



ORDINANCE NO. 21-0720-F3

AN ORDINANCE OF THE CITY OF ENNIS, TX AMENDING THE CODE OF ORDINANCES, CHAPTER 10 “LICENSES, PERMITS AND BUSINESS REGULATIONS”, ARTICLE VII “ITINERANT VENDORS AND SOLICITORS” IN ITS ENTIRETY, AND AMENDING ITS TITLE TO “SOLICITORS”; PROVIDING FOR PURPOSE, DEFINITIONS, REGULATION/RESTRICTIONS FOR SOLICITATION, INCLUDING A DO NOT SOLICIT LIST; PROVIDING FOR PERMITS AND SUSPENSION OR REVOCATION OF PERMITS; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ennis, Texas (the “**City**”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, home safety is important to the health, safety and welfare of the citizens, businesses, and visitors of the City; and,

WHEREAS, pursuant to the City’s Charter (the “**Charter**”) and Chapter 51 of the Texas Local Government Code, the City has the authority to enact rules and regulations to protect the safety of the community; and

WHEREAS, the City Commission of the City (the “**City Commission**”) has determined that revising the City’s ordinances with respect to solicitors is in the best interests of public safety of the citizens of the City; and

WHEREAS, the City supports the First Amendment rights of the citizens or visitors of the City and desires to balance those rights with the rights of its citizens to safety and privacy; and

WHEREAS, the City Commission has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare of citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ENNIS, TEXAS:

SECTION 1. That all findings set forth above are hereby found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. That Article VII "Itinerant Vendors and Solicitors" of Chapter 10 "Licenses, Permits and Business Regulations" of the Code of Ordinances is amended, in its entirety, to read as follows:

ARTICLE VII. SOLICITORS.

DIVISION 1. GENERALLY

Sec. 10-251. - Purpose.

The purpose of this article is to provide for the general health, public safety and welfare, comfort, convenience and protection of the City and the residents of the City by:

- (a) Prohibiting door-to-door solicitation at residences during the times when such activity is most intrusive and disruptive to citizens' privacy;
- (b) Regulating the manner in which any solicitation may occur to promote good order and protect citizens from aggressive and intimidating practices; and
- (c) Requiring solicitors to register with the City and obtain permits to aid in crime detection efforts and deter deceptive practices and fraud.

The provisions of this Article shall be construed to accomplish these purposes.

Sec. 10-252. - Definitions.

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

Canvassing is defined as the act of:

1. Traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building; or
2. Occupying space in or traveling on or through any public place in the City; and
3. Personally contacting persons to communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills, leaflets, hand signing or by any other method, direct or implied, for any purpose other than selling or taking orders for goods, wares, merchandise or services or collecting money.

Do Not Solicit List is defined as a list, developed and maintained by the City Secretary, or designee appointed by the City Manager, of residences where the property owner or occupant has indicated that they do not wish to be solicited.

Handbill means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature.

Selling is defined as selling, dispensing, peddling, hawking, displaying, offering to sell, or soliciting for sale by offering or exposing for sale any goods, wares, merchandise or services.

Solicitation Activities is defined as traveling by any means, going door-to-door, house-to-house, or building-to-building personally contacting persons to ask, barter or communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills or leaflets, hand signing or by any other method, direct or implied, for the purpose of selling or taking orders for goods, wares, merchandise, publications, or services, Canvassing, or collecting money for any purpose.

Solicitor is defined as any person who engages in Solicitation Activities.

Sec. 10-253. - Solicitation on private property.

- (a) It shall be unlawful for any person to engage in Solicitation Activities upon private residential property within the City without first obtaining a written permit as required by this Article.
- (b) It shall be unlawful to approach any part of a residence other than the front door.
- (c) It shall be unlawful for any solicitor, except as herein provided, to go inside of a private residence in the City to engage in Solicitation Activities unless requested or invited so to do by the owner or occupant of said residence.

Sec. 10-254. - Exhibiting sign prohibiting solicitors.

