

ORDINANCE No. 159

AN ORDINANCE DECLARING AND ESTABLISHING POLICIES AND PROCEDURES WITH RESPECT TO PEDDLING, SOLICITING AND CANVASSING WITHIN THE CITY LIMITS; REQUIRING REGISTRATION OF CERTAIN PERSONS AND ESTABLISHING BUSINESS REGULATIONS FOR SUCH PERSONS; AND REPEALING ORDINANCE 45 OF THE CITY OF OVERBROOK:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS.

SECTION 1. STATEMENT OF PURPOSE. It is the purpose of the city to assist in the accomplishment of the following goals:

- (a) prevention and/or reduction of crimes;
- (b) protection of the privacy and peaceful enjoyment of the home; and
- (c) making available to residents information helpful to determining their response to solicitors.

SECTION 2. DEFINITIONS. As used in this ordinance, the following definitions shall apply:

- (a) *Peddler, Solicitor or Canvasser* - Irrespective of common usage, these terms may be used interchangeably to describe any person who makes contact, directly or indirectly, by telephone, mail or in person or otherwise with any resident of the city for the purpose of soliciting.
- (b) *Solicit, solicitation or soliciting* - These terms describe the act of requesting, directly or indirectly, expressly or by implication, money, credit, property, financial assistance, information or any other thing of value either in return for goods or services, or for an order for either goods or services, or as a contribution or donation whether or not such contribution or donation results in receipt of any goods, merchandise or service or any similar exchange of something of value between the person engaging in the act of solicitation and a resident of the city, whether things of value be tangible or intangible.
- (c) *Resident of the City* - Any person with a mailing or street address located within the city, including temporary visitors, renters or boarders

SECTION 3. REGISTRATION; REQUIRED. Except as otherwise provided in Section 12, it shall be unlawful for any person to engage in soliciting within the city without being first registered for that purpose as provided in this ordinance.

SECTION 4. SAME; APPLICATION. Applicants for registration shall complete and return to the city clerk, not fewer than 90 days in advance of the date upon which the applicant wishes to commence solicitations within the city, a registration form furnished by the city which shall require the following information:

- (a) Name , social security number, permanent address and telephone number, and temporary address and telephone number of the applicant.
- (b) The make, model and license number of any vehicles to be used by applicant.
- (c) The place where the applicant may be contacted for at least 7 days after leaving the city;
- (d) Name, address and telephone number of the person or organization the applicant represents or is employed by, (if applicable);
- (e) Name and title of an officer of such organization who can verify

- the authority of the applicant to represent the organization;
- (f) The name of the three previous cities where applicant (or the organization represented) conducted similar solicitations (if applicable);
 - (g) A statement as to whether or not applicant has been convicted, pled guilty or pled nolo contendere to any crime or any ordinance violation involving moral turpitude within the preceeding five (5) years and the place and nature thereof;
 - (h) A statement as to whether or not the applicant (and/or represented organization, if applicable) has: (1) engaged in solicitations of a similar nature in the city before; and (2) if so, whether any license, permit or registration issued by the city has ever been revoked;
 - (i) The nature of the solicitations to be conducted and a brief description of any goods or services offered;
 - (j) The proposed method of delivery of goods or services, if applicable;
 - (k) The period of time during which solicitations will be conducted within the city;
 - (l) A statement that the registration does not represent, and will not be used by the applicant as an endorsement of the solicitor's product, service or cause by the city.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

SECTION 5. SAME; ADDITIONAL INFORMATION. Each applicant shall present to the city clerk for examination;

- (a) A driver's license or some other proof of identity providing equivalent information;
- (b) Any certificates, licenses or other authorizations as may be required by the city, state or other regulatory bodies applicable to the applicant's proposed solicitation activity.

SECTION 6. SAME; FEE. At the time the application is submitted, a fee of \$ 300.00 shall be paid to the city clerk to partially defray the cost of processing the registration and issuing the certificate of registration. This fee is not refundable if the registration is refused for any reason noted in Section 7 or if the applicant withdraws the application at any time after the close of business on the day during which it was submitted.

SECTION 7. INVESTIGATION: ISSUANCE OR DENIAL.

