

CHAPTER 111: PEDDLERS

Section

- 111.01 Purpose
- 111.02 Definitions
- 111.03 Restrictions
- 111.04 License requirements
- 111.05 Investigation and issuance
- 111.06 Appeals
- 111.07 Peddling regulations; prohibited locations and time
- 111.08 Violations and enforcement
- 111.09 Disposition of fees and fines
- 111.10 Reporting
- 111.11 Annual audit

- 111.99 Penalty

§ 111.01 PURPOSE.

The purpose of this chapter is to protect, maintain and enhance the public health, safety and general welfare by regulating peddling, itinerant traders, traveling salespeople and other door-to-door salespersons, generally known as peddlers. These persons typically market magazines, appliances, housewares and other goods and services by going door to door in neighborhoods. The citizens of the county are subject to unregulated peddling by sometimes questionable organizations or individuals, with illegitimate products, or no intent to deliver. It is the purpose of this chapter to regulate peddling in the county, to protect the public health, safety and welfare. To achieve this end, this chapter requires peddlers seek licenses, have background checks and peddle under certain limitations. However, it is not the intent of this chapter to require legitimate sales representatives, visiting business or persons they have already made appointments with, or already have a legitimate business relationship with, to need licensing. Neither is it the intent of this chapter to infringe free speech rights or require licensing for persons going door-to-door for political campaigns, religious proselytizing or other free speech reasons.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The person seeking a license.

COUNTY CODE ENFORCEMENT. Any person who has been assigned to perform the duties as a County Code Enforcement Officer by the County Fiscal Court.

GOODS. Any sort of personal property, wares or merchandise that can be sold, including, but not limited to, brushes, vacuums, magazines, newspapers, luggage, housewares, electronics, computers, furniture, food, agricultural products, flowers, tools, clothing,

decorative accessories, rugs, paintings, sculpture, dishes and so forth.

LICENSE. A permit to peddle.

OFFICIAL PHOTO IDENTIFICATION. A driver's license or identification card issued by this state, another state or the United States military; or a United States passport.

PEDDLER. Any person who engages in peddling.

PEDDLING or TO PEDDLE. Traveling from place to place or door to door on foot or in a vehicle and exhibiting, offering to sell, or selling goods or services, to households, businesses or passersby. It shall also mean traveling from place to place or door to door taking orders for the sale of goods or services for delivery at another time or place. The solicitation of orders combined with a separate transaction to make delivery to the purchaser as a part of a scheme or design to evade the provisions of this chapter shall be deemed **PEDDLING**. Visits by sales representatives pursuant to previously arranged appointments with a specific business or person, or as a part of an on-going business relationship, shall not be deemed **PEDDLING**.

PERSON. Any natural person, organization, corporate entity or other business entity.

SERVICES. The provision of any sort of professional or trade service to another, including for example, general maintenance, construction, painting, lawn service, house cleaning, mending, sharpening, motor repair, appliance repair and so forth.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.03 RESTRICTIONS.

(A) *License required.* It shall be unlawful for any person to engage in peddling in the county without first obtaining a license. Licenses shall be for a period of six months, and may be renewed. Each employee of a business or corporation engaging in peddling shall have a separate license.

(B) *Additional requirements.* In addition to this chapter, peddlers as defined within this chapter must also obtain a license as required in any other municipality within the county.

(Ord. KOC 09-440-799, passed 3-18-2009) Penalty, see § 111.99

§ 111.04 LICENSE REQUIREMENTS.

(A) *License application.* All requests for a license must be provided to the County Police Department. The County Police Department shall issue a decision within five business days of the application being filed.

(B) *Individual licenses required.* Each individual person seeking to peddle must obtain a license. If the applicant is working for another individual or corporation or other business entity, that information must be disclosed on the application and the license, if granted.

(C) *Required information.* All applications for licenses must include at a minimum the following information, and shall be signed by the applicant:

- (1) Name and address of the applicant, including a local address where the applicant will be staying while peddling;
- (2) Applicant's height, weight, age, sex, race and Social Security number for background check purposes;
- (3) Photocopy of driver's license or other official photo identification of the applicant;
- (4) Proposed peddling activity including identification of the type of business, and the goods or services to be sold;
- (5) If a vehicle is to be used, a description of the vehicle together with the license plate;
- (6) The desired duration of the license (maximum six months); and

(7) The application shall contain a statement that the submission of the application shall be considered to be consent that a background check may be run by the County Chief of Police or his or her designee on the applicant, and a statement that all information contained therein is true and correct.

(D) *License and identification carried.* The signed license is to be kept on-site in the possession of a peddler at all times that peddling is underway. Licenses shall be displayed at the request of any citizen or law enforcement personnel. Official photo identification shall also be kept on the person of a peddler at all times he or she is peddling, and shall be presented upon request of any citizen or law enforcement personnel. It shall be a violation of this chapter to fail or refuse to display a license or official photo identification when requested.

