

Chapter 26

Solicitation

ARTICLE I. IN GENERAL

Sec. 26-1. Definitions.

For the purpose of interpreting this Article, the following words and terms used herein are defined as follows:

"BCPHD" means the Bell County Public Health District.

"City" means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

"City Manager" means the City of Temple's city manager or their designee.

"City Secretary" means the City of Temple's city secretary or their designee.

"City of Temple Police Department" means the police department for the City of Temple, including the City of Temple's chief of police and the chief's designee.

"Curb" means the lateral lines of a roadway within the City whether constructed above grade or not, which are not intended for vehicular travel.

"Door-to-door solicitation" means going to one or more residences within the City in person or by agent for the purposes of soliciting, selling, or taking orders for merchandise or services for commercial purposes.

"Licensee" means an applicant or an applicant's agent who is issued a door-to-door solicitation license under Article III of this Chapter.

"Median" means that area or portion of a divided street, road, or highway within the City separating lanes of traffic of the street, road, or highway and includes the curb, if any, at the outer edge of the area.

"Merchandise" is used in its broadest sense and includes property of every kind and character.

"Not-for-profit solicitation" means either (1) requesting contributions or gifts of money, clothing, or any other valuable item for the support or benefit of a religion, creed, political cause, ideological position, or any other cause, charitable or non-profit organization, association, or corporation; or (2) proselytizing or

canvassing on behalf of a religion, creed, political cause, ideological position, or any other cause, charitable or non-profit organization, association, or corporation.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns.

"Principal licensee" means the applicant for a license issued under Article III of this Chapter or the applicant's principal if the applicant is the agent of another.

"Public Roadway" means that portion of the public street, road, or highway which is improved, designed, or ordinarily used for vehicular travel, exclusive of the curb, berm, or shoulder.

"Services" is used in its broadest sense and includes any work done for the benefit of another person.

"Sidewalk" means the improved surface which is between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, and is improved and designed for or is ordinarily used for pedestrian travel.

ARTICLE II. SOLICITATION IN ROADWAYS

Sec. 26-2. Solicitation in roadways.

No person who is within a public roadway may solicit or sell or distribute any material to the occupant of any motor vehicle stopped on a public roadway in obedience to a traffic control signal light. However, a person, other than a person twelve years of age or younger, may solicit or sell or distribute material to the occupant of a motor vehicle on a public roadway at a traffic control signal light so long as he or she remains on the surrounding sidewalks and unpaved shoulders, and not in or on the roadway itself, including the medians and islands.

ARTICLE III. DOOR-TO-DOOR SOLICITATION

Sec. 26-3. License required.

- (a) It is unlawful for any person, personally, by agent, or as the agent of another, to engage in door-to-door solicitation in the City without first having obtained a license as provided by this Article.
- (b) It is an affirmative defense to this Section if the person was requested or invited by the owner or occupant of the residence at issue to solicit, sell, or take an order for such person's merchandise or services.

Sec. 26-4. Application for license.

- (a) Each person desiring to engage in door-to-door solicitation must submit a copy of a government issued identification and file a written application with the City Secretary, verified by the applicant as to the truthfulness of its contents, and containing the following information, as applicable:
- (1) Business name, telephone number, physical address, mailing address, if different than the physical address, website address, and email address related to the merchandise or services;
 - (2) Applicant's name, social security number, physical address, mailing address if different than the physical address, telephone number, and email address;
 - (3) A brief description of the services or merchandise the applicant desires to solicit, sell, or take orders for;
 - (4) The dates the applicant will door-to-door solicit within the City limits;
 - (5) The hours the applicant proposes to door-to-door solicit, which must be within this Article's prescribed door-to-door solicitation times provided for in Sec. 26-16;
 - (6) Location and schedule of door-to-door solicitation;
 - (7) Number of agents the applicant will have door-to-door solicit a day;
 - (8) If a business or utilizing agents, the name of the local coordinator or manager and their telephone number and local address;
 - (9) The color, make, model, and license plate number of any vehicle to be used by the applicant or their agents during door-to-door solicitation;
 - (10) Whether the applicant, upon any sale or order, will demand, accept, or receive payment or deposit of money in advance of final delivery or rendition of the merchandise or services sold;
 - (11) The proposed method of delivery of merchandise to be sold;
 - (12) A full and complete statement of the applicant's criminal records, if any, including a detailed account of all arrests (regardless of conviction), charges filed (regardless of conviction), offenses committed, convictions, sentences received, time served, paroles or pardons received, and the date, place, and jurisdiction relating to each such item;
 - (13) The applicant's age, sex, height, weight, complexion, hair color, and eye color;
 - (14) Names, mailing addresses, and telephone numbers of five (5) natural persons to be used as character or business references, with whom the City may communicate for information regarding the applicant;

