

ORDINANCE NO. 30

AN ORDINANCE DEFINING, REGULATING AND PROHIBITING SOLICITERS, PEDDLERS, ITINERANT MERCHANTS, ITINERANT VENDORS, AND DISTRIBUTORS OF HANDBILLS FROM GOING UPON THE PREMISES OF PRIVATE RESIDENCES WITHOUT AN INVITATION OF THE OWNER OR OCCUPANT THEREOF; DEFINING AND REGULATING SOLICITERS, PEDDLERS, ITINERANT MERCHANTS, ITINERANT VENDORS OF MERCHANDISE, DISTRIBUTORS OF HANDBILLS, AND OTHER PERSONS SELLING OR TAKING ORDERS FOR GOODS, WARES, MERCHANDISE, SERVICES, PHOTOGRAPHS, MAGAZINES, OR SUBSCRIPTIONS TO MAGAZINES; ESTABLISHING THE LEGAL HOURS FOR THE TRANSACTION OF SUCH BUSINESS; PROVIDING FOR A LICENSE AND A LICENSE FEE; EXEMPTING RECOGNIZED CHARITIES AND SOCIAL IMPROVEMENT AND NON-PROFIT ORGANIZATIONS AND THOSE ENGAGED IN INTERSTATE COMMERCE FROM LICENSE FEE; BUT REQUIRING SUCH PERSONS TO REGISTER WITH THE CITY SECRETARY; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED by the Town Council of the Town of Magnolia, Texas:

Section 1. This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas, and of the Town of Magnolia, for the public safety, comfort, convenience and protection of the Town and citizens of said Town, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

Section 2. The term "itinerant" as used with the words "merchants" and "vendors" means and includes and shall be construed to mean and include all persons, firms, and corporations, as well as their agents and employees, who engage in temporary or transient business in the Town of Magnolia, Texas, of selling or offering for sale any goods or merchandise or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof, or who reside away from or who have fixed places of business in places other than the Town of Magnolia, Texas, or who have their headquarters in places other than the Town of Magnolia, Texas, or who move stocks of goods or merchandise or samples thereof into the Town of Magnolia, Texas, with the purpose or intention of removing them or the unsold portion thereof away from the said Town, before the expiration of three months.

Section 3. That it shall hereafter be unlawful for any person to go in and upon the premises of a private residence in the Town of Magnolia unless requested or invited to do so by the owner or occupant of said private residence for the purpose of soliciting, selling or taking orders for or offering to sell or take orders for any goods, produce, wares, merchandise, services, photographs, magazines, or subscriptions to magazines.

Section 4. That it shall hereafter be unlawful for any person to go from house to house or from place to place in the Town of Magnolia, Texas, soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs,

magazines, or subscriptions to magazines, and or distribution of advertising literature or soliciting of contributions, except during the hours from 8:00 A.M. until 30 minutes after sundown.

Section 5. That it shall hereafter be unlawful for any person to go from house to house or from place to place in the Town of Magnolia, Texas, soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, produce, photographs, magazines, or subscriptions to magazines, without having first applied for and obtained a license so to do from the City Secretary of said Town. It shall also hereafter be unlawful to sell or solicit in said Town, as aforesaid, without carrying such license while engaged in such soliciting or selling.

Section 6. That any person desiring to go from house to house or from place to place in the Town of Magnolia, Texas, to sell or solicit orders for goods, wares, merchandise, services, produce, photographs, magazines, or subscriptions to magazines, shall make written application to the City Secretary of said Town for a license so to do, which application shall show the name and address of applicant, the name and address of the person, firm, or corporation, if any, that he or she represents, and the kind of goods offered for sale, and whether such applicant upon any such sale or order shall demand, accept or receive payment or deposit of money in advance of final delivery, and the period of time such applicant wishes to sell or solicit in said Town.

Section 7. That it shall hereafter be unlawful for any person or persons to go from house to house or from place to place in the Town of Magnolia, Texas, distributing handbills, circulars, samples or other advertising literature or paraphernalia, without first having applied for and obtained a license so to do from the City Secretary of said Town. It shall also hereafter be unlawful to distribute in said Town, as aforesaid, without each such person carrying such license while engaged in such distribution.

Section 8. That any person desiring to go from house to house or from place to place in the Town of Magnolia, Texas, to distribute handbills, circulars, samples or other advertising literature or paraphernalia, shall make written application to the City Secretary of said Town for a license so to do, which application shall show the name and address of applicant, the name and address of the person, firm or corporation, if any, that he or she represents, and the type of distribution they desire to make in the said Town, and the period of time such applicant wishes to distribute in said Town.

