

CHAPTER 4

BUSINESS & COMMERCE*

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* **State Law reference**—Authority of city to adopt regulations under police power for the good government, peace or order of the city or for trade and commerce, V.T.C.A., Local Government Code, Section 51.001.

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ARTICLE 4.100 ALCOHOLIC BEVERAGES***Sec. 4.101 Location of Sales Restricted**

From and after the passage of this section, it shall be unlawful for any person, firm, corporation, business, association, or dealer to sell or offer for sale within the corporate limits of the City of Ladonia any alcoholic beverages, whiskey, intoxicating liquors, spirits, beer or wine at any place or business located within 300 feet of any church, public school or public hospital, the measurement of said distance to be along the property line of the street fronts and from the front door of said business to the front door of said church, public school or public hospital and in a distance across any intersection of any street or alley with said line where same may occur. (Ordinance A-2 adopted 10/28/70)

Sec. 4.102 Permit Fees

There is hereby levied and shall be collected a fee of one-half (1/2) the amount of any state fee collected by the State of Texas for the issuance of a license and/or permit to any person, firm, corporation, business or association receiving such a permit from the State of Texas to do business in the City of Ladonia, Texas, under the provisions of the Texas Alcoholic Beverage Code of the State of Texas, so that hereafter the City of Ladonia shall levy and collect a fee equal to one-half (1/2) of what such person, firm or cooperation paid to the State of Texas for its license and/or permit authorizing it to do business in the City of Ladonia under the provisions of the Texas Alcoholic Beverage Code. (Ordinance A-3 adopted 10/28/70)

ARTICLE 4.200 DANCE HALLS

(a) A public dance hall, as the term is used in this article, shall include all buildings, stores, residences, and structures in which dancing to music is permitted to attend, whether with or without paying a fee.

(b) It shall be unlawful for any person, his agent, or representative to construct, erect, use, operate, maintain, or manage any public dance hall within the corporate limits of the City of Ladonia, Texas, any part or portion of which said dance hall shall be carried on, maintained, or conducted within four hundred (400) feet of any private residence, church, or school building. *See (b)(1) thru (7)*

(Ordinance adopted 3/14/38)

(c) Civic organizations may obtain a permit from the city clerk to allow sponsorship of a public dance. (Ordinance adopting Code)

* State Law reference—Regulation of alcoholic beverages, generally, V.T.C.A., Alcoholic Beverage Code.

ARTICLE 4.300 PEDDLERS AND SOLICITORS***Sec. 4.301 Definitions**

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

- (1) Business Day. Means any calendar day except Saturday, Sunday or any state or national holiday.
- (2) Charitable Purpose. Means philanthropic, religious or other nonprofit objections, including the benefit of poor, needy, sick, refugees or handicapped person; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. "Charitable purpose" shall be construed to include the direct benefit of the individual making the solicitation. "Charitable purpose" shall not be construed to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.
- (3) Consumer. Means an individual who seeks or acquires real or personal property, services, money or credit for personal, family or household purposes.
- (4) Consumer Transaction. Means a sales transaction in which one or more of the parties is a consumer.
- (5) Handbill. Means any printed matter, sample, or device, circular, flyer, leaflet, pamphlet, paper, booklet, samples of merchandise, or any advertising matter which is not delivered by the United States mail, which is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for private benefit or gain; provided such definition is not intended to include newspapers, magazines or other periodicals regularly published and sold to the public, nor to interstate commerce.
- (6) Home Solicitation Transaction. Means a consumer transaction for the purpose of goods, services or realty, payable in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement;

* State Law reference—Authority of municipality to license, tax, suppress, prevent or otherwise regulate peddlers, hawkers and solicitors, V.T.C.A., Local Government Code, Section 215.031.

City of Ladonia
Code of Ordinances
Amendment to Article 4.200 Dance Halls

AMENDING ARTICLE 4.200 DANCE HALLS OF THE CODE OF ORDINANCES BY THE ADDITIONAL PROVISIONS: PROVIDING FOR A PERMIT FEE; SECURITY FORCE WHEN OPERATING; HOURS OF OPERATION; A PENALTY FOR VIOLATION AND A FINE; PROVIDING CIVIC DANCE SPONSORSHIP

(b) It shall be unlawful.....or school building.

