

ORDINANCE NO. 3389-6-16

AN ORDINANCE OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8, ARTICLE III., ITINERANT MERCHANTS, PEDDLERS, AND SOLICITORS, BY ADDING A NEW SECTION 8-61 PURPOSE AND BY RENUMBERING THE REMAINING SECTIONS; BY ADDING A DEFINITION OF MORAL TURPITUDE; BY AMENDING THE REGULATIONS FOR HANDBILL DISTRIBUTION AND SOLICITATIONS; BY AMENDING THE LOCATIONS FOR SOLICITATIONS IN PUBLIC RIGHTS-OF-WAY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending chapter 8, article III, in part, by adding new section 8-61, Purpose, and renumbering the remaining sections of article III, by adding a definition of moral turpitude, by amending the locations at which solicitation in public right-of-way is prohibited, by amending the regulations governing the permit application, permit fee, permit denial and revocation, and the regulations for handbill distribution to read as follows:

“ARTICLE III. - ITINERANT MERCHANTS, PEDDLERS, AND SOLICITORS

Sec. 8-61. – Purpose.

This article regulates the time, place and manner for the solicitation of funds and the distribution of handbills. The provisions of this article, however, shall not apply to:

- (1) The regular delivery of newspapers, magazines, or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered;
- (2) The interruption of service notices by utility companies;
- (3) The distribution of mail by the United States government;
- (4) The service of any lien foreclosure;
- (5) Governmental notices of any character distributed by the City of Allen or any other governmental entity; or
- (6) Persons who are licensed by the State of Texas to engage in commercial activities and State law preempts the application of this article to such activities.

Sec. 8-62. - Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them by this section, except where the context indicates otherwise:

....

Merchant means

Moral turpitude shall mean and include conduct involving dishonesty, fraud, deceit, perjury and misrepresentation.

Person

Sec. 8-63. - Solicitation in public right-of-way.

- (a)
-
- (f) It shall be unlawful

Sec. 8-64. - Solicitation in specified public right-of-ways prohibited.

- (a) It shall be unlawful for any person to solicit, or to distribute commercial handbills, at any time, in the public rights-of-way, with or without a permit, within one thousand (1,000) feet of the following intersections:

....

- (3) Exchange Parkway at its intersection with:

- a. US 75 (Central Expressway)
-
- m. Angel Parkway
- n. Bray Central
- o. Junction
- p. Raintree Circle / Bossy Boots

....

- (5) Bethany Drive at its intersection with:

- a. US 75 (Central Expressway)
- ...
- j. FM 2551 / Angel Parkway
- k. Malone

- (6) Main Street at its intersection with:

- a. Allen Drive
-
- f. Angel Parkway
- g. FM 2551 / Angel Parkway

....

- (7) Custer Road at its intersection with:

....

- (9) Watters Road at its intersection with:

- a. Bethany Drive
-
- g. Bossy Boots

h. Bray Central/ Junction

....

(10) Allen Heights Drive at its intersection with:

....

(13) Angel Parkway at its intersection with:

a. Bethany Drive

....

e. Bethany

(14) Jupiter Road at its intersection with:

a. Chaparral Drive

b. Bethany Drive

c. Main Street

d. Greenville Avenue

(15) Deleted.

Sec. 8-65. - Solicitation and handbill distribution on private property.

(a) It shall be unlawful

Sec. 8-66. - Display of identification cards.

- (a) The person(s) in charge of conducting the solicitation shall ensure that all solicitors involved in the solicitation shall possess on their persons a valid photo identification card prescribed by the city that correctly identifies the solicitor and for whom the solicitor is soliciting. Any person while engaged in a solicitation shall display the identification card prominently and in a conspicuous place on such person's clothing. It shall be unlawful for any person, while engaged in a solicitation, to fail to display such identification card upon such person's clothing.
- (b) The city shall prescribe the form for photographic identification cards for persons engaged in solicitation.
- (c) The applicant for the permit required under this article shall at the time application is made provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued. The applicant shall pay a fee for each identification card and for a criminal history background check for each person that is issued an identification card in an amount established by the city council by resolution, from time to time.

Sec. 8-67. - Display of permit to solicit.