- (a) A person desiring that no solicitor or other person engage in Solicitation Activities at his or her residence shall exhibit in a conspicuous place upon or near the main entrance to the residence a weatherproof sign not less than three inches by four inches in size, containing the words, "NO SOLICITORS" or "NO TRESPASSING" or "NO ADVERTISEMENTS" or "NO HANDBILLS" or any similar notice. The letters shall be not less than two-thirds of an inch in height.
- (b) Every solicitor upon going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence. If a notice prohibiting soliciting is exhibited, the solicitor shall immediately depart from the premises without disturbing the occupant unless the visit is the result of a request made by the occupant.
- (c) No person, other than the occupant of the residence, shall remove, deface, or render illegible a sign placed by the occupant pursuant to subsection (a) of this section.
- (d) Any solicitor who has gained entrance to a residence or has gained an audience with the occupant, regardless of whether the solicitor was invited or not and regardless of whether a sign under subsection (a) was posted or not, shall immediately depart from the premises without further disturbing the occupant if requested to leave by the occupant.

Sec. 10-255. - Do Not Solicit List.

(a) The City Secretary, or his or her designee, shall develop and maintain a list of residences where Solicitation Activities are prohibited and such list shall be referred to as the "Do Not Solicit List".

(b) Any property owner or occupant may elect to add or remove his or her residence to or from the Do Not Solicit List through the procedures developed by the City Secretary. The property owner or occupant making such a request will be required to affirm that he or she is an owner or occupant of the residence and is making the request on his or her behalf and on behalf of any other occupant at that address.

(c) The City Secretary shall make the Do Not Solicit List available on the City's website and to any person upon request.

(d) The City Secretary shall provide a copy of the Do Not Solicit List to each person issued a permit under this article.

(e) Solicitation of any residence on the Do Not Solicit List shall be grounds for the immediate revocation of the solicitor's permit.

Sec. 10-256. - Handbill restrictions.

(a) No person shall throw or deposit or cause any handbill to be placed in or upon more than three (3) vehicles at the same location.

(b) No person shall throw or deposit any handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(c) No person shall distribute, deposit, place, or throw any handbill in or upon any private premises which are inhabited if the premises has a sign posted on the premises, as described in Section 10-254, or if the location is on the Do Not Solicit List. If an inhabited premises does not contain such sign and is not on said list, a person may place or deposit a handbill in or upon such premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, unless an owner or occupant of the premises requests that the person not do so. In no event shall such handbill be deposited in a mailbox when so prohibited by federal postal laws or regulations.

Sec. 10-257. - Time restrictions.

No Person may conduct Solicitation at the following times:

(a) before the hour of 10:00 A.M.;

(b) after 7:00 P.M.;

(c) on Sunday; or

(d) on any of the following holidays: New Year's Day; Martin Luther King's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; the days after Thanksgiving, Christmas Eve, and Christmas Day.

Sections 10-258 through 10-265 Reserved

DIVISION 2. - PERMIT

Sec. 10-266. – Permit required for solicitation activities.

- (a) A person commits an offense if the person engages in Solicitation Activities in the City without a valid permit issued by the City.
- (b) A permit shall be valid for the calendar year in which it was issued. No permit shall be valid past December 31 of the year of issuance.
- (c) Individuals engaged in Solicitation Activities in the City are required to pay a non-refundable registration fee listed on the fee schedule.

Sec. 10-267. - Permit Application

- (a) A person desiring to conduct Solicitation Activities within the City shall complete a permit application prior to any such activity.
- (b) A separate permit shall be required for every person and each company or entity involved in Solicitation Activities.
- (c) The application shall contain or be submitted with the following information:
 - 1. The full name, date of birth, phone number, permanent address, and (if different) current address of the applicant;
 - 2. A copy of a valid state driver's license number or a state-approved identification card number of the applicant;
 - 3. The desired calendar year in which the applicant will be engaging in Solicitation Activities;
 - 4. The name, address and telephone number of the person, company or entity that is employing the applicant, if applicable;
 - 5. If a vehicle or vehicles are used to conduct the Solicitation Activities, a description of each vehicle, its license plate number and vehicle identification number; the name and license number of the driver who will operate each vehicle, and adequate proof under state law that each driver maintains financial responsibility for the vehicle they will operate shall be attached to the application;
 - 6. The nature of the Solicitation Activities, including information such as the merchandise to be sold or offered for sale, the nature of the services to be furnished, or the type of pamphlets or handbills to be distributed;
 - 7. The names of all cities in which the applicant has conducted Solicitation Activities in the past six months;