In addition the following regulations apply

- (1) A permit shall be required for any Dance Hall, as defined in Article 4.200 (a), and can be obtained from the City Clerk. A fee for the permit shall be required in the amount of Two Hundred Seventy Five Dollars Quarterly (\$275.00) (every three months) or One Thousand Dollars Annually (\$1000.00). Permit fees are non-refundable.
- (2) The Ladonia Police Chief must be contacted with notification of dates and time of each and every Dance Event occurring in the City to provide Police Officer security by the Ladonia Police Department. Ladonia Police approved officers are required to be present at every operation of the Dance Hall or at any sponsored Dance Event. The fee, which may be waived for qualified non-profit organizations, for the security required herein is \$35.00 per hour/per officer.
- (3) Dance Halls may not operate later than 11:00 pm on Sunday through Thursday, and may not operate later than 2:00 am on Friday and Saturday. The event must conclude, the facility be closed and patrons be made to leave the event no later than 2:00 am. Patrons at a Dance Hall or sponsored dance event after 2:00 am will constitute a violation of this ordinance.
- (4) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined Three Hundred Dollars (\$300) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. Any nuisance created in the operation of a Dance Hall or dance event or violation of any other Article of the City Code of Ordinances may be cited and a fine assessed accordingly and separately.
- (5) Sponsorship of a Dance Event by civic, community or other organizations must be approved upon application and a permit issued. Once permitted, all of the rules and regulations of this entire Ordinance apply. The penalty for violation will be enforced upon any dance event taking place in the City Limits.
- (6) It is hereby declared to be the intention of the City Council that Article 1.001 Section 1.107 applies to this ordinance once approved, passed and published.
- (7) This ordinance shall be in full force and effect after its passage and publication.
PASSED AND APPROVED, the 1st day of August, 2011.

By Ordinance

ARTICLE 4.300 PEDDLERS AND SOLICITORS***Sec. 4.301 Definitions**

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- (2) Charitable Purpose. Means philanthropic, religious or other nonprofit objections, including the benefit of poor, needy, sick, refugees or handicapped person; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. "Charitable purpose" shall be construed to include the direct benefit of the individual making the solicitation. "Charitable purpose" shall not be construed to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.
- (3) Consumer. Means an individual who seeks or acquires real or personal property, services, money or credit for personal, family or household purposes.
- (4) Consumer Transaction. Means a sales transaction in which one or more of the parties is a consumer.
- (5) Handbill. Means any printed matter, sample, or device, circular, flyer, leaflet, pamphlet, paper, booklet, samples of merchandise, or any advertising matter which is not delivered by the United States mail, which is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for private benefit or gain; provided such definition is not intended to include newspapers, magazines or other periodicals regularly published and sold to the public, nor to interstate commerce.
- (6) Home Solicitation Transaction. Means a consumer transaction for the purpose of goods, services or realty, payable in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement;

* **State Law reference**—Authority of municipality to license, tax, suppress, prevent or otherwise regulate peddlers, hawkers and solicitors, V.T.C.A., Local Government Code, Section 215.031.

or a sale made pursuant to prior negotiations between the parties that have business establishments at a fixed location where goods or services are offered or exhibited for sale; or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

- (7) Merchant. Means a party to a consumer transaction other than a consumer.
- (8) Person. Means an individual, corporation, trust, partnership, association or any other legal entity.
- (9) Public Place. Means any property open or devoted to public use.
- (10) Religious Purpose. Means the use of money or property for the support of a church, religious society, or other religious sect, group, or order.
- (11) Religious Solicitation. Means conduct whereby a person, organization, society, corporation or its agent, member or representative:
 - (A) solicits property, financial aid, gifts, money, or any article representing monetary value; or
 - (B) sells or offers to sell a product, article, tag, service or printed material;on the plea or representation, whether express or implied, that the proceeds from the solicitation or sale are for a religious purpose.
- (12) Residence. Means any separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.
- (13) Solicit Funds or Solicitation of Funds. Means any requests for the donation of money, property or anything of value; or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications, or subscriptions to publications. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" is any offer of membership in any organization. A solicitation of funds is complete when the solicitation is communicated to any individual then located within the corporate limits of the city.

Sec. 4.302 Exemptions

The provisions of this article do not apply to public utility companies or others operating under franchises granted by the city, nor to insurance salespersons, real estate salespersons, and others licensed by the state.

Sec. 4.303 Hours

It shall be unlawful for any person to solicit funds or go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purpose of engaging in or attempting to engage in a home solicitation or to distribute handbills or samples of merchandise in the city:

- (1) before 9:00 a.m. or after 30 minutes following sunset of any day, Monday through Saturday;
- (2) anytime on a Sunday, New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day, or Christmas Day.
- (3) Section 4.303 shall not apply to a visit to the premises as a result of a request or an appointment by the occupant.

Sec. 4.304 Exhibiting Card Prohibiting Solicitors or Handbills

(a) A person, desiring that no merchant or other person engage in a home solicitation or place handbills or other advertisement at his residence, or business shall exhibit in a conspicuous place upon or near the main entrance, a weather-proof card, not less than 3" x 4" in size, containing the words "NO SOLICITORS." The letter shall not be less than 2/3 of 1" in height.