The person(s) in charge of conducting the solicitation shall provide each person conducting the solicitation with a copy of the permit issued by the city as prescribed by this article. It shall be unlawful for any person to engage in solicitation without having a copy of the permit required by this article in such person's immediate possession. It shall be unlawful for any person engaged in a solicitation to fail or refuse to show or display such copy of the permit upon the request of any person. It shall be unlawful for any person engaged in solicitation to display a permit issued in the name of another person.

Sec. 8-68. - Solicitation for other purpose.

It shall be

Sec. 8-69. - Permit fee.

It shall be unlawful for any person to solicit or distribute commercial handbills within the city without first obtaining a written permit from the city police department. Every application shall be accompanied by a nonrefundable permit fee established by resolution of the city council, from time-to-time. A permit fee shall not be required for the distribution of religious, political or non commercial handbills.

Sec. 8-70. - Permit application.

- (a) A person
- (f) The application shall be accompanied by the nonrefundable permit fee established by resolution of the city council from time to time. No permit shall be issued until such fee has been paid by the applicant. The application shall also be accompanied by a nonrefundable fee, in an amount established by resolution of the city council, from time to time, for the costs of conducting a criminal background check of the applicant and for each person engaged in the solicitation or handbill distribution, and for the identification card required for each person engaged in solicitation.
- (g) It shall be unlawful for any person to file a false or misleading application with the city.
- (h) A permit is not required for the distribution of religious or political handbills.

Sec. 8-71. - Exemption from permit fee.

A permit fee shall not be required for:

- (a)
- (d) Persons operating under a license granted by this state and state law preempts the application of this article to such activity; or
- (e) Distribution of religious or political handbills.

Sec. 8-72. - Permit issuance, duration and form.

- (a) A permit applied for under this article shall be issued by the city police department within ten (10) business days after a completed permit application is filed, unless it is determined that:
 - (1) The applicant has provided a false, misleading or incomplete application;
 - (2) The application fails to comply with a provision of this article;
 - (3) A previous permit issued for the applicant under this article was revoked within the past twelve (12) months;
 - (4) The applicant has been convicted of a felony or misdemeanor for an offense involving moral turpitude within two (2) years prior to the date of application;
 - (5) The applicant has a current and active warrant of arrest for the applicant;
 - (6) A court of law has issued an emergency protective order against the applicant which is current and active at the time of application; or
 - (7) The applicant is a registered sex offender.
- (b)

- (c) The city shall prescribe the form of the permit. Each such permit shall be printed in black except that the following shall be printed prominently thereon in red: "The issuance of this permit is not an endorsement by the City of Allen or any of its officers or employees." Each permit shall bear a permit number which is the same as the file containing the application filed by the same applicant.

Sec. 8-73. - Denial or revocation of permit to solicit.

A permit required under this article may be denied or revoked for any one (1) or more of the following:

- (1) Applicant or permit holder has provided false, misleading or incomplete information in an application;
....
- (5) A permit holder creates a traffic or safety hazard to themselves or others;
- (6) Applicant is a registered sex offender;
- (7) A previous permit issued for the applicant under this article was revoked within the past twelve (12) months;
- (8) Applicant has been convicted of a felony or misdemeanor for an offense involving moral turpitude within the two (2) years preceding the date of application;
- (9) A court has issued an emergency protective order against the applicant which is current and active; or
- (10) There is a current active warrant of arrest for the applicant.

Sec. 8-74. - Appeal from denial or revocation of permit to solicit.

A person

Sec. 8-75. - Supervision of child solicitors.

It shall....

Sec. 8-76. - Prohibition of job placement activities in unauthorized locations.

- (a)
- (b)

Secs. 8-77 - 8-95. - Reserved."

SECTION 2. All ordinances of the City of Allen, Collin County, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed; provided, however that all other provisions of said ordinances not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this Ordinance is governed by 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 this purpose.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance, or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen as previously

amended, and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense.

SECTION 6. This Ordinance shall take effective immediately from and after its passage and publication in accordance with its provisions of the Charter of the City of Allen, and it is, accordingly, so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28TH DAY OF JUNE 2016.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(PGS 5-20-16:TM 67105)

Shelley B. George, CITY SECRETARY