11465 W Civic Center Drive
Avondale, AZ 85323
623-333-1200

City of Avondale
Peddler's Permit Application

Avondale
CITY CLERK'S DEPARTMENT

APPLICATION IS FOR: ☐ Individual ☐ Business

SECTION I: APPLICANT'S INFORMATION				
Applicant's Full Legal Name				
Address				
Date of Birth		Place of Birth		
Home Phone Number	Mobile Phone Number		E-Mail Address	
Sex ☐ Male ☐ Female	Eye Color	Weight	Height	Hair Color
Any other names by which applicant may have been known during the previous five (5) years				

SECTION II: BUSINESS INFORMATION	
Name of Business or Organization	
Business/Organization Address	
Business/Organization Phone #	Business/Organization Website
Tax Identification Number	City of Avondale Business License #

SECTION III: LISTING OF ALL OWNERS, OFFICERS, DIRECTORS, PARTNERS AND MANAGING MEMBERS (Include any person with authority to participate directly and regularly in the management of the business. Each person must submit a separate application)

Last Name, First Name	Address (street address, city, zip)	Phone #

SECTION IV: VEHICLE INFORMATION
(Include information on all vehicles that will be used by the applicant or employees to conduct permitted activity. Use additional sheet if necessary)

Make	Model	Year	Color	License Plate Number
Make	Model	Year	Color	License Plate Number
Make	Model	Year	Color	License Plate Number
Make	Model	Year	Color	License Plate Number

SECTION V: APPLICANT'S BACKGROUND HISTORY

Has applicant ever been convicted of any felony involving fraud, dishonesty, deceit, theft, assaultive conduct or sexual misconduct within five (5) years from the date of this application? ☐ Yes ☐ No

SECTION VI: DESCRIPTION OF GOODS AND SALES OR SOLICITATION METHODS

Describe in detail goods and services to be sold

Describe methods to be used for the sale of goods or solicitation of funds. Include a copy of written information, brochures, etc. to be furnished to residents.

SECTION VII: ADDITIONAL REQUIREMENTS – The following must be submitted with application

- ☐ Two 1X1 color photographs
- ☐ Driver License
- ☐ Fingerprint card – Background check will be conducted by Avondale Police Department
- ☐ $22.00 non-refundable background check fee. Check or money order only payable to the AZ Department of Public Safety and submitted to the Avondale Police Depart with Fingerprint card
- ☐ Copy of written information, brochures or other printed information to be distributed to residents

SECTION VIII: CERTIFICATION AND SIGNATURE

I certify under penalty of perjury that the statements made in this application are true and complete to the best of my knowledge. I understand that an incomplete application will not be processed. I understand that it is my responsibility to inform the City Clerk within twenty four (24) hours should any of the information included in this application change during the time that the granted permit is effective. I acknowledge receipt of Avondale Municipal Code Chapter 13, Article VIII Peddlers, Solicitors and Canvassers and understand that in accordance to the same I shall submit a full set of fingerprints to the Avondale Police Department for the purpose of obtaining a state and federal criminal records check by the Department of Public Safety pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544, as amended, and that the Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. I understand that I will pay the applicable fees for the required background check to be conducted and that said fees are non-refundable should the application be withdrawn or denied. Further, I understand that it is my responsibility to read said Article and abide to the requirements set therein.

Printed Name	Signature	Date

Article VII

PEDDLERS, SOLICITORS AND CANVASSERS

Sections:

Division 1

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Division 2

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13-160 Purpose.

The city council desires to regulate the activities of peddlers, solicitors and canvassers within the city in a manner so as to protect against fraudulent and criminal activity and to ensure to the city's residents the maximum amount of privacy and security in their homes that is permissible in light of recent court decisions mandating certain types and amounts of access to residents and residential areas by peddlers, solicitors and canvassers. It is, therefore, the intent of the city council in enacting this chapter to recognize the potential for fraudulent and criminal activity in connection with door-to-door peddling, soliciting and similar activities, as well as the unique character and nature of the city's residential neighborhoods, while providing opportunity for peddlers, solicitors and canvassers as mandated by law. This chapter should be interpreted so as to be in conformity with relevant state and federal court decisions including, but not limited to, *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton*, 536 U.S. 150, 122 S. Ct. 2080, 153 L. Ed. 2d 205 (2002).