Section 9. That a solicitor, a peddler, an itinerant merchant, an itinerant vendor or distributor of advertising literature as the terms are used in this ordinance shall be held to be any person, firm, company, partnership, corporation or association engaged in any activity mentioned in this Ordinance.

Section 10. That the license fee for a solicitor, a peddler, an itinerant merchant, an itinerant vendor or distributor of advertising literature shall be \$10.00. Provided, however, when any person, firm, company, partnership, corporation or association engages in any activity mentioned in this Ordinance through one or more agents or employees, such person, firm company, partnership, corporation or association shall, in addition to said \$10.00 fee above mentioned, pay a license fee of \$2.50 for each agent or employee so engaged, all of which licenses shall be valid for one year from the date of their issuance; provided, further, that the license shall be issued to the individual agent or employee and shall not be used by any other agent or employee.

Section 10-A. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said licenses.

Section 10-B. The applicant shall make application to the City Secretary at least ten days prior to the date of his contemplated sale, exhibit or distribution in the Town of Magnolia, Texas, which application shall state the full name and address of the applicant, the location of his or its principal office and place of business and the names and addresses of its officers, if it be a corporation, and the partnership name and the names and addresses of all partners if such applicant be a firm.

Section 10-C. Before said license permit shall be issued, the application therefor must be accompanied by:

- a. A statement showing the kind and character of the goods, or merchandise to be sold, offered for sale, or exhibited, and or if a distribution of advertising literature the application must so state.
- b. A certified copy of the charter, if the applicant be a corporation, incorporated under the laws of the State of Texas.
- c. A certified copy of its permit to do business in Texas if the applicant be a corporation incorporated under the laws of some other state than Texas.

Section 11. The provisions of this ordinance shall not apply to sales made to dealers by commercial travelers or sales agents in the usual course of business, nor to sales made under authority and by order of law, nor to vendors of dairy products or delivery of laundry and dry cleaning.

Section 12. The provisions of this ordinance shall not apply to persons engaged in interstate commerce as that term is herein defined; provided, however, that it shall be unlawful for persons engaged in interstate commerce to go from house to house or from place to place in the Town of Magnolia, Texas, without having first registered with the City Secretary of said Town giving the following information:

- a. Name, home address and local address, if any, of registrant.
- b. Name, and address of the person, firm or corporation, if any, that he or she represents or for whom or through whom orders are to be solicited or cleared.
- c. Nature of the articles or things which are to be sold or for which orders are to be solicited.
- d. Whether registrant, upon any sale or order shall demand or receive or accept payment or deposit of money in advance of final delivery.
- e. Period of time which registrant wishes to solicit or sell in said Town.

The registrant at the time of the registration, as herein provided for, shall submit for inspection of the City Secretary written proof of his identity which may be in the form of an automobile operator's license, identification letter or card issued to registrant by the person, firm or corporation for whom or through whom orders are to be solicited or cleared.

The term "Interstate Commerce" means soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, magazines, or subscriptions to magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this Town in the fulfillment of such orders.

Section 13. The provisions of this ordinance shall not apply to recognized charities, social improvement and non-profit organizations; however, to be exempt from this ordinance each charity or organization requesting exemption must register with the City Secretary providing said secretary with full information on the name of such charity or organization and stating the time such solicitation will be made with the Town of Magnolia, Texas.

Section 14. Any person, firm or corporation violating any provision of this ordinance or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$10.00 and not more than \$100.00 and each and every day or fraction of a day during which this ordinance, or any part thereof, shall be violated, shall be deemed a separate offense and punishable as such.

Section 15. Each and every provision, paragraph, sentence and clause of this ordinance has been separately considered and passed by the Town Council, and each said provision would have been separately passed without any other provision, and if any provision hereof should be ineffective, invalid, or unconstitutional for any cause, it shall not impair, nor affect the remaining portion nor any other part thereof,

but the valid portion shall be enforced just as if it has been passed alone, and all ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 16. That this ordinance shall take effect and be in force from and after its publication in one issue of the Official Paper of the Town of Magnolia, Texas.

PASSED AND APPROVED this the 11 day of July, 1972.

APPROVED:

H L Baskin
Mayor

ATTEST:

Wanda Lewis
City Secretary