8. If the applicant, or the applicant's employer or principal, has pled guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, theft, embezzlement, burglary, larceny, crimes against persons, fraudulent conversion, misrepresentation, or misappropriation of property within ten years preceding the date of application, a description of each such conviction or plea, the name of the court and jurisdiction in which the complaint or indictment was filed and the date of the offense;
9. If the applicant, or the applicant's employer or principal, is a person or entity against whom a civil judgment or administrative decision based upon fraud, deceit, theft, embezzlement, burglary, larceny, crimes against persons, fraudulent conversion, misrepresentation, or misappropriation of property has been entered or ordered within ten years preceding the date of application, a description of judgment or action, the case or cause number, if any, and the court or administrative agency that rendered the judgment or decision;

(d) It shall be the responsibility of a permittee to update the information provided on application for a permit as such information may change.

(e) Once approved, a permit will be issued which will include a photo of the applicant, name, name of the company, nature of business, the permit issue and expiration date, and the City's logo.

Sec. 10-268. - Denial, suspension or revocation of permit.

(a) Grounds. Any permit issued hereunder may be denied or revoked by City Secretary if the permit holder is convicted of a violation of any provisions of this Article or has knowingly made a false material statement in the application for the permit, or otherwise becomes disqualified for the issuance of a permit under the terms of this Article.

(b) Notice. If a decision is made to deny or revoke a permit, there shall be a denial letter written or electronic report of the reason for the denial or revocation which shall be immediately made available to the applicant within ten (10) business days from the date of the denial.

(c) Appeal; hearing. The applicant/permittee shall have ten (10) calendar days after receipt of notice of revocation or denial in which to file notice of appeal to the City Secretary from the order denying or revoking the permit. If notice is received within the ten (10) day period, the City Secretary shall make an inquiry and determine whether the applicant's permit was wrongfully revoked or denied and will schedule a hearing with the applicant within 10 business days after the City Secretary receives the applicant's appeal. The applicant will be notified of the time, date, and place of such hearing. After the hearing, the decision will be made in writing affirming or reversing the revocation or denial. In the event a revocation is upheld, the permittee will return the permit to the City.

(d) In the event of filing of an appeal from a denial or revocation issued under the provisions of this Article, then until such appeal has been determined, such revocation order shall be stayed.

(e) A municipal court judge, in addition to imposing a fine, may recommend to the City Secretary [\[EH1\]](#) the revocation of a permit issued under this Article to a person, if the judge finds the person guilty of violation of this Article.

Sections 10-269 through 10-290 Reserved.

DIVISION 3. – ENFORCEMENT

Sec. 10-291. - Penalties; civil remedies; permit forfeiture.

- (a) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than Five Hundred Dollars (\$500.00) for each offense under this section.
- (b) In case of any willful violation of any of the terms and provisions of this Article, the City, in addition to imposing the penalties above provided, may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct, or abate such violations; and the definition of any violation of the terms of this Article as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by the laws of the state, but same shall be cumulative and subject to prosecution as hereinabove prescribed for such violations.
- (c) Each day a person violates any of the provisions of this Article shall constitute a separate offense, and the person so found guilty of such violation, or failing to comply with the provisions hereof, shall upon conviction be punished therefor as hereinabove provided.

Sec 10-292 – 10-315 - Reserved

SECTION 3. That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby deleted to the extent that they are inconsistent with this Ordinance.

SECTION 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Commission hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5. That any person, organization, corporation, partnership or entity that violates, disobeys, omits, neglects or fails to comply with the provisions of this ordinance shall be fined not more than five hundred dollars (\$500.00) for each offense or violation. Each day that an offense or violation occurs shall constitute a separate offense.

SECTION 6. This Ordinance shall take effect from and after its date of passage in accordance with the laws of the State of Texas.

PASSED AND APPROVED by the City Commission of the City of Ennis, Texas on this 20th day of July, 2021.



ANGELINE JUENEMANN, Mayor

ATTEST:



ANGIE WADE, City Secretary

