

ORDINANCE NO. 060506

REGULATING PEDDLERS, SOLICITORS AND ITINERANT
MERCHANTS WITHIN THE CITY OF MILES

Section 1-1 PURPOSE:

This ordinance is and shall be deemed an exercise of the power of the City of Miles for the safety, comfort, convenience and protection of the City and its citizens. The provisions hereof shall be construed for the accomplishment of that purpose.

Section 1-2 DEFINITIONS

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

- (A) Itinerant Vendor. Any person who sells or offers for sale merchandise or services from a tent, vehicle, or place which is not a permanent building or structure, for any period of time, or from a permanent building or structure for a period which is forty-five (45) days or less.
- (B) Peddler. Any person who travels from house to house or place-to-place selling or offering for sale merchandise or services, which may be immediately or subsequently delivered or performed.
- (C) Person. Any individual, firm, association, partnership, company, society, corporation, group or entity of any nature.
- (D) Solicit. To take order for future deliveries, or for intangible services or for subscriptions, from house to house, or from place to place, or on the streets or in any public place, which orders are not taken at one established location or private premises.

The definition of itinerant peddler shall not include the following concerning permit requirements:

- (1) Persons living in Miles who hold garage sales, which consist of the sale of used domestic merchandise;

- (2) The sale of agricultural products grown by the seller in this county or Tom Green, Coke or Concho counties;
- (3) Peddlers selling to or soliciting orders from retail business houses only;
- (4) Peddlers going to a house or place at the express invitation of the owner or occupant of such house or place;
- (5) Persons engaged in a business or activity which the State or Federal government has exclusive authority to regulate.
- (6) Persons distributing or selling newspapers, pamphlets, handbills or other written or printed matter sold or distributed for the purpose of disseminating news, information or religious materials.
- (7) Governmental entities.

Section 1-3 HOURS OF OPERATION

Itinerant merchants, persons and peddlers may engage in business within the City only between the hours of 9 a.m. until 30 minutes before sundown, Monday through Saturday, and 12 noon until 30 minutes before sundown on Sundays, unless otherwise approved by the City.

Section 1-4 ENTRANCE TO PREMISES RESTRICTED

It shall be unlawful for any itinerant merchant, peddler or person to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed," "No Solicitations Allowed," or other words to such effect.

Section 1-5 REFUSING TO LEAVE

Any itinerant merchant, peddler or person who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his

agent, to leave the same and not returned shall be deemed guilty of a misdemeanor.

Section 1-6 PERMIT REQUIRED

It shall be unlawful for any itinerant merchant, person or peddler to peddle, solicit or engage in any business within the City without having first obtained a permit from the City of Miles. Persons authorized to sell under one (1) permit are limited to four (4) individuals. Permits shall be valid for the period of anticipated use, or until revoked by the provisions of this ordinance.

Section 1-7 APPLICATION

Every person required by this ordinance to have a permit shall make written sworn application to the City of Miles for such permit. The permit application shall show:

- (A) Full name and all information contained on drivers license of the applicant and each agent or employee working under the permit.
- (B) Permanent home address of the applicant.
- (C) Name and home office address of applicant's employer.
- (D) A copy of the applicant's Texas limited sales and use tax permit.
- (E) A description of the merchandise or services to be sold.
- (F) Proposed duration of temporary sales operation.
- (G) If the applicant owns or uses a motor vehicle in connection with his/her business, a description of such motor vehicle and the license number of same.

Section 1-8 FALSE INFORMATION

It shall be unlawful for any person to give any false or misleading information in connection with his/her application for a permit required by this ordinance.

Section 1-9 FEE

Each application shall be accompanied with payment of a permit fee based upon the duration of time he/she desires to engage in business in the City, as follows:

2 days - \$10.00

Up to 30 days - \$15.00

Up to 6 months - \$30.00

Additional agents or any individuals accompanying permit holder or agents - \$2.00 per individual.

Section 1-9.1 EXEMPTION FROM FEE

Permanent residents of the City of Miles may be exempt from fees as to the discretion of the City Council.

