



2655 RR 1869
Box 121
Liberty Hill, TX 78642



P.O. Box 809
Cameron, TX 76520

August 13, 2026

David L. Jordan
City Administrator
City of Devine
303 S. Teel Drive
Devine, Texas 78016

Dear Mr. Jordan:

Homemade Texas and the Farm and Ranch Freedom Alliance have recently become aware that the City of Devine is requiring cottage food producers to obtain a City Solicitor Permit in order to sell cottage foods at an event within the City.

Whatever authority the City may have to impose these permitting requirements upon other solicitors, peddlers, or vendors, the Texas Legislature has expressly prohibited their application to cottage food production operations. Section 437.0192(a)(2), Texas Health and Safety Code, contains two separate prohibitions: a local governmental authority may not require a cottage food production operation to **“obtain any type of license or permit”** or **“pay any fee”** (emphasis added) to produce or sell food. The fact that the City waives the \$30 permit fee for cottage food production operations satisfies the second half of subsection (a)(2), but requiring a permit for a cottage food producer to sell their goods still violates the state law because of the ban on requiring any type of license or permit. The City’s permit requirements are significant. The City’s application requires the applicant to post a \$1,000 surety bond; provide a driver’s license number, date of birth, vehicle information, emergency contacts, three personal references, and information regarding certain criminal convictions; authorize the Devine Police Department to obtain criminal-history information; execute a sworn statement before a notary; obtain approval from the City Secretary; and ultimately obtain final approval from the Police Chief or an authorized agent. The application then assigns a permit number and expiration date and expressly provides that selling or soliciting without carrying the permit is unlawful and may result in a fine of \$500 per day.

We also call the City’s attention to § 437.0192(c), which provides that a local governmental authority may not employ or continue to employ a person who knowingly requires or attempts to require a cottage food production operation to obtain a license or permit in violation of subsection (a)(2).

A cottage food production operation operating within the scope of Chapter 437, Texas Health and Safety Code, does not need the City’s permission to sell cottage food. The Legislature has already authorized that activity and expressly removed the City’s authority to condition it upon obtaining a local license or permit. The City may enforce laws that remain applicable to cottage food operations and may take appropriate enforcement action when an operator acts outside the scope of the statute,

but it may not require an operator to first prove eligibility to the City's satisfaction and obtain governmental approval before exercising rights granted by state law.

Homemade Texas and FARFA respectfully request that the City immediately discontinue application of its Solicitor Permit requirements to cottage food production operations and provide written confirmation within 10 days that cottage food producers may sell food in the City of Devine without obtaining a Solicitor Permit, posting a bond, or satisfying any of the other conditions contained in the application.

We welcome the opportunity to meet with the City to discuss alternatives that satisfy the City's administrative needs while remaining consistent with the state law.

Regards,

Kelley Masters
President and Founder
Homemade Texas
(737) 312-8444

Judith McGeary
Executive Director
Farm and Ranch Freedom Alliance
(512) 484-8821

Attachment A: City of Devine Solicitor Permit Application

Cc: State Representative Wes Virdell
State Senator Pete Flores
State Senator Bob Hall
State Senator Lois Kolkhorst
Thomas Cate, Devine City Attorney
Butch Cook, Mayor, City of Devine
Ray Gonzales, Devine Council Member, District 1
Michael Hernandez, Devine Council Member, District 2
Jeff Miller, Devine Council Member, District 3
Adrian Valle, Devine City Council Member, District 4
Harold "Hal" Lance Jr., City Council Member, District 5
City of Devine Code Compliance Office
Joe Brown III, Chief of Police, City of Devine



City of Devine

Solicitor Permit Application (Permit Fee \$30.00)

\$10.00 for each additional solicitor

APPLICATION IS HEREBY MADE FOR A SOLICITOR'S PERMIT TO DISTRIBUTE HANDBILLS, REQUEST DONATIONS, OR TO SELL PRODUCTS/SERVICES IN DEVINE, TEXAS.