(E) *Duration, renewal.* A peddler license shall be valid for the period specified thereon, up to a maximum of six months. A peddler license may be renewed upon submission of an application for renewal, accompanied by a \$25 investigation fee and a \$25 license fee. Upon application for renewal, the County Police Department shall check to ensure no complaints or criminal charges have been made against the peddler, and shall apply the same criteria as applies to the grant of a license to renew, the license.

(F) *Fees.* An application shall be accompanied by an application fee of \$50 to cover the cost of investigation and an additional \$50 license fee (\$100 total). If the license application is denied, the \$50 license fee shall be refunded. These fees may be raised from time to time by the County Fiscal Court. The County Police Department shall have the authority to waive or reduce the fees on a case-by-case basis, for charitable organizations, schools and churches.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.05 INVESTIGATION AND ISSUANCE.

(A) *Investigation.* The County Police Department shall review the application for completeness and compliance with the terms of this chapter. The County Police Department shall determine whether there are any records of complaints against the applicant. The County Police Department, at its discretion, may conduct a background check or make additional inquiries it deem necessary for the investigation of the applicant.

(B) *Decision.*

(1) The County Police Department may grant or deny a license. The County Police Department shall issue a license as provided in this chapter from a consideration of the application which must comply with the following areas of inquiry and procedures:

- (a) Did the applicant or the employer provide the name of the company he or she is working for;
- (b) Did the applicant or the employer provide what vehicles are to be used;
- (c) Has the applicant or employer provided proper identification;
- (d) Does the applicant or employer have a history of criminal convictions;
- (e) Has the applicant or employer paid required fees; or
- (f) Is the application for license complete and in full compliance with the requirements of this chapter?

(2) The County Police Department shall indicate on the application review form all reasons for rejection of the application.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.06 APPEALS.

(A) *Appeals.* Any person aggrieved by the denial or restriction of a license shall have the right to appeal the denial or restriction to the County Judge-Executive or his or her designee and should file a written appeal with the County Judge-Executive.

(B) *Procedure.* The County Police Department shall appear and present their case and evidence as to why the application was denied. The applicant shall have the opportunity to present its case and evidence in support of the application.

(C) *Standard of review.* The County Judge-Executive, or his or her designee, shall serve as a Hearing Officer. If the latter, the Hearing Officer shall enter an order providing guidance as to the location, time, persons and other criteria of this chapter.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.07 PEDDLING REGULATIONS; PROHIBITED LOCATIONS AND TIME.

(A) *Prohibited times.* No peddling shall be allowed during the following times:

- (1) Before 9:30 a.m. or after 6:00 p.m. Monday through Friday;
- (2) Before 11:00 a.m. or after 5:00 p.m. on Saturday or Sunday; and
- (3) At any time after sunset or before sunrise.

(B) *Peddlers under 18.* Applications for peddlers under age 18 must be signed by an adult, and the adult must provide his or her address and relationship to the applicant.

(C) *Exemptions.* Stationary road-side stands for the sale of agricultural products, and the persons operating those stands and charitable organizations, shall not require a license under this chapter. The stands must comply with the county planning and development regulations and other applicable regulations, and shall not be located on public rights-of-way.

(Ord. KOC 09-440-799, passed 3-18-2009) Penalty, see § 111.99

§ 111.08 VIOLATIONS AND ENFORCEMENT.

(A) Persons peddling without a license or in violation of the license shall be cited with a citation for prosecution in the County District Court, in accordance with the requirements of law for the citations.

(B) Any law enforcement officer or deputy shall be authorized to issue those citations.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.09 DISPOSITION OF FEES AND FINES.

Fees and fines collected by the County Police Department pursuant to this chapter shall be deposited by the county in its General Fund to be budgeted as part of the County General Fund.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.10 REPORTING.

The County Police Department shall provide an annual monitoring report to the County Fiscal Court showing performance/activity for this chapter. The information contained in this report may be used by the Fiscal Court to determine if the fines and/or registration fees should be adjusted.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.11 ANNUAL AUDIT.

These monies will be audited in compliance with state statutes.

(Ord. KOC 09-440-799, passed 3-18-2009)

§ 111.99 PENALTY.

(A) Any person, organization, business or entity ruled to be in violation of the provisions of this chapter are subject to a Class B misdemeanor, fine of not less than \$25 nor more than \$250 per day per violation per individual participant or imprisonment for not more than 90 days, or both. The minimum fine shall be \$25 per day per violation per individual participant.

(B) Any violation of this chapter shall immediately revoke the license. The County Police Department shall also have the discretion to suspend and confiscate a license upon charge of violation being made, or upon awareness of illegal or unauthorized activity until a determination is made by a court as whether a violation has taken place.

(C) Any person, organization, business or entity found guilty of violating this chapter is not eligible for a license for a two-year period from the date of the violation. Upon second offense, the person, organization, business or entity found guilty of violating this chapter shall be banned from further peddling in the county.

(D) The County Attorney shall be authorized to seek injunctive relief and other relief in a court of proper jurisdiction if necessary to effectuate the intent of this chapter.

(E) The county shall be entitled to seek fines in the amounts specified above, and shall be entitled to its attorney fees for any successful action.

(Ord. KOC 09-440-799, passed 3-18-2009)