13-161 Definitions.

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

Canvasser: is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (i) attempting to enlist non-monetary support for or against a particular religion, philosophy, ideology, political party, issue or candidate, or other cause, even if incidental to such purpose the canvasser accepts a voluntary donation for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

Commercial: shall mean and include the sale of goods or services for monetary compensation, consideration or profit.

Peddler: is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service for a commercial purpose.

Person: shall mean an individual, corporation, partnership, limited liability company, incorporated association and any other legal entity.

Solicitor: is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (i) attempting to solicit funds for a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political, religious or other non-commercial purpose, or (ii) distributing a handbill or flyer advertising a commercial event or service.

13-162 Hours of operation.

It shall be unlawful for any peddler, solicitor or canvasser to enter upon any residential premises for the purpose of peddling, soliciting or canvassing earlier than 8:00 a.m. of any day or after 8:00 p.m. of any day. This section shall not be interpreted to grant any person permission to enter upon private property.

13-163 Trespass.

It shall be unlawful for any peddler, solicitor or canvasser to enter upon any residential premises for the purpose of peddling, soliciting or canvassing where there is posted a sign indicating "No Peddlers, Solicitors or Canvassers", "Do Not Disturb", "No Trespassing", or other sign indicating that the residents do not wish their privacy to be disturbed, and such sign is exposed to public view.

13-164 Written Receipts Required.

Any peddler or solicitor receiving money or anything having a value of ten dollars or more from any person under a sale or goods or service, or solicitation of funds made pursuant to a permit issued hereunder shall give to such person a written receipt, signed by the peddler or solicitor, showing plainly the name and permit number of the person under whose permit the sale or solicitation is conducted, and the date and the amount received.

Division 2 PERMITTING

13-165 Permit Requirements.

No person shall act as a peddler or solicitor within the city limits without first obtaining from the city a permit and identification card in accordance with this chapter. A canvasser is not required to have a permit or identification card but any canvasser wanting an identification card for the purpose of reassuring city residents of the canvasser's good faith shall be issued one upon request.

13-166 Exemptions.

The provisions of this chapter shall not apply to the following:

(a) Payments required by law to be collected or paid.

(b) Payments to or from governmental agencies.

(c) Public utility employees in the performance of their employment duties.

(d) Persons engaging in the sale of newspaper subscriptions.

(e) Members of a nationally recognized youth organization including, but not limited to, the Boy Scouts of America, the Girl Scouts of America and the Boys and Girls Clubs of America, engaging in such organization's sponsored fundraising events.

(f) School children engaging in school authorized or sponsored fundraising activities.

13-167 Application Procedure.

(a) Filing an Application. A written and signed application for a peddlers or solicitors permit shall be filed with the city clerk, and the clerk shall, in conformance with the standards set forth in this chapter, either grant or deny the requested permit within five business days of the date the application is made. In the event the clerk fails to act upon an application within the time prescribed herein, the permit shall be deemed denied.

(b) Contents of Application. An application for a peddlers or solicitors permit shall include the following information:

(1) If the applicant is an individual:

a. The name, address, telephone number, date and place of birth, physical description and two satisfactory photographs (one inch by one inch) of the individual applying for the permit. One of the required photographs will be attached to the applicant's identification card issued pursuant to section 13-170 below, and the other will be retained by the city clerk.

b. The name, address, and telephone number of the individual applicant's employer or principal, if any, for whom the applicant will be conducting the permitted activity, and the names, addresses and telephone numbers of all officers, directors, general partners, managing members and all other persons with authority to participate directly and regularly in the management of the employer's or principal's business.

c. The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by the applicant to conduct the permitted activity.

d. Whether the applicant has used or been known by any other names or aliases within five (5) years from the date that the application is submitted.

e. Whether the individual applicant has been convicted of any felony involving fraud, dishonesty, deceit, theft, assaultive conduct or sexual misconduct within five (5) years from the date that the application is submitted.