- (a) Upon receipt of an application, the city clerk shall refer it as soon as possible to the chief of police who shall make and complete an investigation of the information contained in the application.
- (b) The city clerk shall refuse to register the applicant if it is determined, pursuant to the chief of police's investigation that;
 - (1) the application is incomplete or contains false data;
 - (2) the applicant was convicted of a crime, statutory violation or an ordinance violation involving moral turpitude within the preceding five (5) years; or,
 - (3) the applicant failed to comply with any applicable provision of Section 4 or 5;

- (c) Absent a cause to refuse registration in accordance with subsection (b), the city clerk shall grant a registration and issue to the applicant a certificate of registration. Such certificate shall authorize the holder to conduct business within the city for a 12-month period of time. The city clerk shall maintain an accurate record of every application received and acted upon together with all other information and data pertaining to the application and all certificates of registration issued and applications refused.

SECTION 8. APPEAL. Any applicant refused registration may appeal to the governing body in accordance with the appeal procedure established by the governing body.

SECTION 9. BUSINESS REGULATIONS. It shall be unlawful for any (a) to call at any residence prior to the hour of 8:00 a.m. or after sunset, except by appointment; (b) to call at any residence or other place bearing a notice of "No Peddlers" or "No Solicitors" or words of a similar meaning, providing such notice is posted in a conspicuous place upon or near the main entrance, is plainly visible, is at least 3X5 inches in size and contains lettering at least 1/3 inches in height; (c) to call at other than the front or main door of any residence; (d) to remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises; (e) to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services provided, the purpose of the visit, his or her identity or the identity of the represented organization or (f) to impede the free use of sidewalks and streets by pedestrians and vehicles.

SECTION 10. DISCLOSURE. All registered solicitors shall conform to the following requirements:

- (a) After the initial greeting and before any other statement is made to a prospective solicitee, a solicitor shall expressly disclose his or her name, the name of the organization represented, if any, and identify the nature of the solicitation, i.e. selling _____, seeking information for _____, asking for contributions to or for _____, etc.

- (b) If the solicitation is for the purchase of goods or services or for any order for the later delivery of goods or services, the solicitor shall clearly inform the solicitee of their right to cancel the transaction at any time within 72 hours if it involves the extension of credit or is a cash transaction of more than \$25.
- (c) If the solicitation results in an order for the later delivery of goods or services, the solicitor shall, at the time the order is taken provide the buyer with a copy of all signed documents, containing at the minimum: the terms of the agreement; the amount paid in advance and whether such amount represents full, partial or no advance payment; the name, address and telephone number of the seller or provider; the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (d) Upon any request to do so, the solicitor shall display for review the certificate of registration issued by the city.

SECTION 11. REVOCATION; APPEAL. Any certificate of registration shall be revoked by the chief of police if the holder thereof is convicted of a violation of any of the provisions of this ordinance, or has made a false statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this ordinance. Immediately upon such revocation, written notice therefore shall be given by the chief of police to the holder of the certificate in person or by registered United States mail addressed to his or her residence address as set forth in the application. Immediately upon the giving of such notice the certificate of registration shall become null and void. Except where revocation occurs following a conviction for violation of this ordinance, the holder of the certificate may appeal to the governing body in accordance with the appeal procedure established by the governing body.

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SECTION 12. EXEMPTIONS. The following, or their authorized agents, are exempt from the provisions of this ordinance; any person:

- (a) delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) selling goods at wholesale dealers in such goods;
- (c) selling agricultural products which such person has grown;
- (d) who has an established place of business where goods or services being sold are offered for sale on a regular basis, and where the buyer has initiated contact with and specifically requested a home visit by such person;
- (e) who has had, or one who represents an organization which has had, a prior transaction similar to that being solicited with the solicitee;
- (f) who is an officer or employee of the city, county, state or federal government or any subdivision thereof, when an official business, and
- (g) conducting solicitations from the membership of the represented organization for the sole benefit or under the auspices of that organization.


SECTION 14. SEVERABILITY. If for any reason any section or part or parts of any section of this ordinance shall be declared unconstitutional or beyond the power of the city to enact, such fact shall not affect or impair in any way any other provisions of this ordinance, but such other provisions shall be in full force and effect.

SECTION 15. PENALTY. Any person, firm or corporation convicted of a violation of any provision of this ordinance shall be fined not more than \$ 499.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

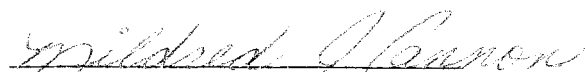
SECTION 16. THAT SAID ORDINANCE 45 in its entirety is hereby repealed.

SECTION 17. THAT THIS ORDINANCE shall take effect and be kept in force from and after its passage, approval and publication in the Osage County Chronicle as provided by law.

APPROVED THIS 8th DAY OF March 1989


DENNIS POST, MAYOR

(SEAL)
ATTEST:


MILDRED J. CANNON, CITY CLERK