



Excerpt from the City of West University Place Code of Ordinances

CHAPTER VI: DOOR-TO-DOOR SOLICITATION AND ADVERTISING

**Sec. 54-155. - Definitions.**

In this article:

*Commercial solicitation* includes going to the entrances of private residences in the city, not having been requested or invited to do so by an owner or occupant of said private residences, for the purpose of selling, offering to sell, or advertising any goods or service, in exchange for money or other thing of value and knocking or ringing a doorbell to attract the attention of the occupants. Commercial solicitation shall also include the throwing, casting, distributing, scattering, depositing, or placing of any handbill, dodger, circular, paper, booklet, poster or any other printed matter or literature advertising only goods or services within the city.

*Commercial solicitor* means any person or organization engaged in commercial solicitation.

(Ord. No. 1914, § 1(app. A), 2-8-2010; Ord. No. 1926, § 1(app. A), 8-23-2010)

**Sec. 54-156. - Permit required.**

- (a) *General requirement.* It shall be unlawful for any person, including any organization responsible for conducting commercial solicitation, to conduct commercial solicitation by any method in the city without having first obtained a permit in compliance with the terms of this article.
- (b) *Solicitation on behalf of another person or organization.* Any person or organization that conducts or manages commercial solicitation in the name of, or on behalf of, another person or organization shall obtain a permit under this section.
- (c) *Application.* To obtain a permit, a person or organization must apply at the police dispatcher's office during normal business hours. As a condition of the application, the applicant must present positive identification, complete an application form provided by the police department, and sign it. The form must include:
  - (1) The full name of the person applying for a permit and his address and telephone number, if any; if the applicant is selling on behalf of an organization, the name and address of the parent organization shall also be supplied;
  - (2) The license plate number of any and all vehicles to be used by the permittee and the state drivers' license number of any and all who will operate a motor vehicle;

- (3) Proof of liability insurance (as required by state law) for any vehicle to be used by the permittee;
  - (4) The addresses of the applicant during the previous five years with the name of at least one reference in each community;
  - (5) The name, address, date of birth of each person or agent selling within the city;
  - (6) A copy of a limited sales tax permit issued by the state or proof that the goods sold are not subject to such sales tax;
  - (7) A statement of the type of goods, services, or wares to be sold;
  - (8) A copy of a current health certificate if merchandise of edible quality is to be sold; provided, however, this shall not apply to the sale of candy, nuts or other edibles prepared and packaged by a nationally recognized manufacturer or a Texas manufacturer meeting standards imposed by state and local health codes, if such packages are unbroken;
  - (9) A statement of the period of time such applicant wishes to sell or solicit in the city, providing that no permit shall be issued granting such authority in excess of one calendar year from date of issue;
  - (10) Positive proof of identification of each applicant and agent;
  - (11) An acknowledgment that the registrant has received a copy of this section and understands it; and
  - (12) An acknowledgment that the registrant has received the current list of addresses where the residents have indicated that commercial solicitation is not welcome (this list is referred to below as the "do-not-disturb list").
- (d) *Bond required.* The application form shall be accompanied by a bond in the penal sum of \$1,000.00, signed by the applicant, and signed, as surety, by some surety company authorized to do business in the state, conditioned for the final delivery of goods, wares, merchandise or services, which bond shall indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of said bond, at the time of delivery, and that may be discovered by such purchaser or customer within 30 days after delivery, and which bond shall be for the use and benefit of all persons, firms or corporations that may make any purchase or give any order to the principal on said bond, or to an agent or employee of the principal. Provided that in case applicant is a person, firm, company, partnership, corporation or association engaging in commercial solicitation through one or more agents or employees, such persons, firm, company, partnership, corporation or association shall be required to enter into only one bond, in the sum of \$5,000.00 as above required, which bond shall be made to cover the activities of all its agents or employees up to a maximum of five agents or employees. The foregoing notwithstanding, no bond shall be required of any nonprofit or charitable organization.
- (e) *Time, place, and manner restrictions.* It shall be unlawful for any person or organization to engage or participate in commercial solicitation:
- (1) On Sunday or any federally designated holiday;

- (2) Between the hours of sunset and sunrise on any other day;
- (3) At a location other than the primary entrance to a residence; or
- (4) At any residence after the person has fair notice that commercial solicitation is not welcome at that residence.

A person engaged in commercial solicitation at any residence, must, after being told by the resident that the resident is not interested in the commercial solicitor's product, cease any further commercial solicitation and leave the residence.

(f) *Fair notice; do-not-disturb list, signs.* Fair notice, as mentioned above, may be given by any means reasonably designed to advise a person that commercial solicitation is not welcome. Such notice may be given orally, in writing, or by a sign. A person is presumed to have received fair notice that solicitation is not welcome at a residence:

(1) If the address of that residence appears on the do-not-disturb list received by that person at the time of registration, as provided above; or

(2) Where there is a sign meeting these criteria:

a. The sign says "no solicitors;"

b. It is plainly legible by persons with normal eyesight standing at the principal entrance to the residence; and

c. It is affixed within 12 inches of the doorbell, door knob or latch of the outer door (or gate) at the principal entrance.

(3) The do-not-disturb list shall be kept current to reflect the addition or relocation of any residents, the city manager, or other designee authorized by the city manager, shall be responsible for adopting and implementing procedures for the maintenance of the do-not-disturb list.

