

ORDINANCE NO. 3077

AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 18, ARTICLE IV OF CHAPTER 70, AND APPENDIX A, FEES, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, AMENDING REGULATIONS FOR SOLICITATION AND CANVASSING ACTIVITIES; REGULATING THE DISTRIBUTION OF HANDBILLS; ELIMINATING RESTRICTIONS ON PEDDLERS, ITINERANT MERCHANTS AND VENDORS AND RELIGIOUS AND CHARITABLE SOLICITATION; PROVIDING THAT CURB PAINTING VENDORS SHALL USE REFLECTIVE PAINT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Richland Hills is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has determined that in order to prevent and deter deceptive practices and fraud, it is necessary to require solicitors to obtain permits and to regulate those solicitors; and

WHEREAS, the City Council possesses, pursuant to §311.011 of the Texas Transportation Code, as amended, the exclusive control and power over public streets; and

WHEREAS, the City Council has determined that solicitations and other types of activity at residences and other private property at certain times and under certain circumstances greatly intrudes on the privacy and personal property rights of the citizens of North Richland Hills; and

WHEREAS, the City Council has determined solicitation activity conducted in certain locations presents safety and congestion concerns; and,

WHEREAS, the City Council has determined that the unregulated distribution of commercial handbills creates litter and annoys residents with unwanted advertisements; and

WHEREAS, the City Council finds that regulations addressing all these concerns are in the best interest of the health, safety and welfare of the citizens of North Richland Hills; and

WHEREAS, it is the intent of the City Council to not infringe on any rights

protected by First and Fourteenth Amendments to the United States Constitution;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1. That Division 1 of Article VII of Chapter 18 of the Code of Ordinances of the City of North Richland Hills, Texas, is hereby amended to read as follows:

“Chapter 18

BUSINESSES

...

ARTICLE VII. Solicitors and Handbills

DIVISION 1. Purpose, definitions, solicitation and handbills

Sec. 18-481. Purpose and Intent.

The purpose of this chapter is to secure the general health, safety and welfare for the residents of the City by:

- (1) prohibiting door-to-door solicitation at residences during the times when such activity is most intrusive and disruptive to citizens' privacy;
- (2) regulating the locations in which solicitation activity may occur to promote safety and minimize congestion;
- (3) regulating the manner in which any solicitation activity may occur to promote good order protect citizens from aggressive and intimidating practices; and
- (4) requiring solicitors to obtain permits from the City to aid crime detection and deter deceptive practices and fraud; and,
- (5) requiring commercial handbill distributors to register, and prohibiting commercial handbill distribution to vacant premises, in public places and to residences and businesses with posted notices prohibiting handbills.

Sec. 18-482. Definitions.

In this chapter:

Charitable solicitation means conduct whereby a person, organization, society, corporation or its agent, member or representative:

- (1) Solicits property, financial aid, gifts in money or any article representing monetary value;
- (2) Sells or offers to sell a product, edible merchandise, article, tag, service publication, ticket, advertisement, subscription; or
- (3) Holds, promotes or participates in entertainment, sports event, benefit dance, fair, bazaar, or other type of organized social entertainment; on the plea or representation, whether express or implied, that the proceeds from the solicitation, sale or entertainment are for a charitable purpose.

Charitable purpose means the use of money or property for the benefit of:

- (1) Charity or philanthropy, or poor, impoverished, destitute, underprivileged, needy, refugee, diseased, injured, crippled, disabled, or handicapped persons, or persons in need of rehabilitation;
- (2) Patriotism, that is, for the teaching of patriotism or the relief or assistance of veterans or veteran's organizations; or
- (3) Existing educational institutions or for the establishment or endowment of educational institutions or in aid of the education of any person or group of persons.

City means the City of North Richland Hills, Texas.

City Manager means the City Manager of the City or the City Manager's designated representative.

City Sponsored Event means a special event for which the City has issued a permit other than a solicitor's permit or has otherwise authorized to occur, and for which the City pays all or a portion of the costs of the event.

