

ORDINANCE NO. 3970

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, PROVIDING FOR THE LICENSING AND REGULATING OF PEDDLERS AND SOLICITORS, ESTABLISHING STANDARDS FOR THE DENIAL OR REVOCATION OF SUCH LICENSES, PROVIDING A PROCEDURE TO APPEAL DENIAL OR REVOCATION OF SUCH LICENSES, PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF, REPEALING CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA:

SECTION I. That Section 10-201 of the Fremont Municipal Code is amended to read as follows:

§ 10-201 DEFINITIONS.

Products: All goods, chattels, wares, merchandise, and services of any kind whatsoever.

Peddler: An uninvited person offering products for immediate sale and delivery in residential areas.

Solicitor: An uninvited person offering products for future delivery or seeking donations in return for products.

SECTION II. That Section 10-202 of the Fremont Municipal Code is amended to read as follows:

§ 10-202 PEDDLERS AND SOLICITORS: PERMIT REQUIRED.

All peddlers and solicitors, other than persons exempted by §10-208, shall be required to obtain a City Sales and Solicitation permit prior to making sales or solicitations within the City of Fremont. Sales and Solicitations Permits shall be valid for thirty days and shall be issued by the city clerk upon compliance with the requirements of this chapter.

SECTION III. That Section 10-203 of the Fremont Municipal Code is amended to read as follows:

§ 10-203 SALES AND SOLICITATION PERMIT: APPLICATION.

Application for a City Sales and Solicitation permit shall be made between the hours of eight o'clock (8:00) A.M. to four (4:00) P.M., Monday through Friday, excluding holidays, to the Fremont Police Department, on a form furnished by the Police Department. Incomplete Applications shall be rejected. The Police Department shall conduct a background investigation on persons applying for such permits. Convicted felons and persons convicted of crimes involving

dishonesty or moral turpitude shall not be issued a permit. Background investigations shall be completed within seven working days.

SECTION IV. That Section 10-204 of the Fremont Municipal Code is amended to read as follows:

§ 10-204 SOLICITORS; BOND REQUIREMENT; FEE.

All peddlers and solicitors, other than those exempted by Section 10-208, are required to pay an administrative fee to the City Clerk in the amount of twenty-five dollars (\$25.00) for each solicitor to defray the cost of issuing the permit and of investigating the applicant. Solicitors shall also be required to post a license permit bond in the principal amount of two thousand (\$2,000.00) dollars guaranteeing future delivery of products ordered. Such bond shall be written by an approved surety company and shall be effective for at least six months from the date of the sales and solicitation permit. Organizations employing or utilizing solicitors as independent contractors may purchase a single license permit bond in the amount of five thousand dollars (\$5,000.00) for up to ten (10) solicitors or a license permit bond in the amount of ten thousand dollars (\$10,000.00) for more than 10 solicitors. Any such bond posted by an organization employing or utilizing solicitors as independent contractors shall identify by name all persons covered by such bond.

Section V. That Section 10-205 of the Fremont Municipal Code is amended to read as follows:

§10-205 PEDDLERS AND SOLICITORS; REVOCATION OF PERMIT.

(1) A Sales and Solicitation Permit may be revoked by the City Clerk or Chief of Police for the following reasons:

1. Complaints of high pressure sales
2. Providing incomplete or false information about company or their sales agent, supervisors, products or services
3. After hours operation violations
4. Indicating a fictitious affiliation with groups or companies
5. Enter upon any private premises when the same is posted with a sign stating "No Peddlers Allowed" or "No solicitation Allowed", or other words to that effect
6. Conviction of a felony or other crime involving dishonesty or moral turpitude.
7. Improper transfer of a permit.
8. Other solicitor misconduct as determined by the Police Department.

A denial or revocation of a Sales and Solicitation permit may be appealed to the City Council within ten (10) days of such revocation. Such appeal must be in writing and shall be considered and decided by the City Council within thirty days. The Council may consider such appeals at any regular or specially called meeting, and may conduct a hearing according to such rules as the Council may establish

(2) The City may seek forfeiture of a license permit bond posted by a solicitor or organization where products ordered are not delivered as promised, or in the event of fraud, misrepresentation or deceit by a solicitor. Funds recovered by such action shall first be applied to the city costs of recovery, if any, and then to parties injured by the wrongful actions of the solicitor. If the amount of the funds recovered from such forfeiture is insufficient to pay all claims, such claims shall be paid proportionately as determined by the City Council.

Section VI. That Section 10-206 of the Fremont Municipal Code is amended to read as follows:

§10-206 PEDDLERS AND SOLICITORS: HOURS. It shall be unlawful for an uninvited peddler or solicitor to visit any house, dwelling, or residence for the purpose of making sales or soliciting orders or donations before eight (8:00) o'clock A.M. or after sunset.

Section VII. That Section 10-207 of the Fremont Municipal Code is amended to read as follows:

§10-207 PEDDLERS AND SOLICITORS: DISPLAY OF PERMIT. Every peddler and solicitor must carry on his or her person and display the sales and solicitation permit issued by the City Clerk while engaged in sales or solicitations. Sales and Solicitation Permits are not transferable.

Section VIII. That a new Section 10-208 of the Fremont Municipal Code be enacted to read as follows:

§10-208 PEDDLERS AND SOLICITORS: EXCEPTIONS. Unpaid volunteers or other individuals who are not paid or otherwise compensated to sell or solicit on behalf of a nonprofit organization, such as schools, scout troops, churches and other nonprofit organizations, shall be exempt from the requirements set forth in this Article. Organizations sponsoring or directing such sales or solicitations shall, upon request, provide documentation of the non-profit status of the organization.

Section IX. SEVERABILITY In the event any provision of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

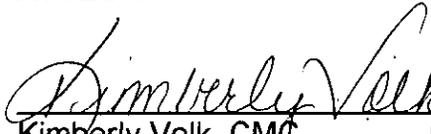
Section X. REPEAL OF CONFLICTING PROVISIONS. The original Sections 10-201, 10-202, 10-203, 10-204, 10-205, 10-206, and 10-207, together with all conflicting resolutions, ordinances, parts of ordinances and other provisions are hereby repealed.

Section XI. EFFECTIVE DATE. That this Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED THIS 25th DAY OF September, 2001.


DONALD B. EDWARDS, MAYOR

ATTEST:


Kimberly Volk, CMC
City Clerk