(g) *Fees.* The fee for a permit under this section shall be \$50.00 for any person or organization for which a permit is required.

(h) *Duration.* Permits issued to individuals and organizations other than nonprofit organizations are valid for six months or until revoked. Permits issued to nonprofit organizations shall be valid for one year or until revoked.

(i) *Exemptions.* No provision of this section shall apply to children 17 years of age or younger engaged in (i) fundraising activities for any nonprofit organization holding a permit under section 54-156; or (ii) extracurricular activities sanctioned by a public school district.

(Ord. No. 1914, § 1(app. A), 2-8-2010; Ord. No. 1926, § 1(app. A), 8-23-2010)

#### **Sec. 54-157. - Denial or revocation of permit.**

The city may refuse to issue a permit or may revoke a permit for any of the following reasons:

(1) The applicant provided false information in the application;

(2) The applicant has been convicted of a felony or misdemeanor involving a sexually based offense, trafficking in controlled substances, burglary,

- theft, or any violent acts against persons or property within five years preceding the date of application;
- (3) A civil judgment for fraud, deceit, misrepresentation, or any other crime of moral turpitude was entered against the applicant within five years preceding the date of application; or
  - (4) The applicant has previously violated any provision contained in this article. For purposes of this subparagraph, the violations of any person that conducts or manages commercial solicitation under the name of, or on behalf of, another person or organization shall be directly attributed to such other person or organization.

**(Ord. No. 1914, § 1(app. A), 2-8-2010)**

*Editor's note—*

Ord. No. 1926, § 1(app. A), adopted Aug. 23, 2010, changed the title of § 18-208 from "distribution of commercial literature and advertisements prohibited" to "distribution of commercial literature and advertisements." See also the Code Comparative Table.

**Sec. 54-158. - Distribution of commercial literature and advertisements.**

Distribution of commercial literature and advertisements are prohibited without obtaining a permit for commercial solicitation in accordance with the terms of section 54-156 of this article. The following additional provisions apply.

- (1) It shall be unlawful to throw, cast, distribute, scatter, deposit or place upon any public place within the city, including streets, alleys, public parks and school grounds, any handbill, dodger, circular, paper, booklet, poster or any other printed matter or literature, except that the same may be personally delivered to those who are willing to accept the same.
- (2) It shall be unlawful to throw, distribute, or place in any automobile or other vehicle, without first having obtained permission of the owner or person in possession thereof, any handbill, dodger, circular, paper, booklet, poster, printed matter, advertising literature, advertising samples or devices.
- (3) If fair notice, in accordance with the terms of subsection 54-156(f), has been given, it shall be unlawful to throw, cast, distribute, deposit, scatter, pass out, give away, circulate or deliver, any handbill, dodger, circular, paper, booklet, poster, or any other printed matter or literature in the yard or grounds of any house, building, structure or on any porch or doorstep or vestibule, or in any public hallway thereof, or upon any vacant lot or other private property.
- (4) If fair notice, in accordance with the terms of subsection 54-156(f), has been given, it shall be unlawful to throw, cast, distribute, deposit, scatter, pass out, give away, circulate or deliver any advertising literature of any kind, or any advertising sample or device in the yard or grounds of any house, building, structure or on any porch or doorstep or vestibule, or in any public hallway thereof, or upon any vacant lot or other private property.
- (5) If fair notice, in accordance with the terms of subsection 54-156(f), it shall be unlawful for any person to enter upon or in any way to request entry

upon any residence, commercial business, home or other place in the city for the purpose of passing out, distributing or placing upon any such place, literature or advertising sample or device.

- (6) Nothing herein shall be deemed to prohibit the distribution, either on public or private property, of newspapers and informational circulars, provided that at least 25 percent of such literature is devoted to consumer and community information and news and no more than 75 percent is devoted to advertising goods, wares, merchandise or any other products or services.
- (7) Exemptions. No provision of this section shall apply to persons or organizations engaged in the distribution or dissemination of information by the city or of political or religious information.

(Ord. No. 1914, § 1(app. A), 2-8-2010; Ord. No. 1926, § 1(app. A), 8-23-2010)

#### **Sec. 54-159. - Identification badge required.**

Any person who engages in commercial solicitation shall wear an easily readable identification badge while engaging in such solicitation. The identification badge required by this subsection must:

- (1) Conform to the minimum standards prescribed by the city manager, or other designee authorized by the city manager;
- (2) Identify the name of the person and organization, if any, as registered with the city; and
- (3) Contain the statement "commercial solicitor".

(Ord. No. 1914, § 1(app. A), 2-8-2010)

#### **Sec. 54-160. - Penalties; civil remedies; defenses**

- (a) *Penalty.* Any person or organization violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not to exceed \$500.00 for each violation. Each day such violation continues shall constitute a separate and distinct offense.
- (b) *Civil remedies.* In case of any willful violation of any of the terms and provisions of this article, the city, in addition to imposing the penalties above provided, may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations; and the definition of any violation of the terms of this article as a misdemeanor, shall not preclude the city from invoking the civil remedies given it by the laws of the State of Texas, but the same shall be cumulative and subject to prosecution as hereinabove prescribed for such violations.
- (c) *Defenses to prosecution.* It is a defense to prosecution under this article that:
  - (1) An organization solicits funds or goods only from its own membership; or

(2) A person or organization solicits funds at the request of the resident solicited.

*(Ord. No. 1914, § 1(app. A), 2-8-2010)*