

Chapter 14

PEDDLERS AND SOLICITORS*

Art. I. In General, §§ 14-1—14-21

Art. II. Permit, §§ 14-22—14-29

ARTICLE I. IN GENERAL

§ 14-1. Purpose and Intent

In an effort to increase the health, safety, and welfare of the public and to enhance the privacy of persons in their homes, the City Commission enacts these rules to restrict the activity of peddlers and solicitors. (Ordinance 8-2003; August 25, 2003)

§ 14-2. Definitions

As used in this chapter, the following shall mean:

- (1) “City Commission” means the incumbent Commission of the City of Archer
- (2) “Non-profit” means any religious or charitable organization so organized under the laws of the State of Florida or any other state of the United States, including but not limited to, scouting and school societies.
- (3) “Peddler” means any person, whether a resident of this city or not, who engages in the business of soliciting, selling, or delivering goods, wares, merchandise, or services, within the City limits, and who, in furtherance of such purpose, travels by foot, vehicle, or any other type of conveyance from place to place, carrying or transporting goods, wares, or merchandise, offering and exposing the same for sale or making sales and delivering the goods

*Cross reference-Streets, sidewalks and other public places, Ch. 17.

purchased. Any person who solicits orders within the City limits and on a different transaction completes the delivery to purchasers as part of a scheme to evade the provisions of this chapter shall be deemed a peddler. This definition includes all persons engaged in said activities who occupy any single location within the City for more than ten (10) minutes at a time or use a stand or other temporary facility during the peddler's activities.

- (4) "Permit" means a document authorized by the City Commission allowing any person restricted by the application of this Chapter to engage in the business of peddler or solicitor.
- (5) "Solicitor" means any person, whether a resident of this city or not, who engages in the business of soliciting, taking or attempting to take orders for the sale of goods, wares, or merchandise of any nature whatsoever and for future delivery, or for services to be furnished or performed in the future, whether or not advance payment has been paid, and who, in furtherance of such purpose, travels by foot, vehicle, or any other type of conveyance from place to place.
- (6) "Own" means to be in or to have possession of property, including but not limited to vacant land, whether by owning, leasing, or otherwise keeping it in any lawful manner.
- (7) "Owner" means any person who owns property, including but not limited to, the person's guest, agent, or representative. (Ordinance 8-2003; August 25, 2003)

§ 14-3. Conducting Sales from Vehicles Prohibited

Unless authorized or permitted by the City Commission, no peddler or solicitor shall park a vehicle upon a place for the purpose of selling from the vehicle. This restriction shall not apply if the peddler, solicitor, or canvasser conducts sales in a duly established market place established or licensed by the City of Archer. (Ordinance 8-2003; August 25, 2003)

§ 14-4. Hours of Operation

Peddlers or solicitors shall terminate their activities in residential areas by one-half hour (1/2) before sunset each day and shall not resume their activities before 9:00 a.m. the next day. However, no peddler or solicitor shall engage in peddling or soliciting on Sundays and holidays. (Ordinance 8-2003; August 25, 2003)

§ 14-5. Restrictions

- (1) Peddlers or solicitors are restricted from peddling or soliciting in areas where such activities would materially obstruct, impede or interfere with the free flow of pedestrian or vehicular traffic.
- (2) Peddlers or solicitors are restricted from peddling or soliciting on premises in residential areas where a notice stating "No Solicitors" or "No Solicitation", or similar notice, is posted in plain view.
- (3) No two peddlers or solicitors shall contact a member of the public at any one given time.
- (4) Peddlers or solicitors shall not harass members of the public by demanding, threatening, or otherwise intimidating conduct. (Ordinance 8-2003; August 25, 2003)

§ 14-6. Identification

Upon request by any person contacted, any peddler or solicitor shall produce his permit or any reasonable identification, showing such peddler or solicitor's name, permanent address, and to the extent applicable the name and address of the business entity the peddler or solicitor represents and the nature of the business entity. (Ordinance 8-2003; August 25, 2003)

§ 14-7. Refusing to Leave Private Premises

It shall be unlawful for any peddler or solicitor who enters premises owned by another and refuses to leave such premises upon notice by the owner. Any person who violates this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined in an amount not to exceed five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Ordinance 8-2003; August 25, 2003)

§ 14-8. Solicitation of Financial Assistance

It shall be unlawful for any person to beg or to solicit financial assistance of any kind and for any purpose upon private property without written permission of the owner. If permission has been given, the person conducting the solicitation shall carry the permit at all times. Properties owned by religious or charitable organizations shall be considered private properties subject to all the applicable restrictions of the zoning district in which the organization is situated. However, this section does not apply to qualified political candidates or organizations running on local ballots. (Ordinance 8-2003; August 25, 2003)

§ 14-9. Non-Profit Organizations

- (1) Exemption. Non-profit organizations whose status as a non-profit organization is active under the laws of any state of the United States are exempt from the requirements of this Chapter. This section, however, does not affect or supersede any requirements or conditions regarding the application for a permit or, set forth by other parts of this Code or otherwise applicable law. However, no application or permit fee shall be required.
- (2) Sharing of Proceeds with For-Profit Organizations. It shall be unlawful for any non-profit organization to share the proceeds received from sales, solicitations, or services provided under the exempt conduct under this Chapter with for-profit organizations. If sharing of the proceeds with for-profit

organization is desired, the exemption provided under this Chapter is lost and the non-profit organization shall comply with all requirements and conditions set forth in this Chapter. (Ordinance 4-2004; May 24, 2004)

