

**ORDINANCE NO. 2013-11-18-01**

**AMENDING THE CITY OF LEON VALLEY'S CODE OF ORDINANCES, CHAPTER 4 "PEDDLERS SOLICITORS AND HANDBILL DISTRIBUTORS TO REGULATE SOLICITATIONS ON ROADWAYS FROM OCCUPANTS OF VEHICLES; AND PROVIDING FOR A PENALTY; AMENDING APPENDIX A, ARTICLE A7.000, REPEALER, SEVERABILITY AND SAVINGS CLAUSEES, AND AN EFFECTIVE DATE.**

**WHEREAS, the City of Leon Valley is authorized to adopt ordinances for the purpose of good government, peace, or order of the municipality pursuant to Chapter 51 of the Local Government Code and has exclusive control over its streets and alleys pursuant to Chapter 311 of the Transportation Code; and**

**WHEREAS, the City Council of the City of Leon Valley, Texas (the "City Council") has determined that the activity of soliciting, or the attempted soliciting of employment, business, or charitable contributions from the occupants of vehicles on the roadway has dramatically increased; and**

**WHEREAS, the City Council has determined that this activity also involves the use of sidewalks, traffic medians, and shoulders by solicitors, who then step off these neutral zones and meander through vehicular traffic in order to approach occupants of vehicles; and**

**WHEREAS, this practice has been identified as being unsafe for both the person engaging in the solicitation and for vehicular traffic in general; and**

**WHEREAS, the activity of soliciting or attempting to solicit employment, business, or contributions from occupants of any vehicle on the roadway creates a distraction to drivers and constitutes an impediment to the normal and safe flow of traffic in the City of Leon Valley; and**

**WHEREAS, the City does not have a less restrictive means of addressing the problems associated with this activity; and**

**WHEREAS, the Ordinance leaves open ample alternative channels of communication, such as solicitation on the sidewalk from pedestrians, telephone campaigns, or direct mail;**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS:**

**SECTION I.** That the statements above are found to be true and correct and are hereby incorporated.

**SECTION II.** Chapter 4, article 4.05 of the City's Code of Ordinances is hereby amended as follows:

Sec. 4.05.001 "Definitions" is amended to add:

*"Cause" shall mean aid, direct, hire, encourage, permit, or allow.*

Sec. 4.05.004 "Charitable solicitation on roadways" is amended to read:

“Sec. 4.05.004 “Soliciting and peddling from Occupants of Vehicles Prohibited”

(a) It shall be unlawful for a person to stand on a traffic median, shoulder, improved shoulder, roadway, or sidewalk and solicit, peddle, or attempt to solicit or peddle, employment, business or charitable contributions from the occupants of any vehicle on a roadway or to cause a person to stand on a traffic median, shoulder, improved shoulder, roadway, or sidewalk and solicit, peddle, or attempt to solicit or peddle, employment, business, or charitable contributions from the occupants of any vehicle on a roadway unless the solicitation is done in accordance with this section.

(b) Exemptions

- i. A person seventeen (17) years of age or older may solicit or peddle employment, business or charitable contributions while standing on a traffic median, shoulder, improved shoulder, roadway, or sidewalk from occupants of any vehicle on a roadway provided said person wears a florescent orange visibility vest, does not impede traffic, enters or remains in a roadway only while the controlling traffic signal prohibits vehicle movement, and has obtained a permit to do so, or who is a member of an organization which has obtained a permit to do so, from the Chief of Police.
- ii. Owner or publishers of newspapers will be responsible for periodically monitoring the activity of any such solicitor under the age of eighteen (18) who solicit for the purpose of selling newspapers for that owner or publisher. Such monitoring shall be done by an agent or employee of the newspaper who is at least twenty-one (21) years of age.
- iii. The owner or publisher of any newspaper distributed pursuant to this subsection shall maintain at is sole expense insurance coverage:
  - a. That is written by an insurance company with a A- or better rating by AM Best and that is submitted and licensed to do business in the state;
  - b. That is in full force and effect at any time sales and distributions are being conducted pursuant to this article;
  - c. That provides one million dollars (\$1,000,000.00) of liability coverage per occurrence;
  - d. That insures the newspaper and all persons who will be selling and distributing on its behalf;
  - e. That names the City, its officers, employees, and elected representatives as additional insured;
  - f. That provides that any insurance or self-insurance maintained by the City shall apply in excess of and not contribute with it; and
  - g. That is written on an occurrence basis
    - i. The owner and publisher shall file and keep current a certificate of insurance signed by an agent authorized to bind covered indicating

that the owner and publisher has obtained the  
aforementioned insurance coverage, with the  
Chief of Police

- (c) Any solicitor under the age of eighteen (18) who solicits for the purpose of selling newspapers for that owner or publisher must have the consent of a parent or adult having custody of the child.

