

CITY OF PENDERGRASS
A GEORGIA MUNICIPAL CORPORATION

ORDINANCE NUMBER: 080178

STATE OF GEORGIA
COUNTY OF JACKSON

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PENDERGRASS, GEORGIA, TO ESTABLISH AN ORDINANCE REGULATING PEDDLING, SOLICITING, CANVASSING AND DOOR TO DOOR SALESMEN, AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PENDERGRASS, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

Section 1. The Pendergrass City Code of Ordinances be added to by the adoption of this Ordinance, to be titled, "Door to Door Salesmen."

Section 2. This Ordinance shall be known as the City of Pendergrass " Door to Door Salesmen."

Section 3. Purpose and Intent. This Chapter is enacted to protect, preserve and promote the health, safety and welfare of the citizens of Pendergrass, Georgia.

Section 4. The city has received recent complaints about the operation of door-to-door solicitors and the mayor and council desire to create regulations to ensure that the operation of door-to door solicitors is conducted in a lawful and peaceful manner.

Section 5. General Penalty.

(a) In this section, the term "violation of this Code" means:

- (1) Doing an act that is prohibited, made, or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

(1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or compulsory labor for the city on the streets, sidewalks, squares, or other public places for a period not exceeding 30 days, or any combination thereof;

(2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense; and

(3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

State Law reference *Limitations on penalties, O. C.G.A. 36-35-6(a)(2); authority to punish ordinance violations by requiring labor, O. C.G.A. 36-30-8.*

Section 6. All ordinances or parts of ordinances which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

Section 7. Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any provision thereof other than the provisions specifically declared to be invalid. The city council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared invalid.

Section 8. This ordinance shall be in full force and effect upon its official adoption by the City Council and Mayor.

SO ORDAINED, Done, Ratified and Passed this 29th day of August, 2023.

Nick Geiman, Mayor

Tara Underwood Nathan Pruitt

Crystal Hendrix

Gabriel Gomez

Willie Pittmon

Paula Stewart

Approved as to form and content:

City Attorney Paula Stewart

Attest:

Renee Martinez
City Clerk Renee Martinez



Chapter 26 - DOOR-TO-DOOR SALESMEN

State Law reference— Transient merchants, O.C.G.A. SS 43-46-1 et seq.

Sec. 26-215. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A licensed solicitor means and includes any person who has obtained a valid permit as hereinafter provided, which permit is in the possession of the solicitor on his or her person while engaged in soliciting.

Residence means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Soliciting means and includes any one or more of the following activities:

- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever;
- (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or
- (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

Sec. 26-216. - Penalties.

Except as otherwise stated in this article, violations of this article shall be punished by a fine not to exceed \$250.00 for a first offense, \$350.00 for a second offense, and \$500.00 for any subsequent offense.

Sec. 26-217. - Permit required.

- (a) It shall be unlawful for any person, firm or corporation to engage in the business of soliciting without first having obtained a permit in accordance with the provisions contained in this article.
- (b) The requirement of subsection (a) of this section is meant to apply to door-to-door solicitations for commercial transactions for profit only.
 - (1) It is not meant to regulate solicitation for charitable, political, or other nonprofit purposes provided that all sales proceeds are the property of and used by the nonprofit organization.

(2) It does not apply to officers or employees of the city, county, state, or federal government, or any subdivision thereof, when on official business.

(c) Each person shall at all times while soliciting in the city carry upon his person the permit so issued and the same shall be exhibited by such solicitor whenever he is requested to do so by any police officer or by any person solicited.

(d) Each permit issued shall contain the name of the solicitor, the name and address of the person, firm, corporation, or association whom the solicitor is employed by or represents, a photograph of the solicitor, and physical description. Such photograph shall be provided by the solicitor and shall be at least two inches by two inches in size.

(e) The permit shall state the expiration date thereof. In no event shall a permit be valid for more than six months.

Sec. 26-218. - Permit applications.

(a) Application for a permit shall be made on a form provided by the city: The city Clerk shall have applications available on request. The applicant shall truthfully state in full the information requested on the application, to wit:

- (1) Name and address of present place of residence and length of residence at such address, also business address if other than present address;
- (2) Address of place of residence during the past three years if other than present address;
- (3) Age of applicant;
- (4) Physical description of the applicant;
- (5) Name and address of the person or association whom the applicant is employed by or represents, and the length of time of such employment or representation;
- (6) Name and address of employer during the past three years if other than the present employer;
- (7) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
- (8) Period of time for which the certificate is applied;
- (9) Proposed route, including streets to be included on each day, which applicant intends to follow;

- (10) The date, or approximate date, of the latest previous application for permit under this chapter, if any;
 - (11) Whether the applicant has ever been convicted of a felony, a crime of moral turpitude, or any other violation of any state or federal law;
 - (12) Names of magazines, books, or journals to be sold;
 - (13) Names of the three most recent communities where the applicant has solicited house to house;
 - (14) Proposed method of operation;
 - (15) Description and license plate number of vehicle intended to be operated by applicant;
 - (16) Signature of applicant.
- (b) All statements made by the applicant upon the application or in connection therewith shall be under oath.
- (c) The applicant shall submit to fingerprinting by the city police department in connection with the application for the permit.
- (d) The City Clerk or his or her designee shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this article, and of the denial of applications. Applications for permits shall be numbered in consecutive order as filed, and every permit issued shall be identified with the duplicate number of the application upon which it was issued.
- (e) No permit shall be issued to any person who has been convicted of a felony or crime of moral turpitude within five years of the date of the application, nor to any person who has been convicted of a violation of any of the provisions of this article, nor to any person whose permit issued hereunder has previously been revoked as herein provided.
- (f) The fee for a permit shall be as determined by the city council. The permit shall be for a six-month period for each solicitor.

Sec. 26-219. - Permit revocation.

- (a) Any permit issued hereunder shall be revoked by the city if the holder of the permit is convicted of a violation of any of the provisions of this article or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a _permit under the terms of this article.

(b) Immediately upon such revocation, written notice thereof shall be given to the holder of the permit in person or by certified United States mail addressed to his or her residence address set forth in the application.

(c) Immediately upon the giving of such notice, the permit shall become null and void and must be turned in to the city clerk's office.

Sec. 26-220. - Routes.

To the extent practical, each solicitor shall identify the streets and routes that he will follow on each day he is engaged in the business of soliciting. If changes in routes are made, then such changes must be immediately reported to the city manager's office.

Sec. 26-221. - Prohibitions.

(a) Any licensed solicitor who shall be guilty of any fraud, cheating, or misrepresentation, whether himself or through an employee, while acting as a solicitor in the city, shall be deemed guilty of a violation of this article.

(b) It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether licensed under this article or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 10:00 a.m. or after 6:00 p.m.