(2) If the applicant is not an individual:

a. The applicant's correct business or organization name, tax identification number (if applicable), address and telephone number for its principal office.

b. The name, address and telephone number of all officers, directors, general partners, managing members and all other persons with authority to participate directly and regularly in the management of the applicant's business.

c. The name, address, telephone number, date and place of birth, physical description and two satisfactory photographs (one inch by

one inch) of each employee or agent who will be conducting the permitted activity. One of the required photographs will be attached to the employee's or agent's identification card issued pursuant to section 13-170 below, and the other will be retained by the city clerk.

d. The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by the applicant or the applicant's employees or agents to conduct the permitted activity.

e. Whether any officer, director, general partner, managing member or other person with authority to participate directly and regularly in the management of the applicant's business, or any employee or agent who will be conducting the permitted activity, has used or been known by any other names or aliases within five (5) years from the date that the application is submitted.

f. Whether any officer, director, general partner, managing member or other person with authority to participate directly and regularly in the management of the applicant's business, or any employee or agent who will be conducting the permitted activity, has been convicted of any felony involving fraud, dishonesty, deceit, theft, assaultive conduct or sexual misconduct within five (5) years from the date that the application is submitted.

(3) In the case of an application for a peddlers permit, a complete description of the goods or services to be sold in the city, together with information describing the sales methods to be used and a copy of any written materials that will be furnished to residents.

(4) In the case of a solicitors permit, information describing the methods to be used to solicit funds and a copy of any written materials that will be furnished to residents for commercial purposes.

(5) The signature of the applicant.

(c) Change in Information. If, while any application is pending, or during the term of any permit granted hereunder, there is any change in the information set forth in the application, the applicant shall notify the city clerk in writing thereof within twenty-four hours after such change.

(d) Fingerprints. Each individual applicant, and every officer, director, general partner, managing member and other person with authority to participate directly and regularly in the management of the applicant's business, employee and agent of an applicant who will be conducting the permitted activity, shall submit a full set of fingerprints to the police department for the purpose of obtaining a state and

federal criminal records check by the Department of Public Safety pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544, as amended. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. An applicant for a permit issued under this chapter shall pay an amount necessary to cover the costs of federal fingerprint processing or federal criminal history record information checks. The specific amount of such additional fee shall be set by administrative order based upon information received from the Department of Public Safety as to the costs of fingerprint processing and record information checks. The fees collected pursuant to this subsection shall be transmitted to the Department of Public Safety as required by A.R.S. § 41-1750, as amended. No fingerprinting fee paid pursuant to this subsection shall be returned to an applicant if the application is withdrawn or denied.

(e) Form of Permit. Permits issued under this chapter shall bear the name and address of the person to whom the permit is issued, the number of the permit, dates within which the permitee may conduct the permitted activities and a statement that the permit does not constitute an endorsement by the city or any of its departments, officers or employees of the purpose, or of the person conducting the permitted activities. All permits must be signed by the city clerk.

13-168 Permit issuance standards.

(a) No individual shall be issued a permit under this chapter if such individual:

(1) Knowingly makes any false or misleading statement in the course of applying for or renewing a permit.

(2) Has been convicted of any felony involving dishonesty, deceit, theft, assaultive conduct or sexual misconduct within five (5) years from the date that the application is submitted.

(3) Is under the age of eighteen (18) years.

(4) Has been denied a permit required by this chapter or had such a permit revoked, for a period of six (6) months following the final denial or revocation decision.

