

## **AMENDED ORDINANCE #75-1**

**AN ORDINANCE OF THE CITY OF NEWCASTLE, TEXAS FOR THE PURPOSE OF PROTECTING AGAINST CRIMINAL ACTIVITY, INCLUDING FRAUD AND BURGLARY, MINIMIZE THE UNWELCOME DISTURBANCE OF CITIZENS AND THE DISRUPTION OF PRIVACY, SAFETY AND WELFARE BY REQUIRING PERMIT/LICENSING OF ANY PERSON, FIRM OR CORPORATION SELLING, SOLICITING OR PEDDLING WITHIN THE CORPORATE LIMITS OF THE CITY OF NEWCASTLE.**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWCASTLE, TEXAS:

### SECTION 1. CITY LICENSING OFFICER

For the purpose of this article, the City Secretary shall act as the City License Officer for the City of Newcastle and as such shall administer the provisions of this ordinance.

### SECTION 2. DEFINITIONS

The following words and phrases, when used in this article, shall have the meanings ascribed to them by this section:

*BUSINESS DAY* shall mean any calendar day except for Saturday, Sunday or any City Holiday.

*CANVASSER* shall mean any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from said resident, or in the public right of way for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

*PEDDLER* shall mean any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right of way, carrying or transporting goods, wares, merchandise or personal property of any nature for the purpose of selling. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a different time or location.

*PEDDLE* shall mean all activities ordinarily performed by a peddler.

*SOLICITOR* shall mean any person, firm or corporation who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, or upon the public right of way for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition includes any person, firm or corporation who, without invitation, goes upon private property, or in the public right of way to request contribution of funds or anything of value, or sell goods or services for educational, political, charitable, religious or other non-commercial purposes.

*SOLICITATION, SOLICITING, SOLICITED OR ANY FORM OF THE WORD SOLICIT* shall mean any activities ordinarily performed by a Solicitor.

### SECTION 3. HOURS OF CANVASSING, SOLICITATION AND PEDDLING AT PRIVATE RESIDENCES

It shall hereafter be unlawful for any person, firm or corporation, licensed or unlicensed, to canvass, solicit or peddle at any private residence in the City of Newcastle, Texas between the hours of 6:00pm and 9:00am unless otherwise posted by the private property owner. This provision does not apply where the canvasser, solicitor or peddler is on the property by express, prior invitation of the owner of the property or a person residing on the premises.

### SECTION 4. ENTRY UPON PREMISES UNLAWFUL

- a. It shall be unlawful for any person to canvass, solicit or peddle upon any private property in the City of Newcastle, Texas where the owner, occupant or person legally in charge of the premises has posted a sign bearing the words "No Peddlers", "No Soliciting", or words of similar import.

- b. It shall be unlawful for any person to canvass, solicit, or peddle at any entrance to a residence other than the front door.

#### SECTION 5. PENALTY FOR VIOLATION

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$200.00 and not more than \$600.00 per offense. For each and every hour that such a violation continues, it shall be deemed a separate offense.

#### SECTION 6. PERMIT REQUIREMENTS AND EXEMPTIONS

It shall be unlawful for any person to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the City License Officer; provided the following are exempted from the provisions of this section:

- a. Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
- b. Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person;
- c. A canvasser as defined by this article;
- d. A solicitor or peddler already licensed by the State of Texas to engage in the activity.

#### SECTION 7. EXHIBITION OF PERMIT REQUIRED

- a. It shall be unlawful for any solicitor or peddler to fail to conspicuously display on or about their person the permit issued by the City of Newcastle, Texas.
- b. "Conspicuously Displayed" shall mean displayed to the front and visible to whomever the permit holder is conversing at all times while engaged in a permitted activity.

- c. It shall be required that a permit must be obtained and conspicuously displayed by each individual engaged in the permitted activities.

#### SECTION 8. PERMITS FOR MINOR PEDDLERS AND SOLICITORS

- a. No person under the age of 18 shall be permitted by the City to engage in peddling or soliciting except as provided in this section.
- b. A permit shall be obtained by a sponsoring person, company, or organization for the conduct of any peddling or solicitation activities involving in whole or in part a sales force of one or more persons under 18 years of age.
- c. The sponsor shall be responsible for supervising and controlling all persons peddling under the sponsor's permit.
- d. No permit shall be required for Local School, any Local Church Fundraisers or any fundraiser which directly benefits a member of the Newcastle Community. However, it shall be required that the City Licensing Officer be notified of any upcoming fundraisers prior to such an activity.
- e. The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification, which shall display the name of the sponsor, first name of the individual and the organization or association in which they are affiliated. Such identification must be worn where it is clearly visible at all times while peddling or soliciting.