Commercial handbill means any sample or device, printed or written material, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies, picture or other representation of goods or merchandise or description of services except telephone books, newspapers, magazines and periodicals of general circulation which:

- (1) Advertises for sale, lease or license any merchandise, product, commodity service or thing;
- (2) Directs attention to any business, mercantile or commercial establishment or other activity for the purpose of promoting interest in the things or services sold, leased or licensed; or
- (3) Directs attention to or advertises a show, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain

or profit.

Curb means the line adjacent to the edge of the roadway which may be either a raised or lowered or a marked or unmarked surface.

Director means the City Secretary or the Director's designated representative.

Edible merchandise means prepackaged, non-potentially hazardous foods such as individually packaged candy, ice cream, chips, bottled or canned drinks, or other individually packaged food that does not require strict temperature control.

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

Handbill distributor means any person who distributes or causes the distribution of handbills.

Minor means a person under the age of 18.

Permanent Established Business Location means an established place of business operating in a permanent structure on a continuous basis.

Permanent Structure means a structure for which a certificate of occupancy has been issued.

Public Place means any area to which the public is invited or in which the public is permitted, and includes, but is not limited to: the parking lot of any commercial establishment, the right of way of any street or highway, but does not include the offices or work areas of work places not entered by the public in the normal course of business.

Roadway means that portion of a street or highway designed, improved or ordinarily used for vehicular travel, typically delineated by curbs or the edge of the pavement.

Selling means to sell, dispense, peddle, hawk, display, offer to sell or solicit for sale by offering or exposing for sale any goods, wares, merchandise or services.

Sidewalk means the portion of a street or highway that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Solicitation means

(a) 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;
- (b) while contacting persons to ask, barter or communicate in any other 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:
 - (1) selling or taking orders for goods, wares, merchandise or services; or
 - (2) collecting money for any purpose.

The term does not include:

- (1) activity of a salesperson calling upon or dealing with manufacturers, wholesalers, distributors, brokers, dealers, service providers or retailers at their place of business in the usual course of business;
- (2) activity approved in conjunction with a city sponsored event;
- (3) activity conducted in conjunction with a residential yard or garage sale;
- (4) activity of a business conducted at the permanent established business location of that business;
- (5) activity conducted with consent of the owner or person in control of the property and not conducted while traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building;
- (6) activity for which a special use permit has been issued pursuant to the City's zoning ordinance;
- (7) activity conducted in connection with a mass gathering event under the City's zoning ordinance;
- (8) activity conducted at a city park pursuant to a concession agreement with the City or in accordance with applicable park ordinances and policies;
- (9) visitation or fund raising by members of an organization from its own members;
- (10) personal contact or fund raising by individuals, political candidates or parties or their supporters seeking to advocate particular points of view, issues or candidates;
- (11) persons seeking solely to promote religious views;

- (12) distribution of handbills without personal contact;
- (13) mobile food vendors who hold a current City of North Richland Hills health permit providing food to work sites;
- (14) charitable solicitation;
- (15) any activity exempted from regulation by law.

Solicitor means a person who engages in solicitation activities.

Solicitor's Permit or *Permit* means a permit issued by the Director which allows a person to conduct solicitation activities within the City.

Street or highway means the width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular traffic.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Sec. 18-483. Permit Required for Solicitors.

- (a) A person commits an offense if the person engages in solicitation in the City without first obtaining a solicitor's permit from the Director.
- (b) A solicitor's permit shall be valid for six (6) months following the date of issuance unless a shorter period is requested by the applicant.
- (c) An applicant for a solicitor's permit shall pay a permit fee at the time the application is submitted, and if required, shall submit a bond if the application is granted. The amount of the solicitor's permit fee shall be set forth in the schedule of fees approved by the City Council.
- (d) No permit shall be required for persons under eighteen (18) years of age if engaged in fundraising activities for an organization using all profits for young people's activities or donating all profits to charities other than a sponsoring organization, nor shall a permit be required for the organization for which such young persons are soliciting.

