

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 003-036**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS (CITY) AMENDING THE CODE OF ORDINANCES OF THE CITY BY (I) AMENDING CHAPTER 22 (BUSINESSES) BY ADDING A NEW ARTICLE V THERETO ENTITLED "SOLICITATION BY COERCION; SOLICITATION NEAR DESIGNATED LOCATIONS AND FACILITIES", AND PROHIBITING SOLICITATION BY COERCION AND RESTRICTING SOLICITATIONS NEAR MONEY DISPENSING MACHINES, FINANCIAL INSTITUTIONS, EXTERIOR PAY PUBLIC TELEPHONES, SELF-SERVICE CAR WASHES, SELF-SERVICE FUEL PUMPS, PUBLIC TRANSPORTATION STOPS, AND VALET PARKING SERVICE STANDS, AND PROVIDING DEFINITIONS, AND ESTABLISHING WHO MAY FILE A COMPLAINT CONCERNING A PROHIBITED SOLICITATION, SALE, OR DISTRIBUTION, AND BY (II) AMENDING CHAPTER 70 (STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES) BY ADDING A NEW ARTICLE IX THERETO ENTITLED "SOLICITATIONS TO OCCUPANTS OF VEHICLES ON PUBLIC ROADWAYS PROHIBITED", AND PROHIBITING SOLICITATIONS FOR RIDES, CONTRIBUTIONS, EMPLOYMENT, SIGNATURES, OR BUSINESSES, INCLUDING THE SALE OF DISTRIBUTION OF GOODS, SERVICES, AND PUBLICATIONS, TO THE OCCUPANT OF ANY VEHICLE ON A PUBLIC ROADWAY, AND PROVIDING DEFINITIONS AND DEFENSES, AND ESTABLISHING WHO MAY FILE A COMPLAINT CONCERNING A PROHIBITED SOLICITATION, SALE, OR DISTRIBUTION; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SAVINGS CLAUSE; INCORPORATING THE PREMISES OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the Town of Addison, Texas (the "City") finds that solicitation by coercion is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder, and includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic; and

**WHEREAS**, the City Council further finds that solicitations conducted near money dispensing machines create a safety hazard and an increased potential for criminal activity against persons using the machines, since those persons are often in

isolated locations with cash conspicuously in their possession, thereby making them more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that solicitations conducted near entrances and exits of banks, credit unions, and other similar financial institutions create a safety hazard and an increased potential for criminal activity against persons using those institutions, since those persons are often entering or exiting those institutions with cash conspicuously in their possession, thereby making them more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that solicitations conducted near exterior public pay telephones create a safety hazard and an increased potential for criminal activity against persons using the telephones, since those persons are often in isolated locations with their attention distracted from their surroundings, thereby making them more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that solicitations conducted near self-service car washes create a safety hazard and an increased potential for criminal activity against persons using the self-service car washes, since those persons are often in isolated locations with cash conspicuously in their possession and are usually a captive audience, with their attention distracted from their surroundings, as they have their vehicles in various stages of cleaning, thereby making those persons more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that solicitations conducted near self-service fuel pumps create a safety hazard and an increased potential for criminal activity against persons using the self-service fuel pumps, since those persons are often in isolated locations with cash conspicuously in their possession and are usually a captive audience, with their attention distracted from their surroundings, as they fill up their vehicles with gas or other fuel, thereby making those persons more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council finds that solicitations conducted near public transportation stops create a safety hazard and an increased potential for criminal activity against persons using the public transportation stops, since those persons are usually a captive audience, often with their attention distracted from their surroundings, as they wait and watch for necessary transportation, thereby making them more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that solicitations conducted near valet parking service stands create a safety hazard and an increased potential for criminal activity against persons using the valet parking service stand, since those persons are usually a captive audience, often with their attention distracted from their surroundings, as they wait and watch for necessary transportation, thereby making them more vulnerable to and intimidated by solicitors; and

**WHEREAS**, the City Council further finds that amendment to the Code of Ordinances of the City relating to solicitation by coercion is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation and not to limit a constitutionally protected activity, and believes it is in the best interest of the public health, safety, and welfare to restrict the distances at which solicitations may be conducted near the locations and facilities described herein; and

**WHEREAS**, the City Council further finds that solicitations for rides, contributions, employment, signatures, or business, including the sale or distribution of goods, services, and publications, to the occupants of vehicles on public roadways distract drivers, obstruct and impede the orderly flow of traffic, cause traffic congestion, and create traffic and safety hazards that pose a danger to the solicitors, the persons solicited, and the traveling public in general; and

**WHEREAS**, the City Council believes it is in the best interest of the public health, safety, and welfare to prohibit such solicitations to all occupants of vehicles on public roadways.

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

**Section 1.** Amendment to Code of Ordinances. The Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended as follows:

A. Chapter 22 (Businesses) of the Code is amended by adding a new Article V entitled "Solicitation by Coercion; Solicitation Near Designated Locations and Facilities" to read as follows:

**ARTICLE V. SOLICITATION BY COERCION; SOLICITATION NEAR DESIGNATED LOCATIONS AND FACILITIES**

(a) In this article:

(1) *coercion* means:

(A) to approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:

(i) imminent bodily injury; or

(ii) the commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;

