

HOUSTON COUNTY ORDINANCE #13

AN ORDINANCE FOR THE REGULATING OF PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS, REQUIRING A LICENSE AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

SECTION 1. The Board of Commissioners of Houston County recognizes that the uncontrolled activities of persons, firms, or corporations engaged in the practice of going in and upon private residence in the County of Houston, not having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of or peddling the same is hereby declared to be a nuisance.

SECTION 2. Definitions.

(a) For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows: the word “shall” is mandatory, not permissive; other terms defined in this section shall have the meaning ascribed to them.

- (1) “PEDDLER” means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers of the same.
- (2) “SOLICITOR” means any person who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares or merchandise, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery.
- (3) “TRANSIENT MERCHANT” means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the County and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer or railroad car.

SECTION 3. Any resident of the County who wishes to exclude peddlers or solicitors from premises occupied by him may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: “Peddlers and Solicitors Prohibited”. Such placard shall be at least 3 ¾ inches long and 3 ¾ inches wide and the printing thereon shall not be smaller than forty-eight point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

SECTION 4. License Required.

No peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the County unless a license therefore shall first be secured as provided in this ordinance.

SECTION 5. Application and Issuance.

Application for such license shall be made to the Auditor's Office on a form supplied by the County.

Every application shall bear the written approval of the County Sheriff after an investigation of the moral character and criminal history of the applicant. The completed application shall be presented to the County Board of Commissioners for its consideration and if granted, a license shall be issued by the County Auditor's Office upon payment of the required fee.

SECTION 6. License Fee.

The applicant, upon filing of this application, shall pay a fee to the Auditor's Office for deposit with the County Treasurer to be credited to the general revenue fund of Houston County. Such fee shall be determined by the County Board of Commissioners.

SECTION 7. Duration of License

Each license shall be valid only for the period specified therein and no license may extend beyond the 31st day of December of the year in which it is granted.

SECTION 8. License

All licenses shall be non-transferable. No refunds shall be made on unused portions of license except by resolution of the County Board of Commissioners. All licenses shall be carried by licensee or conspicuously posted in his place of business and the license shall be exhibited to any officer or citizen upon request.

SECTION 9. Practices Prohibited.

No licensee shall call attention to his/her business or to his/her merchandise, by crying out, by blowing a horn, by ringing a bell, or by any loud or unusual noise.

SECTION 10. Municipalities.

This County Ordinance does not supersede the rules, regulations, and licensing requirements within the jurisdiction of any Municipality.

SECTION 11. Exemptions.

- (a) This ordinance does not apply to sale under court order, to any bona fide auction sale, to a sale at wholesale to a retail dealer, or to any sale requiring a state dealer's license.
- (b) No license shall be required for any persons to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm or garden occupied and cultivated by themselves.
- (c) No license shall be required of any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit and or delivery by said person.
- (d) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
- (e) No license shall be required for children participating in fundraising for any public school, private school, Boy Scouts, Girl Scouts, 4-H, FFA and organizations associated therewith located within Houston County.
- (f) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

SECTION 12. Revocation.

Any license may be revoked by the Board of County Commissioners for a violation of any provision of this ordinance, if the licensee has been given a reasonable notice and an opportunity to be heard.

No licensee whose permit has been revoked shall make further application until at least six months have elapsed since the last previous revocation.

SECTION 13. Penalty

Any person, firm or corporation who shall violate any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine not to exceed \$500.00, by imprisonment not to exceed 90 days or both.

SECTION 14. Effective Date.

This ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

SECTION 15. Renewal/Extension of Licenses

Transient Merchant Licenses may be renewed for a period of 7 days, Peddler Licenses may be renewed for a period of 30 days and Canvasser/Solicitor Licenses may be renewed for a period of 30 days as follows:

The individual to whom the license was issued shall apply for an extension by completing a renewal form at the Houston County Auditor's Office, paying a \$25.00 fee, and having the renewal form approved and signed by the Houston County Sheriff's Department. There is no limit on the number of times a license may be renewed within the same calendar year, however, an application for renewal may not be submitted until five days prior to the expiration of the existing license. The renewal form shall serve as proof that the license has been renewed for the dates stated on the form. However, no license may be renewed beyond December 31 of the year in which the license was issued. After December 31st the individual must make application for a new license and go through an investigation by the county sheriff's department with final approval or denial to be made by the Houston County Board of Commissioners.

Adopted and passed by the Houston County Board of Commissioners the 24th day of June, 2014.

Signed this 24th day of June, 2014

Board Chairperson

Attest: _____
County Auditor