

Chapter 40 - PEDDLERS AND SOLICITORS¹¹

Footnotes:

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State Law reference— Peddlers and itinerant traders, O.C.G.A. § 43-32-1 et seq.; municipal and county ordinances for issuance of permits to charitable organizations for solicitation of contributions on streets and highways, O.C.G.A. § 40-6-97.1; charitable solicitations, O.C.G.A. § 43-17-1 et seq.; transient merchants, O.C.G.A. § 43-46-1.

ARTICLE I. - IN GENERAL

Secs. 40-1—40-18. - Reserved.

ARTICLE II. - SALES AND SOLICITATION

DIVISION 1. - GENERALLY

Sec. 40-19. - Definitions.

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

Charitable organization or *nonprofit organization* means an organization registered in accordance with O.C.G.A. § 43-17-5 or an organization exempt from such registration in accordance with O.C.G.A. § 43-17-9 or any organization recognized as such by the Internal Revenue Service of the United States Department of Treasury.

Peddler means an individual carrying his own merchandise, article or other good and who offers to sell such merchandise, article or other good or service to consumers at retail, and who upon such a sale delivers the merchandise then and there on the spot at any fixed location within the incorporated areas of the city.

Solicitor means any person, group, firm, or organization who shall solicit orders, sales, funds, contributions or donations on behalf of a business, occupation, organization, vocation, or individual for commercial, charitable, nonprofit, or other noncommercial purpose, door to door or house to house in the residential areas or in any fixed location on any streets in residential areas, or on sidewalks, streets, highways, or the rights-of-way thereof within the incorporated areas of the city.

(Ord. of 11-13-2006, § 1)

Secs. 40-20—40-41. - Reserved.

DIVISION 2. - COMMERCIAL SOLICITORS AND PEDDLERS

Sec. 40-42. - Special event permits and identification card permits required.

- (a) *Permit for soliciting for commercial purposes in residential areas.* Any solicitor desiring to engage in any type of selling, soliciting, survey making or any other activity in any residential areas for a commercial purpose, shall first register with the city clerk, pay the prescribed registration fee as set forth in chapter 24, and obtain a personal identification card from the police department. The identification card shall serve as the permit.

- (b) *Permit for soliciting for commercial purposes on public ways.* Any solicitor desiring to solicit orders, sales, funds, contributions or donations on behalf of a business, occupation, organization, vocation, or individual for charitable, nonprofit, or other noncommercial purpose only on any sidewalks, streets, highways, or in the rights-of-way thereof within the incorporated areas of the city shall first register with the city clerk, pay the prescribed registration fee as set forth in chapter 24, and obtain an identification card permit, which shall specify the location and duration of the intended solicitations on the city's streets, highways, or the rights-of-way. The identification card shall serve as the permit.
- (c) *Permit for peddling.* Any peddler desiring to sell any merchandise, article or other good or service or transact any other business shall first register with the city clerk, pay the prescribed registration fee as set forth in chapter 24, and obtain a personal identification card. The identification card shall serve as the permit. The application for permit under this section must specify the location and duration of the peddling activity to ensure that the preferred location is not in violation of this Code, including zoning restriction, or deemed to be unsafe by the city police department. No peddler shall attempt to sell any merchandise, article or other good or service or transact any other legal business on any street, sidewalk, park, parkway or any other public place unless the peddler's permit specifies that peddling in such public places is permitted.

(Ord. of 11-13-2006, §§ 2, 3)

Sec. 40-43. - Contents of application questionnaire.

- (a) The city police department shall provide an application questionnaire to be completed by each applicant for permit under this division upon payment of the applicable fee. Each application questionnaire shall include, but not be limited to, the following information:
 - (1) Name and Social Security number of individual applicant;
 - (2) Date of birth;
 - (3) Driver's license number, if applicable.
 - (4) Race;
 - (5) Gender;
 - (6) Residential address and primary telephone number;
 - (7) Business addresses and telephone number;
 - (8) Height and weight;
 - (9) Hair and eye color;
 - (10) Name and address of organization represented and whether that organization is commercial or noncommercial (charitable or not-for-profit);
 - (11) Name, address, and telephone number of the applicant's immediate supervisor in the organization represented;
 - (12) A list of any pleas of guilty, convictions, or sentences of probation entered against the application in regard to any offences other than minor traffic violations.
- (b) The application questionnaire form shall also bear the following statement:

"Georgia law provides it is a felony to knowingly and willfully make a false, fictitious or fraudulent statement or representation in any matter within the jurisdiction of any department or agency of the government of any municipality of this state."
- (c) The chief of police shall review the application questionnaire to ascertain whether the applicant has pleaded guilty or nolo contendere to, or been convicted of, a felony or a misdemeanor involving a violation of moral turpitude. After ascertaining that the application questionnaire has been properly completed and that the applicant has not been disqualified by virtue of prior pleas or convictions of

any felonies or misdemeanors involving violence or moral turpitude, the chief of police shall approve the application subject to the payment of the applicable permit fee.

- (d) No individual shall be permitted to solicit sales, funds, contributions or donations within the city on behalf of any organization if the organization has had its confirmation letter or permit, as issued by the chief of police, revoked under this division.