- (15) Whether the applicant has engaged in door-to-door solicitation in other cities, and, if so, the names of the last three (3) such cities and the dates of the applicant's door-to-door solicitation activities in such cities;
- (16) Two copies of a photograph of the applicant taken within the last six (6) months. The photograph must be printed on quality photo paper and be approximately one and one-half (1 1/2) by two (2) inches in size; it must be taken in full-face view directly facing the camera with both eyes open;
- (17) If the applicant is the agent of another, the name, physical address, mailing address if different than the physical address, telephone number, and email address of the applicant's principal, if a natural person, or if the agent of a business, all the information required for a business under Subsection (a)(1), and credentials which were issued by the principal, which must set forth the extent of the applicant's authority to act for and bind the principal;
- (18) If the applicant desires to engage in the door-to-door solicitation of food or food products, they must comply with Sec. 26-6, below, and provide to the City Secretary any documentation determined necessary by the City related to the food or food product issued to the applicant by the Bell County Public Health District (BCPHD), including, but not limited to, inspection reports, licenses, including food handler licenses, and permits;
- (19) If the applicant is a minor, the parent or legal guardian's signature on the application; and
 - A. The parent or legal guardian of the minor must submit his or her government form of identification when the application is submitted;
- (20) Any other information deemed necessary for the City, including, but not limited to, any of the above information related to the applicant's agents.

Sec. 26-5. Agent information.

- (a) If an applicant for a license issued under this Article desires to use agents, including contractors and employees, to door-to-door solicit on their behalf, the applicant must provide the agents' names, telephone numbers, physical addresses, and government issued identification, two copies of a photograph for each agent that comply with the same requirements as provided by Sec. 26-4(a)(16) for applicants, and the applicant's relationship to each agent with the applicant's filed application, as well as any other information required under Sec. 26-4(a)(20).
- (b) It is unlawful for a person to allow, permit, require, utilize, employ, or have another person door-to-door solicit on the person's behalf without providing the above information as required in Subsection (a) to the City Secretary and obtaining a City issued license for the other person.

- (c) It is unlawful for a person to door-to-door solicit on behalf of another person unless the other person has obtained a license to door-to-door solicit for the person from the City Secretary after providing the information required in Subsection (a) for such person.

Sec. 26-6. BCPHD requirements for food.

An applicant desiring to engage in the door-to-door solicitation or not-for-profit solicitation of food or food products of any kind for human consumption, including farm produce, prior to applying for a license under this Chapter or soliciting the food or food product within the City, must comply with any BCPHD requirements related to the food or food products, including, but not limited to, BCPHD requirements related to inspection, licensing, and permitting.

Sec. 26-7. Fees.

- (a) Each applicant applying for a license under this Article must, at the time of filing their application, pay to the City Secretary an application fee. Each applicant that intends to have agents, including employees and contractors, work under their principal license may be required to pay an additional fee for each agent's license.
- (b) The City Secretary may charge a licensee a fee to replace a previously issued license.
- (c) The fees required by this Section may only be used by the City to defray the costs of administration and enforcement of this Article.
- (d) Fees imposed under this Section will be set by City Council by resolution.

Sec. 26-8. Issuance of license.

