

Chapter 74 - PEDDLERS AND SOLICITORS^[11]

Footnotes:

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Charter reference— Authority to tax, § 55; authority to license, § 56.

Cross reference— Businesses, ch. 22; signs, ch. 82; streets, sidewalks and other public places, ch. 90; taxation, ch. 94; traffic and vehicles, ch. 98.

State Law reference— Sale of plant seeds, O.C.G.A. § 2-11-27; buyer's right to cancel home solicitation sale, O.C.G.A. § 10-1-6; disabled veterans, blind persons, O.C.G.A. § 43-12-1 et seq.; charitable solicitations, O.C.G.A. § 43-17-1 et seq.; peddlers and itinerant traders, O.C.G.A. § 43-32-1 et seq.; dealers in precious metals and gems, O.C.G.A. § 43-37-1 et seq.; transient merchants, O.C.G.A. § 43-46-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 74-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddler means any person who purchases or otherwise acquires within or without the city any goods, wares, merchandise, produce or other things of value and goes about from place to place within the city selling or offering for sale any such things to merchants, customers, or other persons.

Solicitor means any person who solicits orders for merchandise or other things of value, on behalf of himself or anyone else, from place to place or house to house; and any person who obtains orders for merchandise or other things of value, by going from place to place or house to house.

(Code 1977, § 17-1)

Cross reference— Definitions generally, § 1-2.

Sec. 74-2. - Permit—Required; letter of authority.

- (a) No peddler or solicitor shall offer for sale any goods, wares, merchandise or other things of value in the city without first obtaining a permit from the city clerk.
- (b) All permits shall be paid for at the price fixed by the mayor and council.
- (c) Any peddler or solicitor who solicits local merchants within the city for the purpose of selling goods, wares, merchandise or magazines, newspapers or other things of value shall present a letter of authority from the county chamber of commerce before a permit from the city is issued.

(Code 1977, § 17-2)

Sec. 74-3. - Same—Procedure for obtaining; fees; term.

- (a) All resident and nonresident peddlers or solicitors shall obtain a solicitor's permit and be subject to all rules and regulations of this chapter. Any peddler or solicitor who solicits orders and whose employer does not maintain a place for doing business in the city so as to be subject to the rules and regulations of the businesses chapter shall be deemed a nonresident peddler or solicitor.

- (b) No peddler or solicitor shall be authorized to peddle or solicit orders until he/she files an application from the city clerk, and obtains a permit and registers as a peddler or solicitor. The city clerk shall make an investigation, including, but not limited to, an investigation of police record and moral character of the applicant. The city clerk shall furnish the department of police a duplicate of the application for the peddler's or solicitor's permit. The department of police, within ten days, shall furnish a report to the city clerk of the police record, if any, of the applicant. No permit shall be given to any applicant who shall have either a pending charge or a conviction for the crime of moral turpitude or an offense involving the elements of assault and battery or any civil judgments involving unethical and improper business actions, including, but not limited to, actions which would constitute fraud and deceit under the laws of the state.
- (c) The applicant, as a condition precedent to the issuance of the permit, shall pay costs for the investigation and regulation under this chapter. This fee shall not be a revenue but shall be used for the cost of such registration, investigations, and regulation of persons subject to this chapter.
- (d) A permit under this chapter shall be valid for a period of 30 days after issuance. However, the permit may be renewed by filing a renewal application with the city clerk, upon forms prescribed by the mayor and council, and paying a renewal fee during the current calendar year to cover the expense of updating the investigative report.

(Code 1977, § 17-3)

Sec. 74-4. - Badge.

All peddlers and solicitors shall wear a badge, the design of which shall be in the discretion of the city clerk, but shall be uniform as to all peddlers or solicitors, which shall provide the following information: the name of the peddler or solicitor, the name of the company, and an identification number, in large enough type to be read and seen by persons with normal vision at a distance of ten feet. At all times the peddler or solicitor shall wear on either the left or right shoulder of his/her outer garment the badge prescribed by the city clerk, so that such badge can be readily seen by the owner or occupant of the premises.

(Code 1977, § 17-4)

Sec. 74-5. - Cards.