(b) Every merchant going onto any premises upon which a residence, or business is located shall first examine the residence or business to determine if any notice prohibiting solicitation is exhibited upon or near the main entrance. If notice prohibiting solicitation is exhibited, the merchant shall immediately depart from the premises without disturbing the occupant, unless the visit is a result of a request made by the occupant.

(c) No person shall go upon any residential or business premises, and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence or business, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a home solicitation transaction, or place handbills or other advertisement, if a card as described in subsection (a) above, is exhibited in a conspicuous place upon or near the main entrance to the residence, or business, unless the visit is a result of a request by the occupant.

Sec. 4.305 Supervision of Child Solicitors

It shall be unlawful for any person to use children under seventeen (17) years of age or less for any type of solicitation purposes unless such children are kept actively supervised by a permitted or registered adult individual at least eighteen (18) years of age within one hundred (100) yards of the child solicitor.

Sec. 4.306 Sale on Public Rights-of-Way; City Parks; Mobile Vendors

(a) It shall be unlawful for any person to peddle, solicit, sell, offer for sale or exhibit for sale any merchandise or services upon any public sidewalk, street, street right-of-way, parkway or other public right-of-way, except that it shall be lawful for a person to engage in a mobile vending operation involving food products upon any street, public street or street right-of-way, provided such person has previously obtained a solicitor's permit and a health permit from the city's director of code services or his designee and subject to the conditions set forth herein.

- (1) No person shall engage in or attempt to engage in any mobile vending operation involving food products unless such person has in his immediate possession a valid solicitor's permit and health permit issued to him by the city.
- (2) No person shall engage in or attempt to engage in any mobile vending operation involving food products on any public street which is not residential in character or on any major thoroughfare or within the limits of any city park.
- (3) Any person engaged in or who attempts to engage in mobile vending operations involving food products shall stop his motor vehicle only in immediate response to a direct request from a potential customer and for a period not to exceed fifteen (15) minutes.
- (4) All persons engaged in mobile vending operations involving food products shall comply with all traffic laws and parking regulations. Sales and deliveries of products shall not be made from any part of the vehicle away from the curb.
- (5) Notwithstanding the provisions of this subsection, a person may sell or offer for sale any food, drinks, confections, merchandise or services within the limits of any city park or public facility if such person has a written agreement with the city.
- (6) No person shall engage in or attempt to engage in any mobile vending operation involving food products on any public street before 9:00 a.m. or thirty (30) minutes following sunset. Notwithstanding this subsection, it shall be lawful for a person to engage in mobile vending operations involving food products in parking lots or other private property provided such operation does

not cause a traffic hazard on any adjacent street, street right-of-way, or other public right-of-way.

- (7) If bells, music boxes, radios, or any other mechanical or electronic sound producing devices are employed to attract patrons, such device shall be operated as to be inaudible at a distance of two hundred (200) feet in every direction.
- (8) Persons engaged in mobile vending operations involving food products shall comply with all applicable provisions of this code and all applicable ordinances governing the handling, service, preparation, storage, display and transportation of food.
- (9) A mobile vending operation involving food products shall not serve, sell or distribute potentially hazardous food not intended for immediate consumption. All food and beverages sold, served or distributed from a mobile vending operation must be approved in advance by the director of code services or his designee and specified on the permit for the mobile vending operation. No person shall sell, serve or distribute from a mobile vending operation any food not specified on the permit.
- (10) Ice used in a beverage served by a mobile vending operation must be from an approved source stored in an approved container that is drained, covered and dispensed with an approved scoop or from automatic, self-service ice dispensing equipment.
- (11) Each mobile vending operation involving food products shall have a permitted commissary by the appropriate health authority at which those foods served, sold or distributed are stored and prepared.
- (12) A person shall not engage in a catering service unless the service is affiliated with a food products establishment operating from a fixed facility that is permitted by the appropriate health authority.

(b) It shall be unlawful for any person to engage in mobile vending operations involving services, including but not limited to, veterinary services, mobile x-ray services, and mobile blood donation services, in the city, except that it shall be lawful for a person to engage in a mobile vending operation involving services on church, school, retail and commercial parking lots with the written consent of the owner, provided such person has previously obtained a mobile vendor services permit from the city. Any person desiring to engage in a mobile vending operation involving services shall make written application on a form provided by the city to the director of code services or his designee, for a permit which shall include the same information required for a non-charitable solicitor's permit. Mobile vending operations involving services shall be conducted only during hours of daylight and shall not be conducted longer than fourteen (14) consecutive days per person or organization, with a maximum of not more than four (4) permits per

each twelve (12) month period per person or organization regardless of location. Only one permit for mobile vending operations involving services shall be issued for any one location regardless of the applicant for the permit, unless at least thirty (30) days has expired from the last permit for that location. Mobile vending operations involving services conducted by non-profit organizations, including charitable, veterans, educational, religious, or philanthropic organizations, shall be exempt from the permit fee.

Sec. 4.307 Permit and Registration Required

No person, directly or through an agent, shall engage in a home solicitation or canvass or solicit in person from house to house in the city to sell or attempt to sell goods, merchandise, wares, services or anything of value, or to take or attempt to take orders for the future delivery of goods, merchandise, wares or any personal property of any nature whatsoever, or take or attempt to take orders for services to be furnished or performed in the future, or to distribute handbills or samples of merchandise within the city, without first having obtained a written permit, or to solicit funds for charitable purposes without first having registered with the city.

Sec. 4.308 Non-Charitable Solicitations Permit

(a) Application and Required Information. Any person desiring to make home solicitation transactions, canvass or solicit in person from house to house in the city to sell or attempt to sell goods, merchandise, wares, services or anything of value, or to take or attempt to take orders for the future delivery of goods, merchandise, wares or any personal property of any nature whatsoever, or take or attempt to take orders for services to be furnished or performed in the future, or to distribute handbills or samples of merchandise, within the city, shall make written application on a form provided by the city to the director of code services or his designee for a permit which shall include at least the following:

- (1) the name of the person applying and desiring to make home solicitations;
- (2) whether the person registering is a natural person, partnership, corporation or association; and
 - (A) if a natural person, the business or residence address and telephone number;
 - (B) if a partnership, the name of all partners and the principal business address and telephone number of each partner;
 - (C) if a corporation, the person registering must state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main

individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;

- (D) if an association, then show the association's principal business address and telephone number, if any, and show the names and principal business or residence addresses and telephone numbers of all members of the association unless they exceed ten (10) in number, in which case the application shall so state and the person registering may alternatively list names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi-state organization or association, the mailing address and business location of its central office shall be given in addition to the mailing address and business location of its local office.
- (3) the names, mailing addresses and telephone numbers of all individuals who will be in direct charge or control of the solicitation of funds;
- (4) the time period within which solicitation of funds is to be made, giving the date of the beginning of solicitation and its projected conclusions, and how often the applicant will solicit during the year;
- (5) a description of the methods and means by which solicitation of funds is to be accomplished;
- (6) names of other communities in which the applicant has made home solicitations in the past six (6) months;
- (7) the nature of the merchandise to be sold or offered for sale, or the nature of the service to be furnished;
- (8) whether such applicant, upon any such order obtained, will demand, accept or receive payment or deposit the money in advance of final delivery;
- (9) if the applicant is unable to provide any of the foregoing information, an explanation of the reasons why such information is not available;
- (10) name, address, telephone number and social security number of each adult who will be responsible for supervising any solicitor under seventeen (17) years of age;
- (11) whether the applicant, or any person employed by the applicant, to solicit, has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(b) **Signatures.** The application must be signed by the applicant, if the person is an individual; if the person applying is a partnership, by the partner charged with the disbursing of funds solicited; and if the person applying is a corporation or an association, by its officer charged with the disbursing of funds solicited. The individual signing the application shall sign and swear before an officer authorized to administer oaths that he has carefully read the application, that all the information contained therein is true and correct.

(c) **Fee.** The application shall be accompanied by a non-refundable permit fee as provided for in the fee schedule found in the appendix of this code to compensate the city for the cost of administration of this article, and no permit hereunder shall be issued until such fee has been paid by the applicant. A permit fee shall be required for each person making a solicitation or distribution for the applicant.

Sec. 4.309 Charitable Solicitations Registration

(a) Any person desiring to solicit funds for charitable purposes in the city shall file with the director of code services or his designee a registration statement on forms provided by the city.

(b) The solicitation of funds for charitable purposes by any organization or association from its members, or the solicitation of funds for charitable purposes by persons when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises, when previously invited to the premises for solicitation, is exempt from the registration requirement.

Sec. 4.310 Issuance of Permit; Certificate of Registration

After review of the registration statement or permit application, as the case may be, to determine its compliance with this article, and within ten (10) working days of the receipt of same, the director of code services or his designee shall either issue a certificate of registration or permit, as provided in this article, or notify the person applying that the registration statement or permit application does not comply with the requirements of this article and specifically point out what information or explanation has not been furnished that has been required before a permit or certificate of registration can be issued.

Sec. 4.311 Permit to be Carried and Displayed

It shall be unlawful for any person to sell or solicit goods or funds, or to distribute handbills or samples of merchandise, without carrying the permit or registration statement required by this article on their person while engaged in such solicitation or sale. Any person engaged in the sale or solicitation of goods or funds shall display their permit or registration statement upon demand of a consumer, police officer, or the director of code services or his designee. It shall be unlawful for any person to display a permit or registration statement issued in the name of another person.

Sec. 4.312 Soliciting for Other Purposes

It shall be unlawful for any person to sell or solicit in the city for a purpose other than set out in the application upon which the permit or certificate was issued.

Sec. 4.313 False Information

It shall be unlawful for any person to file a false registration statement or application for a solicitation permit with the director of code services or his designee.

Sec. 4.314 Expiration of Certificate of Registration; Solicitation Permit

Every certificate of registration or solicitation permit issued by the city shall expire at the termination of the solicitation period specified in the certificate or permit, or one (1) year from the date of issuance, whichever is less.

Sec. 4.315 Revocation of Permit or Registration; Appeal

(a) Failure to comply with any of the provisions of this article shall constitute grounds for revocation of any permit or registration issued in accordance with the provisions of this article. Written notice of revocation shall be given to such person by certified mail or by personal delivery.

(b) Should a person have a permit or registration revoked, he may appeal that decision to the mayor or his designated representative by submitting a letter to the director of code services or his designee within ten (10) days of the receipt of the notice of revocation. A hearing shall be held within fifteen (15) days of the appeal. The mayor or his representative shall render a decision on the appeal within one (1) day of the date of the hearing. The decision of the mayor or his designated representative shall be final.

Sec. 4.316 Charitable Solicitations on Public Rights-of-Way

Persons holding a charitable solicitation certificate of registration may conduct charitable solicitations within and upon public rights-of-way within the city, subject to the following:

- (1) No such charitable solicitation shall be conducted upon or within the rights-of-way of any street or road designated by the state or federal government as a state or federal highway or farm-to-market road.
- (2) Persons planning to conduct charitable solicitations in or upon public rights-of-way shall identify in writing, to the director of code services or his designee, all locations for the planned solicitations at the time of application for the certificate of registration, for review of safety conditions by the city's

public works department and approval prior to any such solicitation, and with such approval subject to revocation based upon traffic safety conditions.

- (3) Such charitable solicitations shall be conducted only during hours of daylight and shall be conducted no more than one (1) consecutive thirty-six (36) hour period each year per organization.
- (4) No person under eighteen (18) years of age shall conduct any solicitation in or upon public rights-of-way.
- (5) Applicants for a charitable solicitation certificate of registration who contemplate conducting any solicitation in or upon public rights-of-way shall, prior to conducting any such solicitation, furnish the city with a certificate of insurance complying with the standards established by the city and execute a waiver of liability in favor of the city on a form provided by the city.
- (6) Persons conducting charitable solicitations in or upon public rights-of-way shall at all times during which solicitation is being conducted, wear traffic safety vests.
- (7) Each organization conducting charitable solicitations in or upon public rights-of-way shall designate a person to be in charge of and responsible for each intersection and/or portion of public right-of-way upon which such solicitation is to be conducted.

Sec. 4.317 Religious Solicitation in Public Places

(a) A person who engages in religious solicitation in public places shall first register with the director of code services or his designee on forms provided by the city, containing the following information:

- (1) name of registrant;
- (2) name of organization;
- (3) duration and locations of proposed solicitation; and
- (4) number of participants.

(b) Registration expires after one (1) year and must be renewed annually. If a change occurs in any of the information submitted with the registration, the person or organization shall notify the director of code services or his designee of the change.

(c) A person engaged in religious solicitation shall visibly display the registration statement provided by the city while engaged in religious solicitation in a public place.

(d) If a person, organization, society, or corporation conducting a religious solicitation obtains a charitable solicitation registration in compliance with Section 4.309, that person, organization, society or corporation is not required to comply with the registration requirements of Section 4.317.

(e) A person engaged in a religious solicitation in a public place shall not:

- (1) obstruct or impede the passage of a pedestrian or vehicle;
- (2) make physical contact with the person being solicited unless that person's permission is obtained;
- (3) misrepresent the religious purpose of the solicitation;
- (4) misrepresent the religious affiliation of those engaged in the solicitation;
- (5) engage in religious solicitation without displaying the religious solicitation registration as provided by the city.

Sec. 4.318 Outdoor Retail Sales and Commercial Promotion

(a) Permit and Application. It shall be unlawful for any person to operate an outdoor retail sale and/or outdoor commercial promotion without first having obtained a permit from the director of code services or his designee. A person desiring to conduct an outdoor retail sale and/or outdoor commercial promotion within the city shall make written application on a form provided by the city, to the director of code services or his designee, for a permit which shall include at least the following:

- (1) name of the person applying and desiring to conduct the retail sale and/or outdoor commercial promotion;
- (2) the names, mailing addresses and telephone numbers of all individuals who will be in direct charge or control of the retail sale and/or outdoor commercial promotion;
- (3) the nature of merchandise to be sold or offered for sale, or the nature of the commercial promotion to be conducted;
- (4) location of the outdoor retail sale or commercial promotion on the premises;
- (5) hours of operation of the outdoor retail sale or commercial promotion;
- (6) location and size of any proposed temporary advertising and/or signs for the outdoor retail sale or commercial promotion;

- (7) proximity of residential areas to the location of the retail sale or commercial promotion;
 - (8) number of parking spaces, if any, to be encumbered by the proposed outdoor retail sale or commercial promotion.
- (b) Signatures. The application must be signed by the applicant if the person is an individual; if the person applying is a partnership, by a partner; and if the person applying is a corporation or an association, by one of its officers. The individual signing the application shall sign and swear before an officer authorized to administer oaths that he has carefully read the application, and that all of the information contained therein is true and correct.
- (c) Fee. The application shall be accompanied by a non-refundable permit fee as provided for in the fee schedule found in the appendix of this code compensate the city for the cost of administration of this article, and no permit hereunder shall be issued until such fee has been paid by the applicant.
- (d) Exemption from Fee. The permit fee shall not be required when the outdoor retail sales and/or outdoor commercial promotion is conducted by a non-profit organization, including a charitable, veteran, educational, nonprofit, philanthropic, or religious organization.
- (e) Standards of Operation.
- (1) It shall be unlawful for any person to operate an outdoor retail sale or commercial promotion in the city unless such sale or promotion is adjacent to an existing permanent business operated in the city and where the products sold outdoors are the same as those sold inside the existing permanent business, and such activity is incidental to the normal conduct of business operated by the same merchant or his employer in an on-site building for which a valid certificate of occupancy exists. An outdoor retail sale or commercial promotion shall be limited to a total of thirty (30) days during any twelve (12) month period. Notwithstanding this subsection, it shall be lawful for an outdoor retail sale or commercial promotion of not more than fourteen (14) days in duration, when conducted by a non-profit organization, including a charitable, veteran, educational, religious, or philanthropic organization on a church, school, retail or commercial parking lot in which event the products sold need not be those sold inside the existing permanent business.
 - (2) No outdoor retail sale and/or outdoor commercial promotion shall utilize or encumber more than ten percent (10%) of any parking lot, obstruct or interfere with any required parking space, fire lane, fire hydrant, access, easement or any other area necessary for public traffic circulation within a parking lot, be closer than the required building setback line from any dedicated street

right-of-way. No outdoor retail sale and/or outdoor commercial promotion shall be conducted in or on any vacant lot, unimproved parking lot, public sidewalk, public street, public street right-of-way or public street median.

- (3) Any outdoor retail sales and/or outdoor commercial promotion shall be required to obtain all necessary tent permits, building permits, electrical permits, food establishment permits, alcoholic beverage permits, and all other permits required by ordinance or other law for the specific activities to be conducted in conjunction with or as part of the outdoor retail sale and/or commercial promotion and must be applied for separately in accordance with the applicable ordinance or law.
- (4) Outdoor retail sales and/or outdoor commercial promotions shall be conducted only during the hours of daylight except that an outdoor retail sale or outdoor commercial promotion adjacent to an existing permanent business may be conducted during the normal hours of operation of the business.
- (5) No person shall engage in or attempt to engage in any outdoor retail sale and/or commercial promotion unless such activity is consistent with the zoning regulations prescribed for the district in which the activity takes place.
- (6) Outdoor retail sales and/or commercial promotions may only be conducted on church, school, retail and commercial parking lots.
- (7) No person engaged in an outdoor retail sale or commercial promotion shall stand in any street, street right-of-way, median, or parkway to advertise or direct persons to the outdoor retail sale or commercial promotion.

(Ordinance adopting Code)

ARTICLE 4.400 COIN-OPERATED MACHINES*

Sec. 4.401 Definitions

Coin-operated machine. Means every machine or device of any kind or character which is operated by or with coins or metal slugs, tokens or checks, and this definition shall include the operation of such machines for the purpose of dispensing or affording skill or pleasure, for any other purpose than the dispensing or vending of merchandise, music or service.