- (a) Except as otherwise provided by this Section, within seven (7) calendar days after an applicant has fully complied with the provisions of Sections 26-4 through 26-7, the City Secretary must issue the applicant a license, which must include a photograph of the applicant, to engage in door-to-door solicitation. If the applicant provided information as required Subsection 26-5(a) for an agent, the City Secretary must issue the applicant a license for each agent for which information was provided under such Subsection, which must include a photograph of the agent; provided, however, no license may be issued to an applicant or an applicant's agent if:
 - (1) The applicant's application contains a material statement or information that is false in whole or in part;
 - (2) The person to be licensed has an active warrant;
 - (3) The person to be licensed is prohibited from soliciting at the proposed location(s) under other local, state, or federal law;

- (4) The applicant failed to comply with Sec. 26-6 or provide the correct documentation related to the food or food product to the City Secretary under Sec. 26-4(a)(18); or
 - (5) The person to be licensed has been convicted in municipal court of three (3) or more violations of any one (1) or more provisions of this Article within any twelve (12) month period.
- (b) Except as otherwise provided by Subsection (c), below, if the City of Temple Police Department and City Secretary has not completed an investigation as to the truth and accuracy of the information provided in the license application within seven (7) calendar days after the applicant has fully complied with the provisions of Sections 26-4 through 26-7, the City Secretary must issue the applicant and applicant's agents a license as provided by Subsection (a); however, any license so issued will be subject to revocation upon completion of the investigation should the City of Temple Police Department or City Secretary find that a license may not be issued under Subsections (a)(1)-(5), above.
- (c) If the City of Temple Police Department and the City Secretary has made a good faith effort to timely investigate an applicant's or an applicant's agent's criminal history within the seven (7) calendar day period prescribed under Subsection (a), but has not been able to complete the criminal history investigation within this period, the City may receive an additional ten (10) calendar days to complete the investigation. After this additional ten (10) day period, the City Secretary must issue the applicant and applicant's agents a license as provided by Subsection (a); however, any license so issued will be subject to revocation upon completion of the investigation should the City of Temple Police Department or City Secretary find that a license may not be issued under Subsections (a)(1)-(5), above.

Sec. 26-9. Term of license.

- (a) A license issued under this Article will be valid for one (1) year from the date of issuance.
- (b) The expiration date of the license will be stated on the license provided to the licensee.
- (c) A person wishing to renew an expired or expiring license must apply for a new license as required by this Article.

Sec. 26-10. Denial and revocation of license and appeals.

- (a) Any license issued under this Article may be revoked if:
 - (1) The licensee's application contains a material statement or information that is false in whole or in part;
 - (2) The licensee has an active warrant;
 - (3) The licensee was prohibited from soliciting at the solicited locations under other local, state, or federal law;

- (4) The licensee failed to comply with Sec. 26-6 or provide the correct documentation related to the food or food product to the City Secretary under Sec. 26-4(a)(18); or
 - (5) The licensee has been convicted in municipal court of three (3) or more violations of any one (1) or more provisions of this Article within any twelve (12) month period.
- (b) Revocation of any license issued to the principal licensee will automatically revoke the license of all agents of such licensee. Revocation of an agent's license will not revoke the principal licensee's license or any fellow agent's license.
 - (c) If an application is denied or a permit revoked, the City Secretary must within three (3) business days of the denial or revocation deliver personally or send a letter through the United States Postal Service notifying the applicant or licensee of the denial or revocation and providing the reasons for the denial or revocation.
 - (1) A notification letter sent under Subsection (c) will be deemed delivered on the day it was delivered personally or three (3) calendar days after the date the letter was deposited in the mail or given to the carrier.
 - (d) The applicant or licensee will have ten (10) calendar days from the date the notification letter is deemed delivered in which to file a written notice of appeal of the denial or revocation of the license with the City Secretary. If the tenth (10th) calendar day falls on a weekend or City holiday, the tenth (10th) day will fall on the following business day. Failure to file written notice of appeal within this period will result in the denial or revocation of the license to be final.
 - (e) In the event of the filing of a proper notice of appeal from a revocation issued under the provisions of this Article, then, until such appeal has been determined by the City Manager, such revocation order will be stayed.
 - (f) The appeal hearing for a properly filed appeal will be heard by the City Manager within ten (10) calendar days of the date the appeal was filed with the City Secretary. After holding the hearing on the denial or revocation, the City Manager must either sustain the denial or revocation or issue an order issuing or reinstating the license.
 - (g) A written petition for judicial review of the City Manager's decision (on the record of the hearing) must be filed with the Bell County Court within thirty (30) calendar days from the date of the City Manager's decision. Failure to file a timely written petition will result in the City Manager's hearing decision becoming final.

