months after payment of the prescribed fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the city manager may deem necessary ~~in order~~ to determine the extent, if any, of the undue burden on interstate commerce.

(1) The city manager shall then conduct an investigation comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed under this section is unfair, unreasonable, or discriminatory as to the applicant's business, and shall fix as the fee for the applicant an amount that is fair, reasonable, and nondiscriminatory. If the fee has already been paid, he shall order a refund of the amount over and above the fixed fee.

- (2) In fixing the fee to be charged, the city manager shall have the power to base the fee upon a percentage of the gross sales, or any other method which will assure that the fee assessed shall be uniform and in agreement with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed in section ~~111.45~~, 112.25(a).
- (3) Should the city manager determine the gross sales measure of fee to be the fair basis, he may require the applicant to submit, either at the time of the termination of the applicant's business in the city or at the end of each month period, a sworn statement of gross sales and to pay the amount of fee therefore; provided that no additional fee during any one calendar year shall be required after the permittee shall have paid an amount equal to the annual fee as prescribed under section ~~111.45~~, 112.25(a).

Sec. 112.26. Reserved.

Sec. 112.27. Expiration; renewal and due date; delinquency.

- ~~(a) All permits issued under this chapter shall expire on September 30 of each year. All permits issued under this chapter shall expire one year from the date the permit was issued.~~
- (b) All solicitors must reapply by ~~September 1 of each year~~ following expiration of the permit, following the same procedure as the original application.
- ~~(c) All permits shall be sold by the occupational licensing official beginning September 1 of each year of each year and shall be due and payable on or before October 1 of each year and shall expire on September 30 of the succeeding year. A processing fee of \$5.00 shall be assessed. In the event October 1 falls on a weekend or holiday, the tax shall be due and payable on or before the first working day following October 1. Those permits not renewed when due and payable shall be considered delinquent and subject to a delinquency penalty of ten percent for the month~~

~~of October, plus an additional five percent penalty for each month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the solicitor's permit fee.~~

Sec. 112.28. Badge to be worn.

~~The licensing official may issue to each permittee under this chapter at the time of the delivery of his permit, a badge which shall contain the words "licensed solicitor", the period for which the permit is issued, and the number of the permit in letters and figures easily discernible from a distance of ten feet. The badge shall, during the time the permittee is engaged in soliciting, be worn constantly by the permittee on the front of his or her outer garment in such a way as to be conspicuous.~~

Sec. 112.29. Exhibition of permit upon request.

Solicitors, canvassers, ~~agents~~, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise are required to exhibit their permits at the request of any police officer, deputy sheriff, or any person being solicited.

Sec. 112.30. Revocation; notice and hearing.

(a) Permits issued under the provisions of this chapter may be revoked by the chief of police after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for a permit;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on his business of solicitor, canvasser, ~~agent~~, peddler, hawker, itinerant merchant, or transient vendor;
- (3) Any violation of this chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or

(5) Conducting the business of solicitor, canvasser, or peddler in an unlawful manner or in such a manner as to constitute a breach of peace or ~~a menace~~ an injury to the health, safety, or general welfare of the public.

(b) Notice of hearing for the revocation of permits shall be given in writing setting forth specifically the ground of complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid to the permittee at his last known address at least five days prior to the date set for a hearing.

Sec. 112.31. Appeal of decisions.

(a) Any person aggrieved by the action of the chief of police ~~or the licensing official~~ in the denial of a permit as provided in section 112.24, the revocation by the licensing official as provided in section 112.30, or the action of the city manager in the assessing of the fee as provided in section 112.25, shall have the right of appeal to the ~~city council~~ Special Magistrate. The appeal shall be taken by filing with ~~council~~ Special Magistrate within 14 days after the notice of the action complained of has been mailed to the persons' last known address, a written statement setting forth the grounds for the appeal.

(b) The ~~council~~ Special Magistrate shall set a time and place for the appeal and notice of the hearing shall be given to the applicant in the same manner as provided in section 112.30 for notice of hearing on revocation. The decision and order of ~~council~~ the Special Magistrate on the appeal shall be final and conclusive.

Sec. 112.99. Penalty.

Any solicitor or peddler who shall be convicted of any violation of the provisions of this chapter or of any fraud, cheating, or misrepresentation whether through himself or any employee

while acting as a peddler in the city or who shall barter, sell, or peddle any goods or merchandise other than those specified in his application for permit shall be fined not more than \$500.00,~~for~~ the first offense. Any subsequent offense can be prosecuted to the extent permitted by Florida State law. ~~or imprisoned for not more than 60 days, or both.~~ In addition, ~~he~~ the peddler or solicitor may ~~shall~~ have the permit revoked at the discretion of the court.

Section 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

Section 6. Effective Date. This Ordinance shall become effective immediately after final adoption on second reading.

2023-XX

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this
_____ day of _____, 2023.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney