

ORDINANCE NO. 3325

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE, TEXAS, TO MODIFY AND ADOPT NEW REGULATIONS ON SOLICITATION ACTIVITIES BY REPEALING EXISTING CHAPTER 23, "SOLICITATION ACTIVITIES"; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Waxahachie, Texas (the "City") is a Home Rule municipality possessing the full power of local self-government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City's Home Rule Charter; and

WHEREAS, regulations on peddlers and other solicitation activities in the City were first adopted by the City Council in 1950, and have since been amended and modified multiple times by the City Council as it deemed fit; and

WHEREAS, the City Council possesses, pursuant to § 311.001 of the Texas Transportation Code, as amended, the exclusive control and power over public streets, highways and alleys of the City; and

WHEREAS, there are serious safety issues involved when individuals solicit in or on public streets, street rights-of-way and other areas of vehicular passage, including such concerns as the physical safety of those who solicit as well as the possible impeding of traffic flow on public streets; and

WHEREAS, pursuant to § 215.075 of the Texas Local Government Code, as amended, the City Council has the power and authority to license any lawful business or occupation; and

WHEREAS, the City Council hereby finds that there has been and continues to be an ever-increasing amount of commercial solicitations within the City; and

WHEREAS, the City Council finds that the regulation of such solicitation is in the best interest of the health, safety and welfare of the citizens of the City; and

WHEREAS, based upon United States Supreme Court jurisprudence, the City acknowledges it is limited in its ability to regulate solicitation by religious, political and charitable institutions and groups; and

WHEREAS, it is the intent of the City Council not to abridge any individual's or group's recognized First Amendment rights; and

WHEREAS, it is the intent of the City Council to fully respect such First Amendment rights in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, THAT:

SECTION 1. All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Existing Chapter 23, "Solicitation Activities," of the Code of Ordinances of the City of Waxahachie, Texas, is hereby repealed in its entirety and is replaced to read as follows:

"CHAPTER 23 SOLICITATION ACTIVITIES

Sec. 23-1. - Definitions.

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

Agent means a person who undertakes to transact some business or manage some affair for another person by the authority and on the account of the latter.

Badge means photographic identification permit issued by the police department of the city.

Canvasser means a person who engages in canvassing activities.

Canvassing or *canvassing activity* means the act of either (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, by 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.

Charitable purpose shall mean philanthropic or other nonprofit objectives, including the benefit of poor, needy, sick or handicapped persons; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization; or the benefit of any educational institution.

Consumer means an individual who seeks or acquires real property, service, money or credit for personal, family or household purposes.

Consumer transaction means a sales transaction in which one (1) or more of the parties is a consumer.

Group exhibit means an association of two (2) or more temporary vendors under the auspices of a promoter, which association is formed for the purpose of simultaneously conducting the business of the temporary vendors upon a common site or premises, such as a flea market, fair, carnival or similar operation.

Handbill means 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 manner.

Handbill distribution means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building without personally contacting persons to distribute or leave on or at each premises a handbill for any purpose.

Home solicitation transaction means a consumer transaction for the purpose of goods, services, or realty, payable in installments, or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

Local business means a business located and operated within the corporate limits of the city.

Merchant means a party to a consumer transaction other than the consumer.

Permit means the permit required under the authority of this chapter to engage in the business of solicitation.

Person means an individual, corporation, trust, partnership, association or other legal entity.

Police department means the police department of the city.

Political purpose shall mean any form of communication related to a political issue, a particular candidate to a position or nonpartisan office, a political committee, as defined by state law, or to a political party.

Promoter means the person, firm, corporation or organization responsible for conducting a group exhibit.

Religious purpose shall mean the use of money or property for the support of a church, religious society or other religious sect, group, or order.

Residence means any separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

Solicitation shall mean engaging in or attempting to engage in home solicitation transactions. This term does not include solicitation or fundraising of any sort by a political, religious or charitable institution or group, unless indicated otherwise.

Solicitor means all persons, as well as their agents and employees, engaged in or attempting to engage in solicitation.

Temporary vending activities shall mean business within the city at a site for which definite arrangements have not been made for the hire, rental or lease of such premises for at least one (1) month in or upon which such business is to be operated or conducted.

Temporary vendor shall mean a person who is transacting or conducting temporary vending activities.

Sec. 23-2. - Permit required.

- (a) It shall be unlawful for any person to 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 engaging in or attempting to engage in a home solicitation transaction without first obtaining a permit from the city.
- (b) Each person engaging in or attempting to engage in a home solicitation transaction must have a permit issued under the terms of this chapter, and such permit shall be personal to the applicant and shall not be reproduced, assigned, or transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.

Sec. 23-3. - Exemptions.

- (a) The provisions of this chapter shall not apply to public utility companies or others operating under franchises granted by the city, insurance sales people, real estate sales people, and others licensed by the state, political groups or organizations which are subject to financial disclosure under state or federal law.
- (b) The provisions of this chapter shall not apply to commercial agents dealing with local business establishments in the usual course of business.

Sec. 23-4. - Permit application.

- (a) Any person desiring to make home solicitation transactions within the city shall submit an online application, on a form provided by the city on the city's website, to the police department for a permit. The application shall contain the following:
 - (1) The name, social security number or taxpayer identification number, date of birth and address of the person applying and desiring to make home solicitations;
 - (2) Whether the permit is for an individual (natural person), a partnership, or a corporation; and
 - a. If an individual, the individual's business or residence address and telephone number;
 - b. If a partnership, the name of all partners, the principal business address, and telephone number of each partner;
 - c. If a corporation, the person registering must state whether the corporation is organized under the laws of the state or is a foreign corporation, the mailing address, business location, telephone number, names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and registered agent for the state;

- (3) The approximate time period within which the solicitation is to be made, giving the date of the beginning of the solicitation and its projected conclusion;
 - (4) The names of other communities in the state in which the applicant has made home solicitations during the last six (6) months;
 - (5) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished;
 - (6) Whether such applicant, upon any order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery;
 - (7) Whether the applicant or any person employed by the applicant to solicit, has been convicted of a felony or a misdemeanor involving moral turpitude in the past five (5) years;
 - (8) Names, addresses, telephone numbers and social security numbers of the adults who shall be responsible for supervising any solicitor;
 - (9) Names, addresses and telephone numbers of two (2) persons as references, excluding relatives and persons living with the applicant;
 - (10) Valid state driver's license number or a state-approved identification card number with a photograph;
 - (11) All applications shall be on a form provided by the city and shall be sworn to or affirmed. The application shall be filed for public inspection.
- (b) The application must be signed by the applicant if the person is an individual; if the person applying is a partnership, by a general partner; if the person applying is a corporation, by an officer. The individual signing the application will sign a statement that he has carefully read the application and that all the information contained therein is true and correct upon penalty of perjury.
 - (c) If a person applying for a permit intends to contract with, employ or otherwise retain individuals to engage in solicitations, a separate permit must be obtained for each individual.
 - (d) Said permit shall expire after thirty (30) days.
 - (e) If a solicitor desires to renew their permit and a completed application is on file that is less than six months old, the person is not required to complete a new application unless information on the existing application has changed. If any information related to the applicant or the company has changed, a new application will need to be completed.
 - (f) An applicant for a solicitor permit must appear in person for their first application in each calendar year. A photograph of the applicant and fingerprints will be taken at that time and subsequently in each calendar year when the permit is again requested for the first time during that calendar year.

Sec. 23-5 – Online Renewal Process

- (a) If the City implements an online renewal process, the applicant must provide the required information on the online renewal application in order to receive a renewed permit. The required information will be identified on the online renewal application.
- (b) The online renewal process is only available for renewals of an existing permit and the date of the renewal application is within six months of a previously issued permit. The permit can only be renewed in the same calendar year that the original permit was issued.
- (c) Payment for the renewed permit must be made at the time of the renewal application.
- (d) Upon receipt of the renewal application, a background investigation will be conducted as defined in Sec. 23-6.

- (e) If the renewal application is approved, the new permit will be emailed to the applicant and it is the responsibility of the applicant to print and display the badge as required in Sec.23-9.
- (f) If the renewal application is denied, the applicant will be notified by email.

Sec. 23-6. - Investigation by the police department.

- (a) Upon the initial submission of permit application, the police department shall obtain the applicant's fingerprints and run a background check on the applicant as the police department deems necessary. If the applicant returns to renew the application within the calendar year of the initial submission, the retaking of fingerprints will not be required as long as the individual can present valid identification that corresponds with the initial identification. A background check will be conducted each time the permit is renewed and fingerprints will be retaken during the first application process in each calendar year.
- (b) The police department is authorized to investigate the affairs of any person soliciting in violation of this chapter, either before or after the filing of an application for a permit for solicitation.
- (c) The police department may deny a permit to any applicant for good cause, which shall include, but is not limited to, the following:
 - (1) being a fugitive from justice;
 - (2) submitting an incomplete or illegible permit application;
 - (3) providing false and/or misleading statements on the permit application; or
 - (4) conducting solicitation activities contrary to regulations contained herein.

Sec. 23-7. - Application fee.

A nonrefundable fee of thirty-five dollars (\$35.00), for investigation and administration of the application, shall be charged. Such fee shall not be prorated and shall be paid at the time the application is made and shall not be returned to the applicant, regardless of whether a permit is issued. All fees are subject to change upon ordinance of the city council.

Sec. 23-8. - Issuance of a photographic permit (badge).

- (a) After review of a permit application to determine its compliance with this chapter, and within ten (10) working days of the receipt of the same, the police department shall either issue a permit in the form of a badge, or notify the person applying that the application does not comply with this chapter, and specifically point out what information or explanation has not been furnished that is required before a permit can be issued.
- (b) If it is determined that the physical appearance of the applicant has not changed since a previous badge was created, the existing photograph may be used and a new photo is not required. If the appearance of the applicant has changed from the on-file photo, a new photo will be required.
- (c) If an online renewal process is used, the photo that was used for the previously issued permit will be used on the renewed permit badge.

Sec. 23-9. - Requirement that badge be displayed.

Upon issuance of the badge by the police department, the following requirements shall apply:

- (1) The badge issued shall be in such form and requirement so as to fully identify the person soliciting and will bear a photographic likeness of the solicitor and shall contain an expiration date.
- (2) The badge shall be valid only for the person to whom it is issued (nontransferable). Each solicitor is also required to carry a state-approved picture identification card or a state driver's license as proof of identification.

- (3) The badge issued shall be carried/displayed by the solicitor in plain sight while he is engaged in soliciting.
- (4) The badge is and shall remain the property of the city and may be revoked and required to be surrendered at any time for any false or misleading information on the permit application, for violation of any city ordinance, including the provisions set forth in this chapter, and for violation of any state or federal law.

Sec. 23-10. - Regulations.

- (a) Every solicitor shall identify himself as a solicitor upon approaching a person at a residence and explain his purpose, whether it be direct sales, solicitation of orders, or the demonstration of goods or merchandise, or any combination of such purposes.
- (b) Solicitors shall conduct solicitation activities, canvassers shall conduct canvassing activities, and handbill distributors shall distribute handbills only on Monday through Saturday. Solicitors, canvassers, and handbill distributors may only conduct solicitation or canvassing activities, or distribute handbills from sunrise to sunset, as officially determined on that day by the National Weather Service.
- (c) A person commits an offense if the person engages in solicitation activities, canvassing activities or handbill distribution at any time on a Sunday, New Year's Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve Day or Christmas Day.
- (d) Subsections (b) and (c) of this section shall not apply to a visit on the premises as a result of a request or an appointment made by the occupant.
- (e) A person commits an offense if the person engages in solicitation activities - including solicitation or fundraising activities by any institution or group organized for a political, religious or charitable purpose, or canvassing activities, at any premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation, or canvassing activity, is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance to the residence, a weatherproof sign or card containing the words "No Solicitors," "No Trespassing," or words of similar meaning in letters not less than two-thirds of one ($\frac{2}{3}$) inch in height.
- (f) No person engaged as a solicitor, canvasser, or handbill distributor shall remain or linger at a residence after having been verbally informed by the resident that they are not welcome.
- (g) No person may engage in solicitation activities, canvassing activities, or handbill distribution in an aggressive or intimidating manner. The term "aggressive or intimidating manner" means:
 - (1) Blocking the path of a person who is the object of the activity; or
 - (2) Following behind, ahead or alongside a person who walks away from the solicitor, canvasser, or handbill distributor after being solicited, approached, accosted or offered a handbill, leaflet or any other item.
- (h) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and distributes, deposits, places, throws, scatters, or casts a handbill at a residence except by:
 - (1) Handing or transmitting the handbill directly to the owner or occupant then present on the premises; or
 - (2) Without using adhesive or tape, placing or depositing the handbill in a manner that secures the handbill and prevents it from being blown away, except that mailboxes may not be used when the use is prohibited by federal postal laws or regulations.
- (i) A person commits an offense if the person secures a handbill at a residence in the manner described by subsection (h)(2) of this section:
 - (1) in a place that is more than five (5) feet from the front door of the residence; or

- (2) When the same handbill has already been left or secured at the residence and has not been removed from the outside of the residence.
- (j) No solicitor, or any person working on his 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 city, or upon any private premises of the city where sound of sufficient volume is emitted or produced therefrom to be capable to be plainly heard upon the streets, avenues, alleys, parks or other places, for the purpose of attracting attention to the location or to any goods, wares or merchandise which any person permitted pursuant to this chapter proposes to sell. This subsection also prohibits the use of any audio device for the purpose of attracting customers to retail establishments or merchants.

Sec. 23-11. - Consumer's right to cancel.

- (a) In addition to other consumer rights to revoke an offer or to rescind a transaction, or to any other remedy for a merchant's breach, the merchant shall provide to the consumer the right to cancel a home solicitation transaction made in person in which the consideration exceeds five dollars (\$5.00), until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a home solicitation transaction.
- (b) Every merchant in a home solicitation transaction made in person in which the consideration exceeds five dollars (\$5.00), shall furnish the consumer with a fully completed receipt or copy of any contract pertaining to the home solicitation transaction at the time of its execution, which is in the same language as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name, address and telephone number of the merchant, and in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used, and in bold face type of a minimum size of ten (10) points, a statement in substantially the following form:

"YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

- (c) A merchant in a home solicitation transaction made in person in which the consideration exceeds five dollars (\$5.00), shall furnish each consumer, at the time he signs the home solicitation transaction contract or otherwise agrees to buy realty, consumer goods or services from the merchant, a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract or receipt and easily detachable, and which shall contain in bold face type of a minimum size of ten (10) points the following information and statements in the same language as that used in the contract:

NOTICE OF CANCELLATION
(enter date of transaction)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE. IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE MERCHANT OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE MERCHANT AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE MERCHANT REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE MERCHANT'S EXPENSE AND RISK.

IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE MERCHANT AND IF THE MERCHANT DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (Name of merchant) AT (Address of merchant's place of business) NOT LATER THAN MIDNIGHT OF (Date).

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's Signature)

- (d) Notification by mail shall be considered given at the time mailed as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.
- (e) Before furnishing copies of the notice of cancellation to the consumer, a merchant shall complete both copies by entering the name of the merchant, the address of the merchant's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the consumer may give notice of cancellation.
- (f) A merchant shall not include in any home solicitation transaction contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under this chapter including specifically his right to cancel the transaction in accordance with the provisions of this chapter.
- (g) A merchant in a home solicitation transaction in which the consideration exceeds five dollars (\$5.00), shall inform each consumer orally, at the time the consumer signs the contract or purchases the goods or services, of the consumer's right to cancel.
- (h) A merchant shall not misrepresent in any manner the consumer's right to cancel.
- (i) A merchant shall honor any valid notice of cancellation by a consumer and, within ten (10) business days after the receipt of the notice, a merchant shall:
 - (1) refund all payments made under the contract or sale;
 - (2) return any goods or property traded in, in substantially as good condition as when received by the merchant;
 - (3) cancel and return any negotiable instrument executed by the consumer in connection with the contract of sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction; and
 - (4) restore improvements on real property to the condition in which he found them unless requested otherwise by the consumer.
- (j) No merchant shall negotiate, transfer, sell or assign any note or other evidence of indebtedness to a finance company or other third party prior to 12:00 midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.
- (k) No merchant shall fail, within ten (10) business days of receipt of the consumer's notice of cancellation, to notify the consumer whether the licensee intends to repossess or to abandon any shipped or delivered goods.
- (l) This section shall not apply to a home solicitation transaction in which the consideration does not exceed twenty-five dollars (\$25.00) if:
 - (1) The consumer may within a reasonable time:

- a. cancel the order;
 - b. refuse to accept the goods when delivered without obligation to pay for them; or
 - c. return the goods to the seller and receive a full refund for any amount the consumer has paid.
- (2) The consumer's right to cancel the order, refuse delivery or return the goods without obligation or charge is clearly and legibly printed on the face or reverse side of the sales ticket or clearly and legibly printed in or on the package.

Sec. 23-12. - Exhibiting card prohibiting solicitors.

- (a) A person, desiring that no merchant or other person engage in a home solicitation, canvassing activity or handbill distribution at his residence, shall exhibit in a conspicuous place upon or near the main entrance to the residence, a weatherproof sign or card, not less than three (3) inches by four (4) inches in size, containing the words, "NO SOLICITORS," "NO TRESPASSING," or words of similar meaning in letters not be less than two-thirds ($\frac{2}{3}$) of an inch in height.
- (b) Every merchant, canvasser, or handbill distributor upon going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting soliciting, canvassing, or handbill distribution is exhibited upon or near the main entrance to the residence. If such notice is exhibited, the merchant, canvasser, or handbill distributor 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 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 and engaging in or attempting to engage in a home solicitation transaction, canvassing activities or handbill distribution, if a card as described in subsection (a) of this section is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is the result of a request made by the occupant.
- (d) No person, other than the occupant of the residence, shall remove, deface or render illegible, a sign or card placed by the occupant pursuant to subsection (a) of this section.
- (e) Any merchant, canvasser, or handbill distributor 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.

Sec. 23-13. - Revocation of permit.

- (a) Any permit issued under this chapter may be revoked by the police department for any of the following reasons:
 - (1) arrest or conviction of a crime(s) of moral turpitude;
 - (2) fraud or misrepresentation in the application for a permit;
 - (3) fraud or misrepresentation in the course of conducting solicitation activities;
 - (4) conducting solicitation activities contrary to the conditions of the permit;
 - (5) conducting solicitation activities in such a manner as to create or constitute a danger to the public health, safety or welfare.
- (b) Upon revocation, the police department shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address. The chief of police or his designee shall have the authority to seize any and all permit badges possessed by persons conducting business as a solicitor while the

official notification process is underway. At such time, any and all solicitation activities conducted under the authority of that permit shall cease.

Sec. 23-14. - Appeal if permit denied or revoked.

If the police department refuses to issue a permit, the applicant shall have the right to appeal to the city council. Such appeal shall be taken by filing with the city secretary within ten (10) days from the date of the refusal. The same procedure of appeal shall apply to a permit revoked under this chapter. Thereafter, the city council shall set a reasonable time and place for a hearing on such an appeal and notice of such hearing shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date of the hearing.

Sec. 23-15. - Penalty for violation of chapter.

Any person violating any of the provisions or terms of this chapter shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court, be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense.

Sec. 23-16. - Solicitation on public property.

- (a) It shall be unlawful for any person to peddle, hawk, sell, solicit, distribute 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 streets, street rights-of-way, or medians of the City. This prohibition shall apply to and include any institution or group organized for a political, religious or charitable purpose, or individuals engaging in such activities on behalf of any such institution or group.
- (b) No permit provided for herein shall be issued for selling in the above manner.

Sec. 23-17. - Temporary vendor's license.

- (a) It shall be unlawful for any person to engage in temporary vending activities without first obtaining a license to do so from the police department.
- (b) Any person desiring a license required by this section shall make application therefore to the police department. The application shall include the following:
 - (1) The name, social security number or taxpayer identification number, date of birth and address of the applicant;
 - (2) Whether the license is for an individual (natural person), a partnership, or a corporation; and
 - a. If an individual, the individual's business or residence address and telephone number;
 - b. If a partnership, the name of all partners, the principal business address, and telephone number of each partner;
 - c. If a corporation, the person registering must state whether the corporation is organized under the laws of the state or is a foreign corporation, the mailing address, business location, telephone number, names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and registered agent for the state;
 - (3) the kind of goods or services offered for sale;
 - (4) the description of the location upon which he desires to conduct business;
 - (5) the written permission from the landowner authorizing occupancy; and
 - (6) the period of time for which the applicant wishes to conduct business in the city.

- (c) At the time of filing an application for a license under this section, the applicant shall submit, for inspection by the police department, his social security number, date of birth, written proof of his identity, and provide fingerprint and photographic identification, if required.
- (d) The license fee for a temporary vendor shall be thirty-five dollars (\$35.00) per day. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of such license.
- (e) Any license issued under this section shall be maintained on the site where the business is being conducted and be available for inspection at all times.
- (f) It shall be unlawful for a person to engage in temporary vending activities for more than thirty (30) days within the city during each calendar year.
- (g) No temporary vending activities may be conducted on or within the public right-of-way or on the premises of any public property without first obtaining an event permit from the city. All temporary vending activities must not be on the site of an existing business, in a residential area, or in any other way conflicting with the zoning laws.
- (h) Exemptions from this section:
 - (1) The provisions of this section shall not apply to group exhibits or persons exhibiting and selling agricultural products.
 - (2) The fee provisions of this section shall not apply to non-profit organizations.
 - (3) The provisions of this section shall not apply to mobile food establishments and temporary food establishments that are required to get a food establishment permit from the city to sell food.

Sec. 23-18. - Disaster declaration.

Pursuant to its authority under Government Code Chapter 418, upon the declaration of a state of disaster that encompasses the City of Waxahachie, the police department, in its discretion, may temporarily pause the issuance of permits provided for herein, subject to all appropriate state and federal law governing solicitation activities.

SECTION 3. This Ordinance shall be cumulative of all provisions of ordinances of the City of Waxahachie, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. Except as provided herein, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a Class C misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6. All rights and remedies of the City of Waxahachie are expressly saved as to any and all violations of the provisions existing ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.


SECTION 7. This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
WAXAHACHIE, TEXAS, ON THIS THE 2ND DAY OF MAY, 2022.




Doug Barnes, Mayor

ATTEST:


Amber Villarreal, City Secretary