

ORDINANCE NO. 190

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, MAKING IT UNLAWFUL TO USE CITY RIGHT-OF-WAY FOR THE PURPOSE OF SELLING OR SOLICITING; REQUIRING A PERMIT TO SELL OR SOLICIT WITHIN THE CITY; PROVIDING FOR AN INVESTIGATION AND FEE OF \$30.00 WITH EXCEPTIONS; REQUIRING CHIEF OF POLICE TO ENFORCE THE ORDINANCE; PROHIBITING LOUD NOISES, SPEAKING DEVICES AND SIGNS; PROVIDING FOR HOURS OF SALE; PROVIDING FOR COMPLIANCE WITH STATE AND FEDERAL LAW; PROVIDING FOR CARD PROHIBITING SOLICITORS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL CLAUSE; FIXING A PENALTY NOT TO EXCEED THE SUM OF \$200.00; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. UNLAWFUL ACTION.

It shall hereafter be unlawful for any person to peddle, hawk, sell, solicit, or take orders for any services, wares, merchandise, or goods, including, but not limited to, magazines, encyclopedias, tools, photographs, flowers, candy, plants or statues, on the street, street right-of-way, median or sidewalks of the Town. It shall be unlawful for any person to operate an outdoor retail sale or outdoor commercial promotion in the Town of Addison except where such sale or promotion is connection with or adjacent to an existing permanent business operated in the city except for the sale of Christmas trees between November 15 and December 26. No permit provided for herein shall be issued for selling in the above manner.

SECTION 2. PERMIT REQUIRED.

It shall be unlawful for any person to go from house to house, or from place to place in the Town, soliciting, selling, or taking orders for, or offering to sell or to take

orders for goods, wares, merchandise, subscriptions to magazines, photographs to be taken in the future, or any article for future delivery, or place flyers or advertising circulars on cars or doors without first having applied for and obtained a permit as provided for hereinafter or having obtained such permit, to solicit in the Town without carrying such permit while engaging in soliciting. The permit required herein shall be renewed each year on or before the first of January.

SECTION 3. APPLICATION; INFORMATION REQUIRED.

Each application for the permit required by this ordinance and any renewal thereof shall be in writing under oath to the Chief of Police, in duplicate, and on forms furnished by the Chief of Police, and shall set out the following:

A. name of applicant with his permanent residence, date of birth and drivers license number.

B. name and address and phone number of the firm or person he represents.

C. the kind, type and character of goods or services he proposes to offer for sale.

D. names and addresses of five (5) persons as references along with their telephone numbers.

E. how often the applicant will solicit during the year.

F. the names of any cities that the applicant has worked within the prior 60 days.

A. conviction in a court of competent jurisdiction of the applicant for a felony or a misdemeanor involving moral turpitude.

B. the making of any false statement as to a material matter in an application for a permit or permit renewal.

C. conviction, in a court of competent jurisdiction, of the applicant for violation of any provisions of this ordinance.

D. failure to comply with applicable laws of the State of Texas and federal laws concerning home solicitation.

E. revocation of a solicitor's permit pursuant to this ordinance or by any other city, within five (5) years preceding application.

F. applicant engaging in any false, misleading or deceptive acts or practices in the conduct of any trade or commerce as defined by the Deceptive Trade Practices - Consumer Protection Act of the State of Texas.

SECTION 6. REVOCATION.

If, after the permit provided for in this ordinance has been issued, the Town finds that the permit was obtained by false misrepresentation in the application or that the applicant is conducting business of soliciting, canvassing or peddling in an unlawful manner, or in such a manner as to constitute a breach of peace, or to constitute a menace to health, safety or general welfare of the public, said permit

may be revoked by the Town.

SECTION 7. APPEAL.

Any person aggrieved by the action of the Chief of Police in the denial of an application for a permit as provided in this ordinance or in the decision with reference to the revocation of a permit, shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Secretary, within 14 days after denial of the application for the permit or the revocation of a permit. The City Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be mailed, postage prepaid, to the permittee or licensee at his last known address at least five (5) days prior to the date of the hearing.

SECTION 8. WAIVER OF FEE AND PERMIT.

A. Persons engaged in interstate commerce, persons selling or soliciting orders for the sale of vegetables, poultry, eggs or other forms of products produced by the vendor, and persons selling or soliciting orders for the sale of milk, dairy products and the solicitors who go door to door as opposed to driving the street waiting for customers to come to them, shall obtain a permit as provided for herein, but shall not be required to pay an investigation fee required by this ordinance.