- (a) The city clerk shall furnish each peddler or solicitor sufficient cards so the peddler or solicitor may present a card to each household he/she visits.
- (b) Such card shall contain the following information:

"NOTICE—PLEASE READ

"The bearer of this card has been registered and issued a (peddler's or) solicitor's permit by the City Clerk of the City of Smyrna. His/Her name is _____. His/Her permit number is ____, and is on file at this office. He/She is authorized to solicit in the City of Smyrna from _____ to _____.

"It is unlawful for any peddler or solicitor to represent by word, action or deed that the issuance of this permit by the City of Smyrna in any way approves or disapproves either the action of the peddler or solicitor or his/her product.

"The peddler or solicitor is not to enter your home except by your express invitation. You have the right to refuse entry or to ask the peddler or solicitor to leave the premises, and if he/she should fail to leave the premises after your instructions, he/she shall be in violation of the laws of this state and/or ordinances of the City of Smyrna.

"Report any discourteous or fraudulent conduct to the City Clerk of the City of Smyrna. If you purchase the product of the peddler or solicitor, you have the right to cancel a home solicitation service agreement any time until midnight on the business day after the day on which you sign the agreement, provided you give notice of the cancellation to the seller at the place of business as set forth in the agreement or by certified mail, return receipt requested, which shall be posted not later than midnight on the day following execution of your agreement."

- (c) A peddler or solicitor shall place his/her name and permit number in the blanks provided on the card and shall present it to the occupant of each home that he/she visits.
- (d) It shall be unlawful for a peddler or solicitor to fail to present the card to the resident or occupant of a home to which the peddler or solicitor peddles or solicits business.

(Code 1977, § 17-5)

Sec. 74-6. - Entry on premises.

- (a) At each house, the peddler or solicitor shall announce to the owner or occupant of the home his/her name, and that he/she has been issued a permit by the city as a home solicitor, and shall announce the purpose of his/her call and present the card provided for in section 74-5 and shall allow time for the occupant or owner to read the card.
- (b) No peddler or solicitor shall enter a home without the express invitation of the occupant or owner. If a no soliciting sign is posted, no peddling or soliciting shall be made.

(Code 1977, § 17-6)

Sec. 74-7. - Uninvited peddlers, solicitors deemed nuisance.

The practice of being in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or occupant of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of and peddling or hawking the goods, wares and merchandise, is hereby declared to be a nuisance.

(Code 1977, § 17-16)

Sec. 74-8. - Conduct while on premises.

A peddler or solicitor shall at all times maintain a courteous decorum and shall not use opprobrious, vulgar or slang words to any homeowner or occupant. No peddler or solicitor shall remain upon the premises of an occupant or owner after such occupant or owner has requested the peddler or solicitor to leave or indicated that the occupant or owner is not interested in purchasing the peddler's or solicitor's product.

(Code 1977, § 17-7)

Sec. 74-9. - False representations as to effect of permit.

It shall be unlawful for any peddler or solicitor to represent by word, action or deed that the issuance of a permit by the city in any way approves or condones either the action of the peddler or solicitor or his/her product.

(Code 1977, § 17-8)

Sec. 74-10. - Informing occupant of rights under statute.

If a peddler or solicitor shall secure an order from an owner or occupant, each peddler or solicitor shall inform the owner or occupant of his/her rights under the Retail Installment and Home Solicitation Sales Act (O.C.G.A. § 10-1-1 et seq.). This may be done by the peddler or solicitor leaving a written card or document specifying the rights of a home owner or occupant under the Retail Installment and Home Solicitation Sales Act (O.C.G.A. § 10-1-1 et seq.).

(Code 1977, § 17-9)

Sec. 74-11. - Records; notice of multiple violations and permit revocation; hearing; revocation.

The city clerk shall maintain true and accurate records of the name and identification number of each peddler or solicitor, together with other requirements of this chapter and shall maintain a log of all complaints for each peddler or solicitor. If the city clerk shall receive five ordinance violation complaints concerning a particular peddler or solicitor or firm, he/she shall notify the peddler or solicitor and firm that his/her permit has been revoked until he/she can show cause that he/she is in compliance with the rules and regulations of this chapter. The city clerk shall maintain a true and accurate log of each complaint showing the name of the complainant, the address of the complainant, and the substance of the complaint. Such records shall be available to the peddler or solicitor or his/her company, and shall be deemed a public record. A hearing shall be set before the administrative committee within five business days after notification of the peddler or solicitor, at which time the committee shall investigate the nature of the complaints. The peddler or solicitor may use witnesses or other evidence to show his/her compliance with this chapter. If the administrative committee shall determine a violation on the part of the peddler or solicitor, it shall revoke the permit of the peddler or solicitor.