(b) No person that is not an individual shall be issued a permit under this chapter if any of the following individuals would be disqualified from being issued a permit under subsection (a):

(1) Any officer or director, or employee or agent that will be conducting the permitted activity, of an applicant that is a corporation.

(2) Any general partner, or employee or agent that will be conducting the permitted activity, of an applicant that is a partnership.

(3) Any managing member, or employee or agent that will be conducting the permitted activity, of an applicant that is a limited liability company.

(4) Any person with authority to participate directly and regularly in the management of the applicant's business, or employee or agent that will be conducting the permitted activity, of an applicant that is any other legal entity.

13-169 Permit expiration; non-transferability; issuance and renewal.

(a) Any permit issued under this chapter shall be valid only for the calendar year in which it is issued. Each permit expires on December 31 of each year and must be renewed on or before January 31 of the following year by filing an application for renewal. The application must be received by the city finance and budget department by January 31 to be deemed timely filed.

(b) No permit issued under this chapter shall be transferable between persons.

(c) No permit shall be issued or renewed under this chapter unless the permitee is in full compliance with all provisions of this code at the time of renewal.

13-170 Identification cards.

(a) The city clerk shall issue to each individual permitee, and to each employee or agent of a non-individual permitee who will be conducting the permitted activities, an identification card. Each identification card shall expire on December 31 of the year in which it is issued, and the identification card holder shall obtain a new identification card on or before January 31 of the following year.

(b) The identification card shall include: (i) the permit number, (ii) the name and address of the person issued the permit, (iii) the name and photograph of the individual issued the identification card, and (iv) a statement that the identification card does not constitute an endorsement by the city or any of its departments, officers or employees of the purpose, or of the person conducting the permitted activities. All identification cards must be signed by the city clerk.

13-171 Display of identification cards and permits.

At all times that an individual is conducting activities subject to a permit under this chapter within the city, such individual shall carry on his or her person the identification card and a copy of the permit issued by the city for the permitted activities. Such individual shall display

the identification card and copy of the permit upon request to any police officer, law enforcement official or other city official.

13-172 Permit revocation or suspension.

(a) The city clerk may suspend any permit issued under this chapter for a specified period not to exceed sixty (60) days, or revoke such permit, for any of the following reasons:

(1) Conviction of the individual permitee, or employee or agent of the non-individual permitee who is conducting the permitted activities, of a felony involving dishonesty, deceit, theft, assaultive conduct or sexual misconduct.

(2) When the permitee has knowingly made any false or misleading statement in any report or record required to be made or kept under this chapter.

(3) Any other violation of this chapter.

(b) The city shall give written notice of the revocation or suspension to the permitee, which statement shall contain the reasons for the revocation or suspension and, if applicable, the length of the suspension. Such notice shall be served pursuant to section 13-176 below.

13-173 Appeal from denial, revocation or suspension of permit.

(a) A person who has been denied a permit or whose permit has been revoked or suspended may appeal such decision to the city manager, or authorized designee. The appeal shall be requested within ten (10) days from the date on which such person is given notice of the determination from which the appeal is taken. The request shall be in writing, shall be filed with the city manager, or authorized designee, and shall set forth specifically the grounds for such appeal.

(b) The city manager, or authorized designee, shall conduct a hearing in accordance with this section. The city manager, or authorized designee, may, in his or her discretion, stay any revocation or suspension pending final determination of the appeal.

(c) The burden of proof at the hearing shall be on the applicant or permitee to establish, by a preponderance of the evidence, that he or she meets all requirements for holding a permit under this chapter. The city manager, or authorized designee, shall hear such testimony and consider such evidence as is relevant to the determination of such issues. The city manager, or authorized designee, shall not be bound by technical rules of evidence or procedure in conducting the hearing.

(d) The city manager, or authorized designee, shall render a written decision within thirty (30) days after the hearing is concluded based on the evidence presented by the city and the applicant or permitee. The decision of the city manager, or authorized designee, shall be final.