Section 4.05.049 is amended as follows:

The provisions of this article shall not apply to sales made to dealers by commercial travelers or sales agents in the usual course of business nor sales under authority and by order of law. Further, the license fee shall not apply to charitable, religious or nonprofit organizations which would otherwise be regulated by this article.

Section 4.05.051 Expiration is amended as follows:

All permits, with the exception of those issued under Section 4.05.004, shall expire at 6:00 p.m. on the 120th day following the date of issuance. Permits issued under Section 4.05.004 may be issued to no person or organization more than once per calendar year for a period of no more than two (2) consecutive days and for no hours other than those between the hours of 9:00 a.m. and one (1) hour before sunset.

Appendix A Fee Schedule Article a7.000 Peddlers, Solicitors, and Handbill Distributors is amended as follows:

Permit Fee (Single Individual) \$100

SECTION III. All provisions of the Code of Ordinances of the City of Leon Valley codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Leon Valley codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

SECTION V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this Ordinance.

SECTION VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED this 18th day of November 2013.

ATTEST:

*Justicia Callanen*  
City Secretary

APPROVED:

*Chris Riley*  
Mayor



APPROVED AS TO FORM:

*Janeen Paul*  
City Attorney

## MAYOR AND COUNCIL COMMUNICATION

M&C # 2013-11-18-11

**DATE:** November 18, 2013  
**TO:** Mayor and Council  
**FROM:** Randall Wallace, Chief of Police  
**THROUGH:** Manuel Longoria Jr., City Manager  
**SUBJECT:** Amending the City of Leon Valley's Code of Ordinances, Chapter 4, "Peddlers, Solicitors, and Handbill Distributors" to regulate the solicitation on roadways from occupants of vehicles along with amending Appendix A, Fee Schedule for Solicitors Permits.

### PURPOSE

The City of Leon Valley has determined that solicitation from occupants of vehicles has dramatically increased.

This practice has been identified as being unsafe for both the person engaging in the solicitation and for vehicular traffic in general. The activity of soliciting or attempting to solicit employment, business, or contributions from occupants of any vehicle on the roadway creates a distraction to drivers and constitutes an impediment to the normal and safe flow of traffic in the City of Leon Valley.

Currently the Police Department relies on Texas Transportation Code Section 552.007 for enforcement. The Transportation Code specifies only regulates standing with the road itself to solicit and does not incorporate the other areas of the street or sidewalk area.

This Ordinance will make it unlawful for anyone, unless they have obtained a permit, to stand on a traffic median, shoulder, improved shoulder, roadway, or sidewalk to solicit, peddle or attempt to solicit or peddle employment, business, or charitable contributions from occupants of any vehicle on a roadway.

There are two exceptions to the enforcement of this Ordinance. One with a person with a permit issued by the Police Department and the other is the newspaper distributors.

A permit is obtained from the Police Department and follows the same guidelines as the current Solicitors Permit. The person must submit an application along with a \$100 non-refundable fee, which covers the cost of the investigation. The applicant will have a background check run for the protection of the public good.

If the applicant passes the background check, the person will be issued a permit valid for 2 days.

Any violations of this Ordinance will be a Class C Misdemeanor punishable by a fine only.

The City does not have a less restrictive means of addressing the problems associated with this activity but the Ordinance leaves open ample alternative channels of communication, such as solicitation on the sidewalk from pedestrians, telephone campaigns, or direct mail.



## City of Leon Valley

### Ordinance Prohibiting Soliciting from Occupants of Vehicles

November 18, 2013



## Background

- The City of Leon Valley has determined that solicitation from occupants of vehicles has increased dramatically
- This practice has been identified as being unsafe for both the person engaging in the solicitation and vehicular traffic in general
- Currently the Police Department relies on the Texas Transportation Code
  - State Law only prohibits standing in roadway



## Exceptions to Enforcement

- Newspaper distributors
  - Owner or Publisher of Newspaper must have \$1,000,000 liability coverage
    - City is named as additional insured
  - Must have fluorescent vest
  - Exempt from application/fee process



## Enforcement

- A violation of this Ordinance is a Class C Misdemeanor
  - Punishable by fine only
  - Not less than \$25 nor more than \$2,000 a day