(Ord. of 11-13-2006, § 4)

Sec. 40-44. - Occupation tax or regulatory registration required for commercial solicitations and peddling.

- (a) Following approval of the application questionnaire made in accordance with this division, and prior to the issuance of any permit granted hereunder, any applicant seeking to solicit within the city for a commercial purpose shall obtain an occupation tax registration and pay an occupation tax registration fee, or produce a valid occupation tax registration or certificate from another county or municipality of the state.
- (b) Following approval of the application questionnaire made in accordance with this division, and prior to the issuance of any permit granted hereunder, the applicant seeking to peddle merchandise, articles or goods or other services shall obtain a regulatory registration and pay a regulatory registration fee.
- (c) Registration required by this section shall be accomplished in the same manner as applies to other businesses in the city as set forth in chapter 12. Fees required for registration shall be as provided in chapter 24.

(Ord. of 11-13-2006, § 5)

Sec. 40-45. - Issuance of permit.

- (a) Upon qualification and payment by the applicant of a nonrefundable occupation tax or regulatory registration fee for commercial solicitation or peddling, the city police department shall photograph the applicant and provide the applicant with a identification card permit bearing the applicant's photograph, name and the name of the organization represented, and identifying the applicant as a commercial solicitor or peddler.
- (b) All solicitors and peddlers permitted by the city shall carry the identification card permit on their person at all times and said license shall be presented for inspection to any appropriate officer or official of the city upon demand. The permit is valid only for location and duration as approved.

(Ord. of 11-13-2006, § 6)

Sec. 40-46. - Qualifications; suspension and revocation.

- (a) No permit shall be issued to any person who has been found guilty of a misdemeanor involving violence or moral turpitude any time within five years prior to the date of application, nor shall a permit be issued to any person convicted of a felony, except that a permit may be issued to a convicted felon if it appears that he has been pardoned, or that he has been free from any legal restrictions for a period of five years prior to the date of his application. For the purpose of this division, the terms "conviction" and "found guilty" shall be deemed to include verdicts or pleas of guilty, or pleas of nolo contendere, entered by a court of this state, a court of a sister state, or any federal district court. Any permit issued as the result of a willful false statement or omission in the solicitor's application for permit shall be deemed null and void from the time of its issue.

- (b) The permit of any person charged with a felony, or a misdemeanor involving violence or moral turpitude, shall be deemed suspended from the time of lawful arrest, formal, accusation, or indictment whichever shall first occur; such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charged is dismissed, "dead-docketed" or "no-billed."
- (c) The permit of any person arrested or served with a summons in regard to a violation of any provision of this division, which is alleged to have occurred the date the permit was issued, shall be deemed suspended from the time he was arrested or served with summons; such suspension shall remain in effect until the solicitor is acquitted or the case is dismissed.
- (d) The permit of any person who is convicted of a felony, or a misdemeanor involving violence or moral turpitude, shall be deemed revoked from the time of such conviction. The permit of any person convicted of having violated any provision of this division after issuance of the permit shall be deemed revoked from the time of conviction.
- (e) Any suspension or revocation occurring pursuant to the provisions of this division shall be effective by operation of law, whether or not any formal notification to the solicitor is given or received.

(Ord. of 11-13-2006, § 14)

Sec. 40-47. - Validity; renewal of permits.

Each permit issued under this division shall be valid only for the person or organization indicated thereon, and until the expiration of the current occupation tax certificate of such organization. Such permit may be renewed upon payment of a fee established by the city council and verification by the city that the organization represented has renewed its occupation tax certificate for the current year.

(Ord. of 11-13-2006, § 7)

Sec. 40-48. - Display of permit.

The police department shall furnish to each permit holder a device suitable for attaching the permit card to the outer clothing of the identification card permit holder. No person shall engage in any of the conduct coming under this division without wearing and displaying the identification card permit in a conspicuous manner.

(Ord. of 11-13-2006, § 8)

Sec. 40-49. - Solicitors required to disclose of purpose of call.

At each dwelling, whether it be an apartment unit or detached single-family residence, the solicitor shall inform the occupant in unambiguous terms of the purpose of the call and shall not represent that the solicitor is participating in any contest, game or other competitive endeavor, or that he is offering the occupant an opportunity to participate in any such contest, game or endeavor.

(Ord. of 11-13-2006, § 9)

Sec. 40-50. - Solicitors not permitted to enter posted property.

No solicitor shall enter a dwelling except at the express invitation of the occupant. No solicitation shall be made at any single-family or multifamily dwelling where a conspicuous "No Soliciting," "No Peddlers" or other similar sign is displayed at or near the main entrance or driveway to the premises.

(Ord. of 11-13-2006, § 10)

Sec. 40-51. - Decorum required.

- (a) No person shall use vulgar, insulting or threatening language in the course of any solicitation or attempt to peddle.
- (b) No solicitor shall remain upon the premises after the occupant of the premises has verbally indicated that he does not wish to make a purchase or donation or to otherwise listen or participate in the purpose of the call. For the purpose of this division, a call shall be deemed to continue until the solicitor has left the premises.