Section 1-10 DISPLAY

Every peddler, itinerant merchant or person who has secured a permit under the authority of this ordinance shall keep a copy of any permit upon his/her person at all times and shall display the same upon the request of any City Official, customer, law enforcement agent, or owner or occupant upon whose property the itinerant vendor, peddler or person has gone for business purposes.

Section 1-11 TRANSFER OR ASSIGNMENT OF PERMIT

No permit issued under the provisions of this ordinance shall be transferable or assignable.

Section 1-12 DENIAL OR REVOCATION OF PERMIT

Any application for an itinerant vendor's, peddler's or person's permit may be denied or such permit may be revoked for any of the following reasons:

- (1) Any misrepresentation or false statements contained in the application for permit.

- (2) A violation of any of the provisions of this ordinance.
- (3) Conviction of any crime involving moral turpitude.
- (4) Conviction of any crime constituting a breach of the peace, or a violation of any City ordinance or State Law, or when the incident constituting the basis of such crime occurred during the course of business of itinerant vendor, person or peddler.
- (5) Proposed operation would not comply with federal or State Law or City ordinance.
- (6) Any misrepresentation or false statement as to the product or service he/she is attempting to sell or take orders for, his/her authority to make such solicitation, or that such permit holder's conduct, in the belief of the City, endangers the safety, health or property of its residents.
- (7) Failure to report and/or remit sales tax collected for the City of Miles to the State Comptroller.

Upon denial or revocation of an itinerant vendor's, peddler's or person's permit, the City of Miles shall notify in writing the applicant or permittee of the reason for such denial or revocation. The applicant or permittee shall have a right of appeal to the City Council upon the denial or revocation of permit.

Section 1-13 PENALTY

Any itinerant vendor, peddler or person violating any provision of this ordinance or failing to observe any provision hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not more than two hundred dollars (\$200.00) 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 1-14 EXEMPTIONS FROM ORDINANCE

- (1) These sections shall not apply to the agent or representative of a jobber or wholesaler calling on customers on a regularly established route.
- (2) These sections shall not apply to non-profit charitable organizations, religious institutions, school or non-profit social or educational organizations.

Section 1-15 SEVERABILITY

The provisions of this article are declared to be severable and if any section, sentence, clause, or phrase of this article shall for any reason be held to be invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, said judgment or decree shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this article, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Passed and approved this 5th day of June, 2006.

ATTEST:

THE CITY OF MILES

Amy Fischer

City Secretary

Ronnie Stringer

Mayor, Ronnie Stringer



ORDINANCE NO. 10042021-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILES, TEXAS, AMENDING ORDINANCE NO. 060506 WHICH REGULATES PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS BY DELETING SECTION 1-9 AND REPLACE IT WITH A NEW SECTION 1-9 ALLOWING THE FEES TO BE ESTABLISHED BY THE MASTER FEE SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council passed Ordinance No. 060506 regulating the operation of peddlers, solicitors and itinerant merchants; and

WHEREAS, the City Council sees a need to amend said ordinance to protect the health, safety, and welfare of the citizens at large; and

WHEREAS, the City Council of the City of Miles, Texas, ("City") recognizes that it is a much more efficient and effective administrative process to amend fees by resolution; and

WHEREAS, the City is a general law Type A municipality that is duly authorized establish fees for the purpose of regulating peddlers, solicitors and itinerant merchants operating within the City limits; and

WHEREAS, City recognizes and desires through adoption of this ordinance to further the City's interest in protecting the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILES, TEXAS:

SECTION 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby declared true and correct.

SECTION 2. That Section 1-9 "FEE" of Ordinance No. 060506 of the City of Miles be and the same is hereby repealed and replaced with a new Section 1-9 "FEES" and which shall read as follows:

"...

Section 1-9. FEES.

The fees for each application for permit shall be set by, and found in, the City's Master Fee Schedule, which is set by resolution by the City Council of the City of Miles, Texas and which may be amended by same from time to time.

..."

SECTION 3. – Repealing Clause. That all ordinances of the City in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. - Severability Clause. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.


SECTION 5. - Effective Date. This ordinance shall become effective on and after its adoption and publication as required by law.

PASSED AND APPROVED on first reading this 4th day of October 2021.



Travis McMillan, Mayor

ATTEST:



Amy Fischer
City Secretary