13-174 Authority of the city.

Nothing in this chapter shall be construed as granting to the city, or to any other person, the authority to grant, deny, revoke, renew or suspend any permit by reason of either approval or disapproval of the philosophy, opinions or beliefs of the applicant, the permitee, or the person such applicant or permitee represents, or for any other reasons not specifically set forth in this chapter.

13-175 Violations; penalties.

(a) General.

(1) When two or more persons have liability to the city or are responsible for a violation of this chapter, their responsibility shall be joint and several.

(2) Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.

(b) Civil (non-criminal) violations. It shall be a civil (non-criminal) violation, punishable as set forth below, for a person to:

(1) Fail to perform any act or duty required by any provision of this chapter; or

(2) Violate the terms and/or conditions of any permit issued under the provisions of this chapter.

(c) Civil (non-criminal) penalties.

(1) Any person that commits a civil violation as set forth in subsection (b) above, shall be subject to a civil (non-criminal) action in any court of competent jurisdiction to collect a civil penalty for a sum not to exceed two thousand five hundred dollars ($2,500.00) for each violation. In seeking the assessment of a civil penalty, the following criteria shall be considered:

(i) The seriousness of the violation;

(ii) The economic benefit, if any, resulting from the violation;

(iii) Any good-faith efforts to comply with the applicable requirements;

(iv) The economic impact of the penalty on the violator; and

(v) Such other factors as justice may require.

(2) The city manager, or authorized designee, shall provide written notice and an opportunity to be heard to any person assessed a civil penalty under this chapter. Such notice shall be served pursuant to section 13-176 below. Within fifteen (15) days of service of the notice, such person shall pay the penalty or file a written request for a hearing with the city manager's office. If a hearing is held, the city manager or designee shall issue a written decision, and such decision shall be final.

(d) Criminal violations. It shall be a criminal violation, punishable as set forth below, for a person to:

(1) Intentionally or purposely fail to perform any act or duty required by any provision of this chapter; or

(2) Fail to perform any act or duty required by any provision of this chapter and such person has been previously found responsible, civilly or criminally, for a violation of this chapter.

(e) Criminal penalties. A person that commits a criminal violation as set forth in subsection d above, shall be subject to a criminal action in any court of competent jurisdiction and, if found guilty thereof, shall be guilty of a class 2 misdemeanor.

(f) Enforcement of judgments. Any judgment for abatement, restitution or civil (non-criminal) penalties taken pursuant to this chapter may be enforced as any other civil judgment.

(g) Violations not exclusive. Violations of this chapter are in addition to any other violation enumerated within this code and in no way limit the penalties, actions or procedures which may be taken by the city for any violation of this chapter which is also a violation of any other provision of this code or any other applicable law. The remedies specified herein are cumulative and the city manager, or authorized designee, or the city prosecutor, may proceed under these or any other remedies authorized by law.

13-176 Service of notices.

(a) Any notice required to be given for any purposes under this chapter shall be given by either hand-delivery, or by mailing the notice by certified mail, return receipt requested to the recipient's last known address.

(b) Notice is deemed effective on the date it is hand-delivered or three days after it is deposited in the United States mail, certified mail, return receipt requested.

(c) Nothing herein shall preclude the city from giving additional oral or written notice at its discretion. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

13-177 Severability.

It is hereby declared to be the intention of the city council that the articles, sections, paragraphs, sentences, clauses, phrases and words of this chapter are severable, and if any article, section, paragraph, sentence, clause, phrase or word(s) of this chapter shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, phrases and words of this chapter.

SECTION 13. That if any provision or any portion of any provision of this Ordinance is for any reason held to be unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be deemed separate, distinct and independent of the remaining provisions of this Ordinance and shall be severed therefrom without affecting the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, January 17, 2006.

Marie Lopez-Rogers, Mayor

ATTEST:

Linda M. Farris, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

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