B. Bona fide charitable organizations, including, but not limited to, Boy Scouts, Girl Scouts, Cub Scouts, Brownies, Campfire Girls, Associated Sports, Demolays, Little Leagues, civic groups, church groups and other organized non-profit type organizations selling items for the benefit of their groups as a fund-raising project, shall not be required to obtain a permit, or pay an investigative fee, but shall register with the Police Department, setting forth that information as required on the registration form provided at the Police Department.

SECTION 9. LOUD NOISES, SPEAKING DEVICES AND SIGNS.

No canvasser, solicitor or peddler, or any person acting in their behalf, shall shout, make any outcry, blow a horn or whistle, ring a bell, or use any sound device, including any loud-speaking radio or sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the Town, or upon any private premises in the Town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to the location or to any goods, wares or merchandise which any person licensed pursuant to this ordinance proposes to sell. This section also prohibits the use of any audio device used for the purpose of attracting consumers to retail establishments or

merchants.

SECTION 10. HOURS OF SALE.

No person shall 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 attention of the occupant of the residence or by telephone contact the occupant of any residence for the purpose of engaging in or attempting to engage in a home solicitation transaction, prior to 9:00 a.m. or after 9:00 p.m. of any day Monday through Saturday, or any time on a Sunday, New Year's Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day. This section shall not apply to a visit to the premises as a result of a request made by the occupant.

SECTION 11. COMPLIANCE WITH STATE AND FEDERAL LAW.

Any person possessing a permit under this ordinance and who shall engage in home solicitation transactions as defined herein shall comply with applicable state and federal laws and regulations now existing or as amended, regulating and controlling such activities including, but not limited to, the right of the consumer to cancel and the other notice requirements provided for under such laws or regulations.

SECTION 12. CARD PROHIBITING SOLICITORS.

A. A person, desiring that no merchant or other person engaged in home solicitation at his residence, shall exhibit

in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than 3" x 4" in size, containing the words, "NO SOLICITORS". The letters shall not be less than two-thirds (2/3) of an inch in height. Every permittee under this ordinance, 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 about the main entrance to the residence. If notice prohibiting solicitation is exhibited, the permittee shall immediately depart from the premises without disturbing the occupant, unless the visit is a result of a request by the occupant.

B. No person shall 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 securing an audience with the occupant or engaging in or attempting to engage in a home solicitation transaction, if a card as described in Subsection A above is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is a result of the request made by the occupant.

C. No person, other than the occupant of the residence, shall remove, deface or render illegible, a card placed by the occupant pursuant to Subsection A above.

D. Any person licensed under this act who has gained entrance to a residence, or audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.

SECTION 13. EXCEPTIONS TO PROVISIONS OF ORDINANCE.

The provisions, except Section 1, of this ordinance shall not apply to:

A. public utility companies operating under a franchise granted by the Town;

B. commercial agents or drummers dealing with local business establishments in the usual course of business;

C. insurance salesmen, real estate salesmen and other licensed by the State of Texas.

SECTION 14. SEVERABILITY CLAUSE.

If any article, paragraph or subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or in part or provision thereof than the part so decided to be invalid or unconstitutional.

SECTION 15. REPEALING CLAUSE.

All ordinances or parts of ordinances inconsistent or in conflict with thie provisions of this ordinance are hereby repealed.

However, the repeal of existing ordinances by this ordinance shall not affect or prevent the prosecution or the punishment of any person for any act done or committed prior to the effective date of this ordinance in violation of any ordinance hereby repealed; and prosecution for such offenses may be instituted and causes presently pending proceeded with in all respects as if such prior ordinance or ordinances had not been repealed.

SECTION 16. PENALTY CLAUSE.

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not to exceed the sum of Two Hundred and no/100 (\$200.00) Dollars for each offense and each and every day such offense is continued shall constitute a new and separate offense.

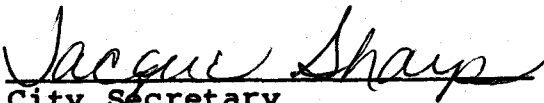
SECTION 17. EFFECTIVE DATE.

This ordinance shall take effect and be considered law ten (10) days after its passage and publication.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the 27 day of April, 1982.

MAYOR 

ATTEST:


City Secretary