

AN ORDINANCE TO ADOPT A NEW CHAPTER 116:
“COMMERCIAL SOLICITATION” TO THE
ROXBORO CITY CODE

THE CITY COUNCIL OF THE CITY OF ROXBORO ORDAINS:

Section 1: Chapter 116 “Peddlers and Solicitors” of the Roxboro Code is hereby repealed and is replaced with a new chapter 116 that reads as follows:

CHAPTER 116: COMMERCIAL SOLICITATION

Section 116.01	Intent
Section 116.02	Definitions
Section 116.03	Permit Required
Section 116.04	Permit Application
Section 116.05	Procedures for Considering Application
Section 116.06	Permit Renewal
Section 116.07	Appeals
Section 116.08	Revocation of Permit
Section 116.09	Exemptions
Section 116.010	Commercial Solicitation Prohibited Near Right-of-Way
Section 116.011	Penalty

Section 116.01 Intent

The purpose of this chapter is to regulate door-to-door salesmen, itinerant merchants, and peddlers doing business in the City, and to thereby promote the public safety, health, and welfare.

Section 116.02 Definitions

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Door-to-Door Salesman — A person who travels from dwelling to dwelling selling or offering for sale or taking orders for the sale of any goods, wares, magazines, periodicals, or other merchandise of any kind.

Itinerant Merchant — A person, other than a merchant with an established retail store in the City, who transports an inventory of goods to a building, vacant lot, or other location in the City, and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

Peddler — A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

Person — An individual, a firm, an association, a partnership, a limited liability company, a corporation, or another group acting as a unit.

Section 116.03 Permit Required

- (A) No person shall conduct any business within the City as a door-to-door salesman, itinerant merchant, or peddler until such person has obtained a commercial solicitation permit in accordance with this Chapter and has paid an administrative fee to the City of \$10.00 for processing of the permit.
- (B) No person shall conduct any business within the City as a door-to-door salesman, itinerant merchant, or peddler unless:
 - (1) Such activity occurs between the hours of 9:00 a.m. and 8:00 p.m.;
 - (2) The commercial solicitation permit is carried at all times by the permittee when engaged in the activity and is displayed when requested by any police officer or person solicited; and
 - (3) All other permits or licenses required by law have been obtained, including any applicable city privilege license.

Section 116.04 Permit Application

(A) Applications for commercial solicitation permits under this chapter shall be submitted to the Police Department during normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m.) on a form provided by the Police Department, under oath, and shall include, but not be limited to, the following information:

- (1) The full name of the applicant;
- (2) The permanent residence address of the applicant;
- (3) The applicant's temporary address in or in the vicinity of the City, if applicable;

- (4) The name and address of the applicant's employer or the organization with which the applicant is associated in connection with activity;
- (5) The type(s) of goods, wares, merchandise, food, periodicals or services to be sold, offered for sale, displayed, or delivered;
- (6) The period for which the application is sought, which shall not exceed one year from the date of issuance of the permit, except that permits may be renewed in accordance with Section 116.06;
- (7) A record of all crimes of which the applicant has been convicted or has pleaded no contest in the ten years preceding the submittal of the application;
- (8) The age and height of the applicant and any other additional information which the city may reasonably require for identification, including a copy of the document(s) used by the applicant to verify personal identification (e.g., driver's license, passport, picture I.D.); and
- (9) A complete listing of and information concerning all other permits or licenses, such as privilege licenses, which were obtained by the applicant.

(B) If an application is filed by an employer, there shall also be filed separate applications for each individual engaging in the activity, giving the information set forth above for each such individual and signed and sworn to by each such individual, and a separate permit shall be issued for each such individual.

Section 116.05 Procedures For Considering Application

(A) Upon receipt of a complete application, the Police Chief or designee shall make such investigation as is reasonably necessary to verify the information in the application and to assure compliance with the provisions of this chapter and shall issue a permit unless the applicant:

- (1) Has not submitted a complete application, along with the administrative fee for the permit;
- (2) Is not permitted by law to engage in the activity due to age;
- (3) Has been convicted of, or has pleaded no contest to, a felony charge within the ten years preceding the submittal of the application;

- (4) Has been, within the previous five years, convicted of, or pleaded no contest to, a misdemeanor charge under N.C. Gen. Stat. § 66-257, or a misdemeanor charge, involving theft, fraud, forging, uttering, or other crimes of like nature or any crime involving moral turpitude;
- (5) Does not have valid driving privileges in the State in those cases where the applicant will be operating a vehicle in the course and scope of the commercial solicitation; or
- (6) Has not obtained the necessary licenses, including privilege licenses.

(B) The Police Chief shall have up to 72 hours to approve or deny an application and issue a permit.

Section 116.06 Permit Renewals

Commercial solicitation permits may be renewed by following the procedures in Sections 116.04 and 116.05.

Section 116.07 Appeals.

The appeal of a refusal to issue a permit or the revocation of a permit shall be made to the City Manager by filing a written notice of appeal, specifying with particularity the grounds upon which the appeal is made, no later than ten days from the date of the refusal to issue a permit or the revocation of a permit. The City Manager shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties, and shall render a decision within a reasonable time. The order or decision of the City Manager shall be final municipal action for the purpose of judicial review.

Section 116.08 Revocation of Permit.

(A) permits issued under this chapter may be revoked by the Police Chief, after notice and hearing, for any of the following causes:

- (1) Any fraud, misrepresentation or false statement contained in the application for the permit;
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, merchandise and services;
- (3) Any violation of this code and/or other Ordinance of the City;
- (4) Conducting the activity under this code and/or any ordinance of the City in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public; and

- (5) Where evidence is presented, it is shown that the applicant has been arrested for a felony or a misdemeanor under N.C. Gen. Stat. § 66-257 or a misdemeanor involving theft, fraud, forgery, moral turpitude, criminal trespass, or a threat to the public safety during the permit period, or has otherwise violated the provisions of this Chapter.

Section 116.09 Exemptions

The following are exempt from the provisions of this chapter:

- (A) The delivery of goods or services which have been ordered before delivery;
- (B) The circulation of petitions for signature or lawful distribution of advertising materials, flyers, or materials expressing views on political, social, or religious matters;
- (C) The lawful promotion or expression of views concerning political, social, religious and other like matters;
- (D) The selling or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, educational or fraternal organizations which are exempt from the payment of privilege licenses, and who receive no compensation of any kind for their services, and such sale or offering by children under the age of 18 years who are students in a public or private school for school activities;
- (E) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations;
- (F) The selling or delivery of goods to business establishments; and
- (G) The selling of an individual's household personal property at a yard sale on the premises of the individual's residence.

Section 116.10 Commercial Solicitation Prohibited Near Rights-Of-Way

- (A) No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any city or state highway or street, or stop any motor vehicle for the purpose of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of traffic on the public highways or streets; provided that the provisions of this subsection shall not apply to licenses, employees or contractors of the Department of Transportation or of any

municipality engaged in construction or maintenance or in making traffic or engineering surveys.

- (B) No person shall conduct any business as an itinerant merchant or peddler within 20 feet of any right-of-way in the City.

Section 116.11 Penalty.

Commercial solicitation without a permit or otherwise in violation of any of the provisions of this chapter, including failing to surrender a revoked permit, shall constitute a criminal misdemeanor and shall subject the offender to a fine of not more than \$500 or imprisonment for not more than 30 days.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 11th day of April, 2006.

Ayes: Mayor Pro-Tem Sam Spencer, Council Members: James Allen, Wallace Burke, Henry Daniel and Mark Phillips

Noes:

Absent or Excused: