

ORDINANCE NO. 2011-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CROWELL; PROVIDING FOR THE REGULATION OF PEDDLERS AND ITINERANT MERCHANTS WITHIN THE CITY; PROVIDING CRIMINAL PENALTIES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Crowell desires to protect the privacy of citizens, including the quiet enjoyment of their homes;

WHEREAS, the City of Crowell desires to prevent crime; **NOW THEREFORE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROWEL AS FOLLOWS:

PART 1 Enacted.

THAT, the following regulations regarding Peddlers and Itinerant Merchants are hereby adopted and as adopted shall read as follows:

PEDDLERS AND ITINERANT MERCHANTS

Sec. 1.01 Purposes and Definitions

(a) The purpose of this article is regulatory so as to generally require registration and identification of persons conducting commercial solicitation; and to protect the health, life, property and welfare of the citizens of the city against unwarranted and unreasonable solicitations. **Notwithstanding anything to the contrary contained in this ordinance, there shall be exempt from the registration requirements bona fide religious organizations, school organizations, any non-profit organizations and those otherwise participating in non-commercial solicitations.**

(b) The term "peddler," as used in this article shall mean and include all peddlers, solicitors, hawkers, canvassers, itinerant merchants or vendors and transient merchants or vendors of goods, wares, merchandise, services or any other articles.

Sec. 1.02 Soliciting on Posted Property Prohibited

It shall be unlawful to solicit the sale of goods, wares, merchandise and services upon property posted by the owner, lessee or occupant with a sign stating "No Soliciting" or equivalent language unless specifically requested by the owner, lease or occupant of the premises.

Sec. 1.03 Permit Required

It shall be unlawful for peddlers in the city to sell or offer for sale any goods, wares or any other commodity, or solicit, sell or take orders for goods, wares, merchandise, subscriptions to magazines, newspapers, or to make pictures or photographs for future delivery or any delivery, or any article for future delivery without first applying for and obtaining a permit to do so from the Chief of Police.

Sec. 1.04 Application; Fee, Content, Etc.

(a) Any person desiring to engage in the business of peddling within the City of Crowell shall first file a written application for a permit to do so with the Chief of Police which application shall show:

- (1) The name, address, phone number and driver's license of the applicant;
- (2) The name, address and phone number of any person, business or organization which such applicant represents;
- (3) The name and drivers license of all persons soliciting under the Permit;
- (4) The name of the last preceding three (3) towns in which the applicant has worked,
- (5) The kind of goods, wares, merchandise or service offered or to be offered for sale;
- (6) Whether such applicant upon any such order so obtained will demand, accept or receive payment or deposit of money in advance of final delivery; and
- (7) The period of time such applicant so wishes to solicit, sell or take orders in the city at any one period of time.

(b) Each application shall also show satisfactory written proof of the applicant's authority to represent the company or individual he represents.

Sec. 1.05 Denial of Permit

The Chief of Police shall deny the permit required by this ordinance if the applicant has committed or been convicted of any act which, if committed by a permittee, would be grounds for suspension or revocation of a permit.

Sec. 1.06 Permit Fee

All permit fees are non refundable and due upon making of application

_____ **\$25.00 14 day Solicitor Permit**

_____ **\$50.00 12 month Solicitor Permit**

Sec. 1.07 Possession of Permit

Any person receiving a permit shall keep the permit upon his person while conducting solicitations.

Sec. 1.08 Revocation of Permit

(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;
2. Fraud, misrepresentation, or false statement made in the course of carrying on the business or activity as peddler or solicitor;
3. Any violation of this chapter;
4. Conviction of a felony or misdemeanor within the previous 10 years directly relating to the occupation of peddler or solicitor, including but not limited to misdemeanors and felonies involving fraud or misrepresentation;
5. Conducting the business or activity of peddler or solicitor in any unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public, including, but not limited to, entering on property where the owner or occupant has clearly displayed signs that state "No Trespassing," "No Peddlers," "No Soliciting" or the like;

(b) Notice of the hearing for revocation of a permit shall be given in writing to the address listed in the application, setting forth specifically the grounds of complaint and the time and place of hearing. In addition, the notice shall state that the permit of said peddler or solicitor shall be suspended and held by the city pending the outcome of said hearing. Such notice shall be mailed, postage prepaid, to the permittee at least five days prior to the date set for hearing.

(c) The complaining party shall bear the burden of persuasion at the hearing.

(d) The non-prevailing party shall have the right to appeal the decision of the Chief of Police to the City Council by filing a written notice of appeal within five (5) calendar days of receipt of notice of the decision of the Chief of Police. The City Council shall hear such appeal within ten

(10) calendar days of the receipt of the notice of appeal. The decision and order of the City Council shall be final.

Sec. 1.09 Hours of Solicitation or Sales

No soliciting or sales shall take place between the hours of 8:00 pm. and 9:00 am. of the next day

Sec. 1.10 Use of Streets and Sidewalks

(a) No person, firm or corporation shall have the right to sell or exhibit for sale on any street, sidewalk or alley within any residential, commercial, manufacturing or industrial zone of the City of Crowell, Texas, any goods, wares or merchandise of any kind or character except in the case of a sidewalk, when a minimum width of eight (8) feet remains clear for pedestrian traffic.

(b) No person, firm or corporation shall have the right to use any part of the streets, sidewalks or alleys within the business districts of the City of Crowell, Texas, as a place in which to carry on his trade, profession or business except as an incidental use of a public way abutting a tract legally occupied by the person.

(c) All streets, alleys and sidewalks within the business districts of the City of Crowell, Texas, shall be kept free of all obstructions which may hinder the free use of such streets, sidewalks or alleys.

Sec. 1.11 Right to Solicit Upon Specific Property

No person may use any lot, parking lot, open space, building, structure or area within the City for the purpose of soliciting persons passing by the property without written documentation showing the person is the owner or lessee of the property or has specific authorization from the owner or lessee of the property to use the property to solicit.

Sec. 1.12 Penalty

Any person who shall violate any provision of this article shall be guilty of a misdemeanor and upon conviction may be fined not less than \$1.00 or more than \$500.00; provided further, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day the violation occurs or continues shall constitute a separate offense.

Part 2. Severability Clause

If any section, sub-section, clause, phrase or portion of this ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be deemed to be a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portions.

Part 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Part 4. Publication

The City Secretary is authorized and directed to publish the caption and penalty prescribed by this ordinance in accordance with State Law.

Part 5. Effective Date.

This ordinance shall be in force and effect from and after its publication.

PASSED AND APPROVED on this the 15 day of March, 2011.