Sec. 18-484. Permit Application.

- (a) A person or organization desiring to conduct solicitation activities within the City shall make a written application on a form provided by the Director for a solicitor's permit. The application shall contain the following information for each person who will

be conducting solicitation activities:

- (1) the name, driver's license or state issued identification, date of birth, phone number and permanent, and, if different, local address;
- (2) a valid state driver's license number or a state-approved identification card number with a photograph (The Director will make a photocopy and attach to the application);
- (3) if a vehicle is used, a description of the same, together with the state where licensed, license number and the vehicle identification number;
- (4) except as provided by section 18-483(d), two photographs, measuring at least 1.5" x 1.5" and showing the head and shoulders of the person in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;
- (5) proof of possession of any license or permit which, under Federal, State, or Local laws or regulations, the person is required to have in order to conduct the proposed solicitation. Copies of all such licenses and permits shall be attached to the application;
- (6) if the applicant is:
 - (i) employed by another, the name and physical street address (not a post office box) and telephone number of the employer together with credentials in written form establishing the authority of the employee to act for the employer;
 - (ii) acting as an agent, the name, the physical street address (not a post office box), and telephone number of the principal being represented, with credentials in written form establishing the relationship and authority of the agent to act for the principal; or
 - (iii) acting as a volunteer for a nonprofit organization, the name and physical street address (not a post office box) of the organization being represented must be provided;
- (7) the nature of solicitation activity (i.e. the merchandise to be sold or offered for sale; or the nature of the services to be furnished; or the type of pamphlets or handbills to be distributed);
- (8) the approximate time period within which the solicitation is to be made, stating the date of the beginning of the solicitation activity, its projected conclusion and the proposed dates and times of solicitation;

- (9) the names of all other cities in which the applicant has conducted solicitation activities in the past six (6) months;
 - (10) whether the applicant will receive a payment for goods or services at the time of solicitation or will demand, accept or receive payment or the deposit of money in advance of final delivery, and if so, the amount sought or the basis for calculation of such payment;
 - (11) if the applicant has plead guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, misrepresentation, a sex offense, theft, trafficking a controlled substance, or any act of violence against persons or property, a description of each such conviction or plea and the date of the offense;
 - (12) if the applicant is an entity that sponsors or employs minors as solicitors and is submitting one application, the information set forth in section 18-484(a). A permit will be required for each such minor.
- (b) No person shall distribute or cause the distribution of commercial handbills without first registering with the Director and paying a registration fee in an amount established by the City's schedule of fees as approved by the City Council. Such registration shall be based on the number of persons who will be distributing flyers and shall be for a specified thirty day period. The applicant shall complete a registration form which shall contain:
- (1) The name and address of the applicant's business address.
 - (2) A brief description of the business or event being advertised by the handbills.
 - (3) The name, address and date of birth of every person who will distribute such commercial handbills.

Sec. 18-485. Solicitation by Minors; Applications.

- (a) A minor who conducts solicitation activities shall be sponsored or employed by a person over the age of eighteen, a corporation, company or organization. The person, company, corporation or organization that is sponsoring or employing the minor(s) is responsible for controlling the conduct of the minors.
- (b) Each minor sixteen (16) years of age or older who is sponsored or employed by any person, company, corporation or organization that is not a non-profit organization shall obtain a solicitors permit as required by Section 18-483.

Sec. 18-486. Bond.

(a) Solicitors who require cash deposits or advance payments for future delivery or who require an agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall, as a condition of a permit, file a bond with the Director in the amount determined in subsection (c) below, signed by the applicant and a surety company authorized to do business in Texas:

- (1) conditioned upon the final delivery of goods or services in accordance with the terms of any order obtained;
- (2) to indemnify purchasers for defects in material or workmanship that may exist in the goods sold and that are discovered within 30 days after delivery; and
- (3) for the use and benefit of persons, firms, or corporations that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.