(Code 1977, § 17-10)

Sec. 74-12. - Appeals—To mayor and council.

The peddler or solicitor shall have the right to file an appeal from the ruling of the administrative committee to the mayor and council within three business days of such action. Such appeal shall be in writing and filed with the city clerk, to the mayor and council and shall specify in general terms the reasons for the peddler's or solicitor's complaint that his/her certificate or permit has been unlawfully revoked. The mayor and council shall, at its next regular meeting, hold a hearing concerning the complaint or set a hearing at a reasonable time and place for all parties to be heard. After a hearing, the mayor and council shall affirm or reject the ruling of the administrative committee and give direction as to what action is to be taken concerning the permit. Such action on the part of the mayor and council shall be final.

(Code 1977, § 17-11; Ord. No. 94-18, § 3, 12-5-94)

Sec. 74-13. - Same—To court.

If any peddler or solicitor or his/her company shall be dissatisfied with the decision of the mayor and council, he/she shall have the right of appeal as provided by the laws of the state.

(Code 1977, § 17-12)

Sec. 74-14. - Solicitations from vehicle occupants.

It shall be unlawful for any person to solicit for charitable purposes or for the sale of merchandise of any description whatsoever from the occupants of vehicles, whether such vehicles are stopped or moving upon any street or at any intersection whether controlled by traffic devices or not.

(Code 1977, § 17-13)

Sec. 74-15. - Sale of newspapers, magazines, other publications on streets.

It shall be unlawful for any person to offer any magazine, newspaper or other publication for sale on the streets of the city except in a coin-operated vending machine. Nothing contained in this section shall affect the sale of magazines, newspapers or other publications from across the counter of an established business.

(Code 1977, § 17-14)

Sec. 74-16. - Purchase for resale by peddling prohibited.

It shall be unlawful for any person to purchase farm or agricultural products or fruit for resale by peddling in the city.

(Code 1977, § 17-15)

Sec. 74-17. - Soliciting alms.

No person shall solicit alms on any street in the city or beg or ask for any financial aid or in any other way or manner seek financial assistance through the asking of charity; provided, however, that this section shall not apply to religious, benevolent or charitable organizations complying with the ordinances of the city.

(Code 1977, § 17-17)

Secs. 74-18—74-40. - Reserved.

ARTICLE II. - PEDDLERS FROM VEHICLES^[2]

Footnotes:

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Cross reference— Traffic and vehicles, ch. 98.

Sec. 74-41. - Hours of operation restricted.

It shall be unlawful for any person owning or operating any motor vehicle from which ice cream, other food, or personal property is sold to the general public by traveling upon and going from street to street for the purpose of making individual sales of such items to operate such motor or other vehicle upon the streets for the purpose of engaging in such business between the hours of 4:00 p.m. and 8:00 a.m.

(Code 1977, § 17-18)

Sec. 74-42. - Parking on street to conduct business.

It shall be unlawful for any person owning or operating any motor or other vehicle from which ice cream, other food, or personal property is sold to the general public by traveling upon and going from street to street for the purpose of making individual sales of such personal property, to park the motor or other vehicle while using it for business purposes on any part of a public street.

(Code 1977, § 17-19)

Sec. 74-43. - Making sales.

It shall be unlawful for any person owning or operating a motor or other vehicle to make sales in and upon any street in the city.

(Code 1977, § 17-20)

Sec. 74-44. - Use of bells, loudspeakers, music.

It shall be unlawful for any person owning or operating a motor or other vehicle to operate the motor or other vehicle upon the streets while engaging in business and at the same time playing from the motor or other vehicle, a bell or music or while operating the motor or other vehicle upon the streets while engaging in business and, at the same time, utilizing a loudspeaker or other device to attract customers.

(Code 1977, § 17-21)

Cross reference— Prohibited noises enumerated, § 46-3.