* State Law reference—Taxation of coin-operated machines, V.T.C.S., Article 8814.

Operator. Means any person, firm, company, association, or corporation who exhibits, displays, or permits to be exhibited or displayed, in a place of business other than his own, any "coin-operated machine."

Owner. Means any person, individual, firm, company, association, or corporation owning any "coin-operated machine" in this city.

Sec. 4.402 Business Occupation Tax Levied

(a) Every owner or operator who owns, controls, possesses, exhibits, displays, or permits to be exhibited or displayed in this city any coin-operated machine shall pay and there is hereby levied on each coin-operated machine, an annual occupation tax as provided for in the fee schedule found in the appendix of this code.

(b) Gas meters, pay telephones, pay toilets, food vending machines, confection vending machines, beverage vending machines, merchandise vending machines, cigarette machines subject to an occupation tax, stamp vending machines, and service machines are expressly exempt from the tax levied herein.

(c) The tax levied by this section shall be paid to the tax assessor/collector of the City of Ladonia and a receipt issued therefor showing evidence of payment for each such machine.

(d) These provisions shall not apply to a coin-operated machine located on property owned by a governmental entity, nor to a machine located within a church, fraternal organization, or other nonprofit entity not open to the public in general.

Sec. 4.403 Exhibition of Coin-Operated Machines; Prohibited in Certain Areas

For zoning purposes, the exhibition of a music and skill or pleasure coin-operated machine is indistinguishable from the principal use to which the property where the machine is exhibited is devoted. The exhibition of a coin-operated amusement machine which is subject to the tax levied herein shall be prohibited within three hundred (300) feet of a church, school or hospital.

Sec. 4.404 License Fee

Any person holding a general business license from the comptroller of the State of Texas to engage in business to own, rent, lease, or exhibit music and skill or pleasure coin-operated machines shall pay to the City of Ladonia a license fee in an amount not to exceed one-half (1/2) of the license fee paid to the comptroller for such general business license. Evidence of the payment of such license fee as well as the occupation tax levied herein must be displayed with each machine or on the premises where such machine is exhibited at all times.

Sec. 4.405 Consent to Entry

Any peace officer may freely enter upon the licensed business premises during normal business hours for the purpose of ensuring compliance with this article.

(Ordinance adopting Code)

ARTICLE 4.500 DRILLING OF OIL AND GAS WELLS***Sec. 4.501 Permit Required**

It shall be unlawful for any person to drill or commence operations to drill any well in search of oil or gas within the city limits of the City of Ladonia, Texas or to work upon or assist in any way in the prosecution of such operations for drilling of any such well without having first obtained a permit in accordance with these provisions.

Sec. 4.502 Application and Issuance of Permit

(a) The city council shall be the permit issuing authority hereunder in accordance with these provisions.

(b) An application shall be made and filed with the city administrator for a permit hereunder in writing giving specifications as follows:

- (1) Proposed location or site of operations;
- (2) Type of operations (drilling, excavation, proposed depth, etc.)
- (3) Type of production sought; and
- (4) A lay-out plat or map showing the proposed location of drilling along with equipment, holding tanks, lines, etc. proposed to be used in connection with such operations.

(c) In issuance or denial of permits hereunder, the city council may consider, among other things, the follow:

- (1) Proximity of proposed site to residences, hospitals, churches or business establishments.
- (2) If in the judgment of the city council, operations of the type proposed in the application would pose a general nuisance to the citizens of Ladonia.

* State Law reference—Restricting the drilling of wells, V.T.C.A., Local Government Code, Sec. 253.005(c).

- (3) Traffic or fire hazards that may result from operations for which permit is applied.
- (4) The likelihood of irreparable damage being done by operations for which permit is applied to surrounding areas.

(Ordinance adopting Code)

ARTICLE 4.600 REGULATION OF CARNIVALS, CIRCUSES
AND RODEOS^{*}

Sec. 4.601 Permit Required

- (a) Prior to the location, maintenance or operation of any carnival, circus or rodeo in the City of Ladonia, the operator thereof shall obtain a permit for such carnival, circus or rodeo from the city.
- (b) Any application for a permit hereunder must contain the following:
 - (1) The intended dates of the carnival, circus or rodeo;
 - (2) The intended hours of operation of such carnival, circus or rodeo;
 - (3) The intended location of the carnival, circus or rodeo;
 - (4) A listing of any wild or exotic animals to be a part of the carnival, circus or rodeo; and
 - (5) Such other information as the city may deem necessary to a full evaluation of the application.
- (c) If the city determines that no ordinances of the city will be violated by the operation of the carnival, circus or rodeo, and that a fee as provided for in the fee schedule found in the appendix of this code has been paid, the permit shall be issued.
- (d) A permit issued hereunder shall be valid for a period of thirty (30) days.