(Ord. of 11-13-2006, § 11)

Sec. 40-52. - Prohibited acts.

It shall be a violation of this division:

- (1) For any person to engage in any of the activities described in this division without first obtaining a permit as required hereunder.
- (2) For any person to violate any of the provisions of this division or to violate any other city ordinance or any state or federal law while engaging in any of the activities coming under this division.
- (3) For any person to lend, rent, or sell his permit card to another.
- (4) For any person to engage in any activity coming under this division during a period in which his permit is in suspension or after his permit has been revoked.
- (5) For any person to engage in the act or business of a peddler of any merchandise, article or other good or service within the corporate limits without having first secured an occupation tax registration as set forth in section 40-44.
- (6) For any person to engage in fraud, cheating or misrepresentation, be it through himself or through an employee.
- (7) For more than two individuals to engage in solicitation upon any premises at the same time for the same goods or services. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.
- (8) For any person to make more than one solicitation call at the same premises for identical goods or services within any two-week period, without receiving prior invitation therefor from the occupant of any such premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or representatives of any person more than once during the aforesaid period without prior invitation as herein provided.
- (9) For any person with a criminal record as described in section 40-46, whether or not otherwise eligible for an exemption under section 40-85, to engage in any of the activities described in this division.
- (10) For any person, at the time of initial contact with the occupant or prospective customer, to fail to verbally identify himself for the purpose of the call or solicitation and the company and product line he represents or charitable, nonprofit, or noncommercial group he represents.
- (11) For any person engaged in solicitation to misrepresent the purpose of the call or solicitation or use any falsehood, deception or misrepresentation to induce a sale or contribution, or use any plans, scheme or ruse which misrepresents the status of the purpose of the person engaging in the call or solicitation.

- (12) For any person to solicit or attempt to solicit at a building or residence at any entrance or part of the building or residence other than the main entrance to the residence.

(Ord. of 11-13-2006, § 12)

Sec. 40-53. - Surrender of permit.

Any permit issued pursuant to the provisions of this division for the use by any person is, and shall remain, the property of the city. Each permit holder shall surrender his permit card to the police department no later than three of the department's business days following the expiration, suspension, or revocation of the permit, or upon the demand of any officer of the department or upon the demand of the chief of police, whichever shall occur first.

(Ord. of 11-13-2006, § 15)

Secs. 40-54—40-79. - Reserved.

DIVISION 3. - CHARITABLE SOLICITATIONS

Sec. 40-80. - Registration; confirmation.

- (a) Any solicitor desiring to solicit orders, sales, funds, contributions or donations for only a charitable, nonprofit, or other noncommercial purpose in any residential areas or on any streets, highways, or in the rights-of-way, shall first register and supply proof of such recognized status with the city clerk.
- (b) The chief of police shall then issue written confirmation of the organization's exempt charitable, nonprofit or noncommercial status and the date and location of the solicitation to be conducted.
- (c) The organization shall then furnish a copy of such confirmation to each of its agents or representatives who shall keep a copy of such confirmation on their person at all times while engaged in their charitable, nonprofit, noncommercial solicitation.

(Ord. of 11-13-2006, § 2)

Sec. 40-81. - Term of permit; total number of permits restricted.

Each permit issued for solicitation described in this division will be valid for a period of 30 days from the date of its issuance. No organization soliciting under this division may hold more than two permits in a single 12-month period.

(Ord. of 11-13-2006, § 2)

Sec. 40-82. - Age of solicitors restricted.

All individuals soliciting on behalf of a charitable, nonprofit, or noncommercial organization must not be less than 16 years of age.

(Ord. of 11-13-2006, § 2)

Sec. 40-83. - Reflective safety vests required.

All individuals authorized to solicit on behalf of a charitable, nonprofit, or noncommercial organization must wear reflective safety vests at all times.

(Ord. of 11-13-2006, § 2)

Sec. 40-84. - Additional restrictions for safety purposes.

Any solicitation for a charitable, nonprofit, or noncommercial purpose may be restricted as necessary for safety reasons as determined by the city police department.

(Ord. of 11-13-2006, § 2(c)(4))

Sec. 40-85. - Exemptions.

The following are exempt from the requirements set forth in section 40-42(a):

- (1) Persons, businesses, and organizations exempted from local regulation by operation of state or federal law, or by the Constitution of the United States or the state, are exempt from the requirements of this article. This exemption is deemed to include, but may not be limited to, persons or organizations canvassing door to door or house to house in the residential areas or on any streets, highways, or the rights-of-way thereof within the incorporated areas of the city for a religious or political purpose.
- (2) Representatives or agents of charitable or nonprofit or other noncommercial organizations as defined in section 40-19.
- (3) Any exemption granted herein shall remain in effect only until December 31 following the date of the confirmation. Only one such letter shall be issued to each organization during any calendar year.
- (4) Any sales representative who calls upon prospective customers at the private invitation of the homeowner or occupant shall be treated as exempt from the provisions of this article.
- (5) Any exemption granted does not exclude the need for a special event permit.

(Ord. of 11-13-2006, § 2(d))