(b) If the applicant is a person, firm, or corporation engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agent or employee solicitors.

(c) The amount of the bond is determined by the number of solicitors acting as agents or employees of the same person, firm, or corporation as follows:

1–5 solicitors . . .	\$10,000.00
6–10 solicitors . . .	\$20,000.00
11 or more solicitors . . .	\$30,000.00.

Sec. 18-487. Issuance of Solicitor's Permit.

(a) The Director shall approve or deny the issuance of a permit to an applicant and notify the applicant within 30 days after receipt of the application. If the permit is denied the applicant shall be notified of this decision by mail sent to the address shown on the application. The permit shall not be approved if the Director finds one or more of the following to be true:

- (1) the application for a solicitor's permit does not contain the information required by section 18-484;
- (2) false or misleading statements are found to be included in the application for a solicitor's permit;
- (3) the applicant, employer or principal is a person against whom a civil judgment based upon fraud, deceit, or misrepresentation has been entered within five (5) years;

- (4) within five (5) years preceding the date of the application, the applicant, employer or principal has pleaded guilty or nolo contendere to, or has within such time been convicted of, a felony, misdemeanor, or ordinance violation involving fraud, deceit, misrepresentation, a sex offense, trafficking a controlled substance, or any act of violence against persons or property;
- (5) the applicant is a registered sex offender;
- (6) within the six (6) months preceding the date of the application, the applicant has failed to comply with any rule, regulation or ordinance of another city or state concerning solicitation activity;
- (7) the applicant has an outstanding warrant of arrest for any offense described in subsection (a)(4); or
- (8) the type of solicitation activity requires a bond, and the applicant has not complied with the bond requirements in section 18-486.

(b) If an application is denied, the reasons for denial shall be noted on the application.

(c) Except as otherwise provided in this chapter, the Director shall issue to each approved permit holder a photo identification tag under the terms of this ordinance. Such photo identification tag shall be worn constantly in a conspicuous place by the permit holder while conducting solicitation activities in the City.

(d) A person commits an offense if the person wears or displays a photo identification tag issued to another person or alters a photo identification issued hereunder.

Sec. 18-488. Revocation or Suspension of Solicitor's Permit.

(a) A permit may be revoked or suspended by the Director for any of the following reasons:

- (1) the Director finds that any fact or event in section 18-487(a) is true or has become true since the application was completed; or
- (2) the solicitor conducts solicitation activities in violation of any provision of this chapter.

(b) Upon revocation, the Director shall immediately deliver written notice to the permit holder stating the action and the reasons supporting such action. A written notice shall be delivered or mailed to the solicitor's address as shown on the application.

(c) The Director shall have the authority to seize any and all permits and photo identification tags possessed by persons conducting business as a solicitor while the official notification process is underway. At such time, all solicitation activities conducted under the authority of that permit shall cease.

(d) Should more than one complaint be received that solicitors for any product or service have violated any of the provisions of this ordinance, the Director shall immediately suspend all solicitor permits for such product or service and notify the permit holder(s) of such suspension. Unless appealed as provided by the following Section, such suspension shall become a forfeiture of all such permits.

Sec. 18-489. Appeals.

(a) A person who is denied a solicitor's permit, or whose permit is revoked or suspended by the Director, may appeal the decision to the City Manager by filing a notice of appeal with the Director within 15 days after the notice of decision is delivered or mailed to the address indicated on the application.

(b) Within ten (10) days of the receipt of the notice of appeal, the City Manager shall set a time and place for a hearing on the appeal which shall be not later than thirty (30) days from the date of receipt of the notice of appeal. The City Manager may designate a person to hear such appeal.

(c) Notice of the time and place of the hearing shall be delivered to such person or mailed to the person at the address indicated on the application. Notice shall be sent within ten (10) days of the receipt of the notice of appeal.

(d) The decision of the City Manager or his designee on the appeal is final. No other administrative procedures are provided by the City.