§ 14-10. Other Exempted Conduct

- (1) **Vendors of Consumer Food Products.** Vendors of consumer food products, including but not limited to, farm produce, poultry, stock, or agricultural products in their natural state, which said products have been grown or produced by such vendors are exempt from the requirements as prescribed in this Chapter.
- (2) **Buyers Engaged in Dealing the Same.** The restrictions and the permit requirements prescribed in this Chapter are not applicable to peddlers or solicitors who sell or exhibit for sale goods, wares, or merchandise to buyers who are themselves engaged in dealing of same.
- (3) **Advocacy of a Cause or Position.** Notwithstanding anything to the contrary contained in this Chapter, and pursuant to United States Supreme Court's holding in Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton, any person who engages in the door-to-door advocacy of a particular position or cause, with or without the distribution of pamphlets, handbills or literature relative to said position or cause, shall not be subject to any registration or licensing provisions required by this Chapter unless said person is also engaging in commercial peddling or soliciting while engaging in the door-to-door advocacy of said position or cause. (Ordinance 8-2003; August 25, 2003)

Article II. PERMIT

§ 14-11. Permit Required

Unless conduct is exempted from this Chapter, it shall be unlawful for any person to peddle, solicit, or attempt to peddle or solicit within the City without first procuring a written permit from the city manager in the manner prescribed in this article. (Ordinance 8-2003; August 25, 2003)

§ 14-12. Application for Permit

Each and every person who wishes to engage in the business of peddling or soliciting within the City limits shall make a written application to the city manager. If the city manager has adopted a form application then that form must be used; otherwise, the written application to the city manager must contain the following information:

- (1) Name and address of the applicant;
- (2) Name and address of the person, natural or artificial if any, that the applicant represents;
- (3) A brief description of the nature of the business;
- (4) The kind of goods or services offered for sale;
- (5) The length of time the applicant wishes to engage in such business within the city;
- (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (7) Provide a statement whether or not the applicant has been convicted of a felony, and if so, the complete circumstances thereof;
- (8) A photograph taken within sixty (60) days of filing the application.

- (9) Written proof of permission from premises owner including the location where the permission is granted and the date the permission expires. (Ordinance 4-2004; May 24, 2004)

§ 14-13. Fees

The fees are required under this Chapter and shall be determined by Resolution of the City Commission and shall be tendered with the application to the city manager. (Ordinance 8-2003; August 25, 2003)

§ 14-14. Issuance and Denial of Permit

Upon receipt of a properly completed written application and corresponding fee, the city manager shall, no later than five (5) working days after the receipt of the same, either issue a permit or in the event of a denial, shall notify the applicant in writing that the application has been denied and shall specify the reason for denial. (Ordinance 8-2003; August 25, 2003)

§ 14-15. Contents of Permit

Each permit that the city manager issues pursuant to this Chapter shall contain

- (1) The signature of the city manager
- (2) The date of the issuance of the permit
- (3) The term for which the permit is valid.

Any permit that does not contain the above information or that was issued in violation of this Chapter shall be void. (Ordinance 8-2003; August 25, 2003)

§ 14-16. Exhibition of Permit

Peddlers or solicitors are required to exhibit their permits at all times, in an obvious location, during their activities. Failure to comply with this requirement shall constitute a violation of this Chapter and shall be deemed a misdemeanor. (Ordinance 4-2004; May 24, 2004)

§ 14-17. Revocation

Any permit issued under this Chapter may be revoked by the city manager because of any of the following:

- (1) Fraud, misrepresentation, or a false statement contained in the application for the permit;
- (2) Fraud, misrepresentation, or a false statement made in the course of carrying on his business;
- (3) Any violation of this Chapter, other parts of this Code, or the general laws of the State of Florida or federal laws;
- (4) Conviction of a felony or a crime involving moral turpitude;
- (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, or general welfare of the public. (Ordinance 8-2003; August 25, 2003)

§ 14-18. Notice Prior to Revocation

The city manager shall give the permittee at least twenty-four (24) hours notice of a hearing on the violations and the revocation of the permit. At such hearings, the permittee may be represented by an attorney and submit evidence or witnesses in support of permittee's position and defense. (Ordinance 8-2003; August 25, 2003)

§ 14-19. Appeal

Any person aggrieved by city manager's denial of a permit or revocation of a permit shall have the right of appeal to the City Commission. Such appeal shall be taken by filing with the City Commission, within five (5) days after notice of the action complained of has been given to such person, a written statement setting forth the grounds for the appeal. The City Commission shall set a time and place for a hearing on such appeal and shall send a notice of such hearing to the applicant at least five (5) days prior to the date set for the hearing. The decision and order of the City Commission on such appeal shall be final and conclusive. (Ordinance 8-2003; August 25, 2003)