- (B) to persist in a solicitation after the person solicited has given a negative response, if the person persisting in the solicitation is unknown to the person solicited;
  - (C) to block, either individually or as part of a group of persons, the passage of a solicited person; or
  - (D) to engage in conduct that would reasonably be construed as intended to compel or force a solicited person to accede to demands.
- (2) *exterior public pay telephone* means any coin or credit card reader telephone that is:
- (A) installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and
  - (B) accessible and available for use by members of the general public.
- (3) *money dispensing machine* means any machine, other than money-operated telephones and machines that dispense money associated with a product, merchandise, commodity, or ticket dispensed by such machines, that is capable of dispensing money.
- (4) *public transportation stop* means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.
- (5) *self-service car wash* means a structure:
- (A) at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
  - (B) that is accessible and available for use by members of the general public.
- (6) *self-service fuel pump* means a fuel pump:
- (A) from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator,

without the aid of an employee or attendant of the premises at which the fuel pump is located; and

- (B) that is accessible and available for use by members of the general public.
  - (7) *solicitation* means to ask, beg, solicit, or plead, whether orally or in a written or printed manner, for the purpose of receiving contributions, alms, charity, or gifts of items of value for oneself or another person.
  - (8) *valet parking service* means a business, or any part of a business, which provides a driver to operate a person's vehicle on or across a public right-of-way and to and from a parking location so that the person and any passengers in the person's vehicle may unload and load at their immediate destination.
  - (9) *valet parking service stand* means a stand, booth, stall, station, or other place from which a valet parking service is operated.
- (b) A person commits an offense if he conducts a solicitation by coercion.
  - (c) A person commits an offense if he conducts any solicitation within 25 feet of:
    - (1) a money dispensing machine;
    - (2) an entrance or exit of a bank, credit union, or other similar financial institution;
    - (3) an exterior public pay telephone;
    - (4) a self-service car wash;
    - (5) a self-service fuel pump;
    - (6) a public transportation stop; or
    - (7) a valet parking service stand.
  - (d) For purposes of paragraph (c) of this Article V, measurement will be made in a straight line, without regard to intervening structures or

objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

- (1) the nearest entrance or exit of a facility in which a money dispensing machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the money dispensing machine;
  - (2) the nearest entrance or exit of a bank, credit union, or other similar financial institution;
  - (3) the nearest part of an exterior public pay telephone;
  - (4) the nearest part of the structure of a self-service car wash;
  - (5) the nearest part of a self-service fuel pump;
  - (6) the nearest point of any sign or marking designating an area as a public transportation stop; or
  - (7) the nearest part of a valet parking service stand.
- (e) In addition to any enforcement action by a peace officer for a violation of this section, any person who is a victim of a solicitation prohibited under paragraphs (b) or (c) of this Article V, or who witnesses a violation of paragraph (c) of this Article V, may file a complaint with the city's municipal court. Evidence to support a conviction for a violation of this Article may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence.

- B. Chapter 70 (Streets, Sidewalks, and Other Public Places) of the Code is amended by adding a new Article IX entitled "Solicitations to Occupants of Vehicles on Public Roadways Prohibited" to read as follows:

**ARTICLE IX. SOLICITATION TO OCCUPANTS OF VEHICLES ON PUBLIC ROADWAYS PROHIBITED**

- (a) In this Article:
- (1) *city* means the Town of Addison, Texas.
  - (2) *goods* means property of every kind.
  - (3) *public property* means:

- (A) any property open or devoted to public use or owned by the city; and
  - (B) any area dedicated to the public use for sidewalk, street, highway, or other transportation purposes, including, but not limited to, any curb, median, parkway, shoulder, sidewalk, alley, drive, or public right-of-way.
- (4) *roadway* has the meaning given that term in Chapter 541, Texas Transportation Code.
- (5) *services* means any work done for the benefit of another person.
- (6) *solicitation* means any conduct or act whereby a person:
- (A) either orally or in writing, asks for a ride, employment, goods, services, financial aide, monetary gifts, or any article representing monetary value, for any purpose;
  - (B) either orally or in writing, sells or offers for sale goods, services, or publications;
  - (C) distributes without remuneration goods, services, or publications; or
  - (D) solicits signatures on a petition or opinions for a survey.
- (7) *vehicle* has the meaning given that term in Chapter 541, Texas Transportation Code.
- (b) A person commits an offense if, while occupying any public property adjacent to any public roadway in the city, he knowingly conducts a solicitation directed to, or intended to attract the attention of, the occupant of any vehicle stopped or traveling on the roadway. An offense occurs when the solicitation is made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money, goods, or services takes place.
- (c) It is a defense to prosecution under paragraph (b) of this Article IX that the person was:

- (1) summoning aid or requesting assistance in an emergency situation; or
  - (2) a law enforcement officer in the performance of official duties.
- (d) In addition to any enforcement action by a peace officer for a violation of this Article IX, any person who is a victim of a solicitation prohibited under paragraph (b) of this Article, or who witnesses a violation of paragraph (b), may file a complaint with the city municipal court. Evidence to support a conviction for a violation of this Article may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence.

**Section 2. Penalty.** It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not to exceed Five Hundred Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**Section 3. Savings.** This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances or of the Code of Ordinances except in those instances where the provisions of those ordinances or of the Code are in direct conflict with the provisions of this Ordinance; provided, however, that an offense committed before the effective date of this Ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for that purpose.

**Section 4. Incorporation of premises.** The above and foregoing premises are true and correct and are incorporated herein by this reference.

**Section 5. Severability.** The terms and provisions of this Ordinance are severable, and if such terms or provision 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 this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 6. Effective Date.** This Ordinance shall take effect from and after its date of adoption and publication, and it is accordingly so ordained.



**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas  
this the 28<sup>th</sup> day of October, 2003.




\_\_\_\_\_  
R. Scott Wheeler, Mayor

ATTEST:

By:   
\_\_\_\_\_  
Carmen Moran, City Secretary

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Ken Dippel, City Attorney