Type of Permit:

- ☐ Door to Door Solicitations
☐ Handbills
☐ Non-Residential Solicitations
☐ Charitable Solicitation near Roadway

Type of Organization:

- ☐ Non-Charitable
☐ Charitable

Application is made on behalf of: (Check One)

- ☐ Self ☐ Partnership ☐ Corporation ☐ Association

To sell the following product/service: _____

If selling products, designate if perishable: ☐ Yes / ☐ No ; and

Has the Food and Drug Administration declared such products potentially hazardous: ☐ Yes / ☐ No

If you are a Charitable Organization, how will funds collected be used? _____

Bond required of Applicant – Bond in the penal sum of \$1,000 signed by the applicant and signed as surety by the same surety company authorized to do business in the state conditioned for the final delivery of goods, wares, merchandise, services

Name of Company / Charitable Organization: _____

Name of Person in Charge of the Solicitation: _____

Permanent Address: _____

City/State: _____ Zip Code: _____ Phone No. _____

Applicant Name: _____ Date: _____

Address: _____

City/State: _____ Zip Code: _____ Phone No. _____

Permanent Address: _____

City/State: _____ Zip Code: _____ Phone No. _____

Drivers License # / State Issued: _____ Date of Birth: _____

Vehicle Make/Model/Year: _____ Vehicle Color: _____ License Plate/State: _____

Emergency Contact(s): Name: _____ Phone No. _____

Name: _____ Phone No. _____

Start Date For Solicitation: _____ End Date for Solicitation: _____

Cities Solicited in Past 6 Months: _____

JUVENILES UNDER 17 YEARS OF AGE MUST BE ACTIVELY SUPERVISED BY AN ADULT WITH A CURRENT SOLICITORS PERMIT WHO WILL REMAIN WITHIN 100 YARDS OF THE JUVENILE AT ALL TIMES.

Supervising Adult's Name: _____ Driver's License # / State Issued: _____

Permanent Address: _____ Date of Birth: _____

City/State: _____ Zip Code: _____ Phone No. _____

(Note: A new permit is required every **365 days** and/or for a different company, solicitor, or product.)

Personal References – Name, Address, City/State, Telephone #
(Please Do Not List Co-Workers)

1. _____
2. _____
3. _____

Are you required to register as a sex offender under Texas Law? ☐ Yes / ☐ No

Have you ever been convicted of a felony or misdemeanor involving a moral turpitude?* ☐ Yes / ☐ No

If Yes, please complete below information:

Date	Charges Convicted Of	Location
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By signing this application, you are expressly authorizing the City of Devine Police Department to obtain your criminal history information pursuant to Section 411.083 et. seq. of the Texas Government Code for criminal justice purposes and to verify the information provided herein.

The City of Devine does not in any way warrant or recommend the quality of any product or service solicited or sold. Any attempt to make such false representation will be considered a violation of the ordinance, subject to a fine of \$500 per day of violation and/or revocation of permit.

It shall be unlawful for any person to distribute handbills or advertisements, to sell or solicit goods or funds without carrying a solicitor's permit on his/her person while engaged in such sale or solicitation. It shall be unlawful for any person to solicit funds without visibly displaying his/her permit, or to display a permit issued in the name of another person. Failure to do so or failure to produce the permit upon request of a City of Devine Police Officer is also a violation subject to a fine of \$500 per day of violation and/or revocation of permit.

SELLING, SOLICITING OR TAKING OF ORDERS IS PROHIBITED BEFORE 8:00 A.M. AND AFTER 6:00 P. M.

SOLICITING IS PROHIBITED AT ANY RESIDENCE OR BUSINESS AT WHICH A SIGN IS POSTED WHICH SAYS: "NO SOLICITORS."

PLACING OF HANDBILLS OR ADVERTISEMENT IS ALSO PROHIBITED IF A "NO SOLICITORS" SIGN IS POSTED.

PENALTY FOR VIOLATION - \$500 PER DAY OF VIOLATION AND/OR REVOCATION OF PERMIT.

THE CITY OF DEVINE STRICTLY ENFORCES ALL STATUTES, RULES AND REGULATIONS PROHIBITING THE OBSTRUCTION OF HIGHWAYS, STREETS, AND SIDEWALKS.

I hereby certify that I have read and fully understand the forgoing application for a solicitor's permit. There are no willful omissions, misrepresentations, or falsification in the information provided.

Signature of Applicant

Date

Sworn to and subscribed to me this _____ day of _____, 20____.

Notary Public, State of Texas

Permit Application Approved by _____
City Secretary

Date: _____

Final Permit Approval: _____

Date: _____

Police Chief or Authorized Agent

Permit No.: SP- _____ - _____

Issue Date: _____

Expiration Date: _____