

ORDINANCE NUMBER 89

AN ORDINANCE DEFINING, REGULATING AND LICENSING SOLICITORS
CANVASSERS AND PROVIDING PENALTIES FOR THE VIOLATION
THEREOF, AND REPEALING ORDINANCE NO. 89.

Be It Ordained by the Board of Trustees of the Town of
Arriba, Colorado:

REGULATION OF CANVASSERS AND SOLICITORS

Section 1. Permit and License Required. It shall be unlawful for any solicitor or canvasser as defined in Section 2 of this ordinance to engage in such business within the incorporated limits of the Town of Arriba without first obtaining a permit and license thereof in compliance with the provisions of this ordinance.

Section 2. DEFINITION. A canvasser or solicitor is defined as any individual, whether resident of the Town of Arriba or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for further delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payment on such sales or not, provided that such definition shall include any person who for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the Town for the sole purpose of exhibiting samples and taking orders for further delivery.

Section 3. APPLICATION. Applicants for permits and license under this ordinance must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

(a) Name and description of the applicant;

(b) Permanent home address and full local address of the applicant;

(c) A brief description of the nature of the business and the goods to be sold;

(d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(e)* The length of time for which the right to do business is desired;

(f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

(g) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2 inches by 2 inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

(h) The fingerprints of the applicant and the names of at least two reliable property owners of the County of Lincoln, State of Colorado, who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and

(j) A statement by a reputable physician of the Town of Arriba, or other qualified doctor, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious, infections or communicable disease.

At the time of filing the application, a fee of \$2.00 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

Section 4. INVESTIGATION and ISSUANCE

(a) Upon receipt of such application, the original shall be referred to the Town Marshal, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(b) If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Town Marshal shall endorse on such application his disapproval and his reason for the same, and return the said application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.

(c) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Town Marshal shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of the fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all license issued.

Section 5. FEES

(a) The license fee which shall be charged by the Town Clerk for such license shall be \$ 5.00 per day, \$10.00 per week, \$30.00 per month, \$50.00 per year.

(b) The annual fees herein provided shall be assessed on a calander year basis and on or after July first the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year.

(c) None of the license fees provided for by this ordinance shall be applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Mayor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Mayor shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by this ordinance is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the Mayor shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by Section 5 (a) of this ordinance. Should the Mayor determine the gross sales measure of the fee to be fair basis, he may require the applicant to submit either at the time of termination of applicant's business in the Town of Arriba or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in Section 5 (a) of this ordinance.

Section 6 Bond. Every applicant, not a resident of the Town of Arriba, or who being a resident of the Town of Arriba, represents a firm whose principal place of business is located outside the State of Colorado, shall file with the Town Clerk a surety bond, running to the Town in the amount of \$1,000.00

with surety acceptable to and approved by the Mayor, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the Town of Arriba and the statutes of the State of Colorado regulating and concerning the business of solicitor and guaranteeing to any citizen of the Town of Arriba that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of the Town of Arriba doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the Town to the use or benefit of the aggrieved person.

Section 7. BADGES. The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words, "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

Section 8. EXHIBITION OF LICENSE. Solicitor and Canvassers are required to exhibit their license at the request of any citizen.

Section 9. DUTY OF POLICE TO ENFORCE. It shall be the duty of any police officer of the Town of Arriba to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this ordinance against any person found to be violating the same.

Section 10. RECORDS. The Town Marshal shall report to the Town Clerk all convictions for violation of this ordinance and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

Section 11. Revocation of License.

(a) Permits and license issued under the provisions of this ordinance may be revoked by the Mayor of the Town of Arriba after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for license;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or as canvasser;
- (3) Any violation of this ordinance;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or
- (5) Conducting the business of soliciting, or of canvassing, 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, or general welfare of the public.

(b) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

Section 12. APPEAL. Any person aggrieved by the action of the Town Marshal or the Town Clerk in the denial of a permit or license as provided in Section 4 of this ordinance, or the action of the Mayor in the assessing of the fee as provided in Section 5 (c) of this ordinance shall have the right of appeal to the Town of Arriba. Such appeal shall be taken by filing with the Board of Trustees, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided in Section 11 of this ordinance for notice of hearing on revocation. The decision and order of the Board on such appeal shall be final and conclusive.

Section 13. EXPIRATION OF LICENSE. All annual licenses issued under the provisions of this ordinance shall expire on the 31st of December in the year when issued. Other than annual licenses shall expire on the date specified in the licenses.

Section 14. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed one hundred dollars (\$100.00) nor less than ten dollars (\$10.00), or by imprisonment not to exceed 60 days or both such fine and imprisonment.

Section 15. SEVERANCE CLAUSE. The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining section, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 16. REPEAL OF CONFLICTING ORDINANCE. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance, be and the same are hereby repealed. Ordinance No. 12 is hereby repealed.

Section 17. EFFECTIVE DATE. This ordinance shall take effect from and after its passage and publication as provided by law. The Town Board finds, determines and declares this Ordinance to be necessary for the immediate preservation of the public peace, health, and safety and hereby ordains that it shall be in immediate force and effect from and after the 11th day of April, 1968, one week after passage, and publication as provided by law.

Adopted this 1st. day of April, 1968.

Attest:

(Seal)

Viola H. Eberle

Town Clerk

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Date: April 11, 1968

A. E. Cassen

Mayor