Sec. 26-11. Display of license.

- (a) When engaged in door-to-door solicitation, the license required by this Article must be attached or hung on the licensee and their agents so that it is visible to the public and law enforcement officials.

- (b) It is an offense under this Article if an individual fails to wear the license in a visible manner as described in Subsection (a).

Sec. 26-12. License not transferable.

A license issued under this Article is not transferable and does not give authority to anyone other than the person named thereon to engage in door-to-door solicitation.

Sec. 26-13. No solicitation signs.

- (a) It is an offense under this Article for a person engaging or attempting to engage in door-to-door solicitation or not-for-profit solicitation to:
 - (1) Enter upon any private property where the property has clearly posted in the front yard a sign visible from public or private right-of-way indicating a prohibition against solicitation; or
 - A. Such sign need not exceed one square foot in size and must contain the phrase “no soliciting” or “no solicitors” in letters of at least two inches in height and be clearly visible to a reasonable person;
 - (2) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into a residence at which guests would normally enter indicating a prohibition against solicitation;
 - A. Such sign or sticker must contain the phrase “no soliciting” or “no solicitors” and be clearly visible to a reasonable person.
- (b) It is an offense for any person to remove any no solicitation sign or sticker without the owner or occupant's express permission.

Sec. 26-14. False pretenses.

- (a) It is an offense under this Article for any person to enter a private residence under false pretenses in order to engage in door-to-door solicitation.
- (b) It is an offense to door-to-door solicit for a purpose other than that set out in the application upon which a license under this Article was issued.

Sec. 26-15. Refusing to leave upon request.

It is an offense under this Article for any person while engaged in door-to-door solicitation or not-for-profit solicitation to remain in a residence or on the premises thereof after the owner or occupant of the premises has requested such person to leave.

Sec. 26-16. No solicitation without invitation during certain time periods.

It is an offense under this Article for any person while engaged in door-to-door solicitation or not-for-profit solicitation to go to a residence within the City for such purpose before 9 a.m. or after 6:00 p.m., Central Time, during standard time, or before 9:00 a.m. or after 7:00 p.m., Central Time, during daylight savings time, without a prior invitation or request from the owners or occupants of such residence.

Sec. 26-17. Applicability.

The provisions of this Article are not applicable to salespersons calling upon or dealing with manufacturers, wholesalers, distributors, brokers, or retailers at their place of business and in the usual course of their business.

ARTICLE IV. ENFORCEMENT

Sec. 26-18. Penalty.

(a) Criminal penalty.

- (1) Any person who violates any of the provisions of this Chapter will be guilty of a Class C misdemeanor and upon conviction will be fined an amount not to exceed five hundred dollars (\$500.00) for each offense. Each day that a violation is committed constitutes a separate offense.
- (2) A culpable mental state is hereby not required to prove an offense under this Article.
- (3) A municipal court judge, in addition to imposing a fine, may suspend a license issued under this Chapter for a period not to exceed six (6) months if the licensee is convicted in the municipal court of a violation of any provision of this Article. Suspension of any such license issued to a principal licensee will automatically suspend the license of all agents of such licensee. If an agent's license is suspended, the suspension will not affect the validity of the principal licensee or any other agent's license. During any such period of a principal licensee's suspension, it is unlawful for the principal licensee or their agents on behalf of the principal licensee to engage in door-to-door solicitation within the City limits. During any such period of an agent's license suspension, it is unlawful for the agent to engage in door-to-door solicitation within the City limits.

(b) Civil remedy.

- (1) The City may seek all available civil remedies in a court of competent jurisdiction for violations of this Chapter.

(c) The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these remedies against a person who violates this Chapter.

Sec. 26-19. Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be unconstitutional, such holding will not affect the validity of the remaining portions of this Chapter.