#### SECTION 9. APPLICATION

Applicants for permits under this chapter must file with the City Licensing Officer an application in writing, which may be obtained from the License Officer and provide the following information:

- a. A valid Texas Driver's License or state issued identification
- b. A brief description of the activity or business to be conducted.
- c. The appropriate fees.
- d. Proof of status necessary to receive an exception under Section 6 or Section 11 of this article.

Any application submitted to the City of Newcastle may be presented to the Better Business Bureau or the Young County Sheriff's Office for investigation.

#### SECTION 10. REQUIRED FEE

- a. Each applicant shall be required to pay to the City of Newcastle, Texas an investigation fee of \$50.00 per individual, which shall be considered as a reasonable fee to be used and expended by the City in investigating any person, firm, corporation, group or agency applying for a permit to solicit, peddle or canvass within the City of Newcastle, Texas.
- b. Upon determination that a permit should be issued, then a Permit fee of \$50.00 per day, for each day in which said activities of canvassing, soliciting or peddling shall be conducted, and shall be paid to the City License Officer at the Newcastle City Hall, 608 Broadway Avenue, Newcastle, Texas 76372, during any regular business day.
- c. All investigation fees and permit fees paid to the City of Newcastle, Texas are non-refundable.
- d. Permit fees shall not be prorated.

#### SECTION 11. ISSUANCE

Upon completion and presentation of the application and all fees, the City License Officer shall issue a City Permit to the applicant within 5 business days unless grounds for denial exist under Section 15 of this article.

#### SECTION 12. CONTENTS

- a. Each permit issued under this article shall show the name of the permitted individual, business address, a description of the type of solicitation, product or activity, the date issued and the expiration date of such permit.

- b. Each permit shall be numbered and shall be printed prominently thereon: “THE ISSUANCE OF THIS LICENSE IS NOT AN ENDORSEMENT BY THE CITY OF NEWCASTLE, OR ANY OF ITS OFFICERS OR EMPLOYEES.”

#### SECTION 13. TRANSFER

NO PERMIT ISSUED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE TRANSFERRED OR ASSIGNED.

#### SECTION 14. DENIAL

An application for permit may be denied to any person, firm, corporation, group or organization for any of the following reasons.

- a. Because of a person’s conviction of a felony or misdemeanor if the crime directly relates to the conduct of a peddler’s business or results from an assault against a person.
- b. An investigation reveals that the applicant falsified information on the application.
- c. The applicant is a registered sex offender.
- d. The applicant has had a permit revoked for any reason within the past 3 years.

#### SECTION 15. REVOCATION

- a. Permits issued under the provision of this article may be revoked for any of the following causes by any official of the City of Newcastle, Texas:
  - 1. Fraud, misrepresentation or false statement contained in the application for permit.
  - 2. Fraud, misrepresentation or false statement made in the course of carrying on his /her business.
  - 3. Any violation of this article.
  - 4. Conviction of a misdemeanor or felony if the crime directly relates to the conduct of the business.

5. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, and general welfare of the public.
- b. Notice of revocation of a permit shall be given verbally or in writing, and specify the grounds of the revocation.
- c. When the solicitor receives notice that their permit has been revoked, they shall immediately surrender their permit.

#### SECTION 16. APPEALS

- a. An appeal from any act of denial or revocation of any permit shall be filed with Newcastle City Hall within 5 business days from the date of denial or revocation.
- b. Such appeal shall be taken before the Newcastle City Mayor, once placed on agenda for the next regular Council Meeting.
- c. The Mayor shall issue a decision on the denial or revocation appeal in writing within 5 business days of receipt of said appeal.
- d. The decision and order of the Newcastle City Mayor on such appeal shall be final and conclusive.

**PASSED AND APPROVED ON THIS THE 10<sup>TH</sup> DAY OF AUGUST, 2015.**

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Gina Maxwell, Mayor

ATTEST:

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City Secretary