

ORDINANCE NO. 412-2012

AN ORDINANCE REGULATING PEDDLING, SOLICITING AND CANVASSING WITHIN THE CORPORATE LIMITS OF THE CITY OF SPANISH FORT, ALABAMA

WHEREAS, the City Council has become aware of citizen complaints and concerns regarding soliciting and door-to-door canvassing; and

WHEREAS, due to increased criminal activity and concerns about the protection of the citizens and the general public within the City of Spanish Fort, including protection from physical harm, fraud and other deceptive practices; and

WHEREAS, the City is further concerned about protecting the privacy of the citizens, including the quiet enjoyment of their homes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. Permit for Solicitation-Required; Exceptions.

A. It shall be unlawful for any person or entity to solicit money, donations of money or property or financial assistance of any kind, or to sell or offer to sell any article, publication, ticket or subscription, on the statement or representation that such sale or solicitation is for charitable, educational, religious or philanthropic purposes, either in person or in any manner in the City, unless such person or entity shall hold a valid permit from the City in accordance with the terms of this Ordinance. This subsection shall not apply to solicitation at the regular exercise or services of any church, religious society, lodge, benevolent order or fraternity, or any branch thereof, when such solicitation is made at a regular appointed meeting, or regular place of worship, or exercises of such church, religious society, lodge, benevolent order or fraternity.

B. It shall be unlawful for any person representing or claiming to represent any church, school, eleemosynary, charitable, social service or public institution of any kind to solicit subscriptions from the general public or to sell tickets or to canvass for advertising space on any program, booklet, pamphlet or other printed matter for the benefit of or for the alleged benefit of any such institution without first obtaining a written permit from the City in accordance with the terms of this Ordinance.

SECTION 2. Going upon Private Residence without Invitation-Prohibited.

A. The practice of going in and upon private residences in the City of Spanish Fort by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been requested or invited to do so by the owner or occupant of the residence, for the purpose of soliciting orders for the sale of goods, wares, merchandise or services and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and unlawful and shall be punishable as a misdemeanor.

B. This section shall not apply to or prohibit the activities of those locally recognized charitable and non-profit organizations, which have received a permit pursuant to this Ordinance, that, from time to time, hold fundraisers and charitable drives.

SECTION 3. Display of Products or Services for Sale on Streets and Sidewalks-Prohibited.

A. It shall be unlawful for any person or entity to display or offer any product or service for sale to the general public on any public street, sidewalk or right-of-way within the corporate limits, of the City.

B. This section shall not apply to or prohibit the activities of those locally recognized charitable and non-profit organizations, which have received a permit pursuant to this Ordinance, that, from time to time, hold fundraisers, charitable drives, sidewalk sales and bazaars for beneficial and charitable uses.

C. Adult supervision and safety reflective vests are required for participants.

SECTION 4. Display of Products or Services for Sale from or out of a Temporary Structure Vehicle, Trailer, Table or Tent Prohibited.

A. It shall be unlawful for any person or entity to display products or goods for sale, trade or barter or offer services in a temporary structure, vehicle, trailer, table or tent, except in Zoning District B-4, Major Business District, in conjunction with or in cooperation with an existing business occupying a permanent or fixed structure.

B. This section shall not apply to or prohibit the sale of seasonal or specialty products, which satisfy all other applicable ordinances, rules and regulations, and are set forth in the following list:

Christmas Trees – Forty-five (45) days before Christmas

Live Crabs – With State Permits during State fishing season.

C. This section shall not apply to or prohibit the activities of those locally recognized charitable and non-profit organizations, which have obtained a permit pursuant to this Ordinance, that, from time to time, hold fundraisers and charitable drives.

SECTION 5. Exemption for Political Candidates or Causes.

This Ordinance shall not apply to or prohibit the activities of candidates for political office or individuals or entities campaigning for or promoting political causes, activities, agendas or proposed legislation or ballot measures, as long as such activities otherwise comply with all applicable laws, ordinances, rules and regulations.

SECTION 6. Application and Permit.

As provided in Sections 1, 2, 3 and 4, any person or entity desiring to solicit or sell products or goods for charitable or non-profit organizations shall file an application for a permit with the City Clerk's Office, duly sworn to by someone duly authorized and having knowledge of the facts, containing the following information:

- (a) Name of the person and/or organization applying for permission to solicit or sell products or goods; including the names of the officers of the organization, if any;
- (b) Purpose for which a permit is requested;
- (c) The day and time for which the permit is requested; and the methods to be used in carrying on the solicitation or sale;
- (d) Internal Revenue Service (IRS) 501-C-3 number required or letter from Principal of school;
- (e) Solicitations or sales shall be prohibited from sunset until 10:00 a.m. in residential areas, unless otherwise approved by the City Clerk as noted on the permit;
- (f) Solicitors or sales participants must wear an organization issued uniform with badge or name tag at neck; and
- (g) Such other information as the City Clerk or Mayor may require.

SECTION 7. Issuance; Duration; Contents; Appeal for Denial.

A. The City Clerk shall have the power to grant permits if the application referred to in Section 6 and the information provided pursuant thereto is found to be accurate, and the purpose is found to be worthy and bona fide.

B. No permit shall be issued for a period longer than thirty (30) days, including Sundays and legal holidays, but any permit may be renewed by the City Clerk.

C. When a permit is denied to any applicant, such applicant shall have the right to appeal to the City Council within five (5) days from the date of such denial.

SECTION 8. Misrepresentation of Facts.

It shall be unlawful for any person, on such person's behalf, or as the representative of another person or entity, to knowingly swear falsely to any facts contained in the application provided pursuant to this Ordinance or to file or cause to be filed any false affidavits.

SECTION 9. Revocation; Appeal.

A. The City Clerk shall have the power to revoke any permit if it appears that the holder of the permit, or its representatives or agents, has violated any provisions of this Ordinance or has made untrue statements in connection with any application, solicitation or sale.

B. A permit shall also be revoked by the City Clerk if it appears that the permit is used directly or indirectly as an endorsement of the solicitation.

C. When a permit is revoked by the City Clerk, the person or entity aggrieved may appeal to the City Council from such revocation within five (5) days after the date of such revocation.

SECTION 10. Penalty.

A. Any person or entity found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

B. This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to a municipal ordinance ticket.

SECTION 11. Repealer Clause.

The provisions contained in this Ordinance shall be cumulative in their effect and shall not repeal any existing ordinances. If this Ordinance conflicts with any other ordinance adopted by the City, the more stringent standard shall apply.

SECTION 12. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 13. Effective Date.

This Ordinance shall become effective immediately upon its adoption or as otherwise required by state law.

Adopted and approved this 2nd day of *April, 2012*.

Joseph C. Bonner
Mayor

ATTEST:

Mary Lynn Williams, MMC
City Clerk