Sec. 4.602 Locational Restrictions

It shall be unlawful for the owner or operator of any carnival, circus or rodeo, or the owner or operator of any concession in connection with any carnival, circus or rodeo, to

^{*} **State Law reference**—Authority of municipality to license, tax or otherwise regulate exhibitions, shows and amusements, V.T.C.A., Local Government Code, Sec. 215.032.

set up, maintain or operate any such carnival, circus or rodeo, or any concession with any such carnival, circus or rodeo, within six hundred (600) feet of any school building, church building, business house or any private residence within the limits of the city. The above offense is deemed to be complete when any carnival, circus or rodeo or any concession in connection with the same shall have constructed or erected any tent, station or building for the purpose of operating any such carnival, circus or rodeo.

(Ordinance adopting Code)

ARTICLE 4.700 SEXUALLY ORIENTED BUSINESSES

Sec. 4.701 Definitions

Sexually Oriented Business. Means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise of primary business of which is the offering of a service of the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Adult Arcade. Means a movie arcade, game (penny) arcade or other establishment which holds itself out to be primarily in the business of offering to customers still or motion pictures or games which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult Bookstore. Means an establishment which holds itself out to be primarily in the business of offering to customers book, magazine, films or videotapes (whether for viewing on or off-premises), periodicals, or other printed or pictorial materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, and in which thirty five percent (35%) or more of the gross floor area is devoted to offering such merchandise.

Adult Entertainment Business. Means an adult arcade, adult bookstore, adult theater, adult novelty shop or adult cabaret.

Adult Lounge. Means an adult cabaret which is a permitted or licensed premises pursuant to the Texas Alcoholic Beverage Code where alcoholic beverages may be served or sold.

Adult Novelty Shop. Means an establishment which holds itself out to be primarily in the business of selling products which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical area, and in which thirty five percent (35%) or more of the gross floor area is devoted to the sale of such products.

Adult Service Business. Means an adult encounter parlor, adult retreat, nude modeling studio or any other commercial enterprise which holds itself out to be primarily in the business of offering a service which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult Theater. Means an establishment which holds itself out to be primarily in the business of exhibiting to customers motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Sexually Oriented Business. Means any "adult service business", "adult entertainment business", or "adult lounge."

Specified Anatomical Areas means:

- (1) less than completely and opaquely covered:
 - (A) human genitals, pubic region,
 - (B) buttock, or
 - (C) female breast below a point immediately above the top of the areola; or
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities means:

- (1) human genitals in a state of sexual stimulation or arousal; or
- (2) acts of human masturbation, sexual intercourse or sodomy; or
- (3) fondling or other erotic touching of human genitals pubic region, buttock or female breast.

Sec. 4.702 General Regulations

(a) On-premises advertisements, displays, or other promotional materials for sexually oriented business which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public places outside the business.

(b) Each separate room or compartment of a sexually oriented business into which patrons are allowed access will be posted with an AIDS educational message, which will consist of one of the following statements:

- (1) STOP AIDS. AVOID CONTACT WITH SEXUAL FLUIDS AND DIRTY NEEDLES.
- (2) AIDS IS TRANSMITTED BY SEX WITHOUT CONDOMS OR BY SHARING NEEDLES.
- (3) A poster or sign with a similar message as approved in writing by the city health officer.
- (4) As to (1) or (2), said statements shall be in lettering not less than one and one-half inches in height; as to (3), the height of the lettering shall be within the discretion of the city health officer.
- (5) All signage shall be in both the English and Spanish languages and shall include a designated AIDS information telephone number.

(c) Each adult sexually oriented business shall be required to prominently display and make available to patrons of the sexually oriented business, literature concerning sexually transmitted disease and/or AIDS to be provided by the Fannin County health department.

Sec. 4.703 Location of Sexually Oriented Business

(a) Relation to other sexually oriented businesses: A sexually oriented business shall not be located on any lot within five hundred feet (500') of any lot on which there is located another sexually oriented business.

(b) Relation to civic uses: A sexually oriented business shall not be located on any lot within one thousand feet (1,000') of any lot on which there is located any school, church, public park or playground, or licensed day-care center.

(c) Relation to residential zones and uses: A sexually oriented business shall not be located on any lot within five hundred feet (500') of any lot which is zoned or used for residential purposes.

(d) A radius or distance under this subsection shall be determined from the midpoint of a line joining the two most distant points on the boundaries on the lot.

Sec. 4.704 License Required

(a) A person commits an offense if he operates a sexually oriented business without a valid license, issued by the city for the particular type of business.