Sec. 18-490. Regulation of Solicitors; Generally.

(a) A solicitor shall identify himself as a solicitor upon approaching a person at a residence or at any other location in the City and explain his purpose, whether it be direct sales, solicitation of orders or services, or the demonstration of merchandise, or any combination of such purposes.

(b) A person who uses a vehicle in solicitation activities shall post a sign located in a conspicuous place on the vehicle, identifying the name of the person, company or organization that the person represents. If the name is an individual person, it must be followed by the word "solicitor". The lettering on the sign must be at least two and one-half (2 ½") inches high.

(c) A solicitor who holds a current City of North Richland Hills health permit is permitted to solicit for the sale of edible merchandise. Any such solicitor shall keep all

articles for sale to the public in a clean and sanitary condition, as well as the wagons, vehicles, or other conveyances used in the transportation of such merchandise and shall meet all applicable Federal, State and local regulations.

(d) A solicitor commits an offense if he or she sells or offers to sell any unsound or unwholesome merchandise or give a false weight of measure to such offered for sale.

(e) A solicitor commits an offense if he or she represents that the City or any of its employees or officials has endorsed or approved the goods or services which the solicitor is attempting to sell or take orders for.

(f) A solicitor commits an offense if he or she attempts to contact a person at an address where a "No Solicitors" sign is posted.

(g) A solicitor commits an offense if he or she fails to depart immediately when requested or ordered to leave.

(h) A solicitor commits an offense if he or she fails to immediately step back from the door after knocking or ringing a doorbell and remaining at least three feet back from such door unless and until invited into the home.

(i) It shall be an offense for a person not prominently displaying a valid permit issued to such person under this Article for the purpose described in the application for such permit to engage in solicitation within the City.

(j) It is an offense for a solicitor to solicit for the sale of any potentially hazardous food, whether packaged or unpackaged, raw or cooked, such as fish, beef, or poultry, or for the sale of fruit, produce or other unpackaged goods.

(k) It shall be an offense for any solicitor to refuse to produce proof of identity upon the request of a police officer.

Sec. 18-491. Solicitation in Public Right of Way.

(a) A person commits an offense if the person engages in solicitation activity within the roadway, or on any median or traffic island within the right-of-way of any street or highway within the City.

(b) A person commits an offense if the person engages in solicitation activity by a direct transaction or exchange with the occupant of any vehicle stopped or traveling on the roadway of any street or highway in the City. An offense under this subsection occurs when the offer, solicitation or distribution is made regardless of whether a transaction is completed.

(c) A person commits an offense if the person engages in solicitation activity on a sidewalk within the City in a manner that impedes the flow of pedestrian traffic.

(d) It is a defense to prosecution under subsections (a) or (b) above if the person engages in solicitation activity to operate a taxi cab, mail carrier, vehicle for hire such as commercial servicing or repair of any disabled motor vehicle.

(e) It is a defense to prosecution under subsection (a) if the person engages in solicitation activity from a vehicle in a manner that does not violate section 18-492(a)(1).

Sec. 18-492. Solicitation from a Vehicle.

(a) A person commits an offense if the person conducts solicitation activities from a vehicle and:

- (1) the solicitation is conducted at a location within the right of way of any street or highway in the City which is designated as an arterial or collector on the City's thoroughfare plan; or
- (2) the person stops the vehicle within a roadway to conduct business before the vehicle has been approached, called, or waived down by a prospective customer.

(b) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the City and the vehicle is not equipped with warning lights that are in actual operation, whether or not the vehicle is stopped or moving.

(c) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the City in a manner that blocks or impedes access to or from any alley, street or driveway, or impedes the flow of traffic on any public street or highway.

Sec. 18-493. Restrictions on Time for Solicitors and Handbill Distribution.

(a) A person commits an offense if the person engages in solicitation or handbill distribution activity at a residence:

- (1) before 9:00 a.m.; or
- (2) after sunset as defined by the National Weather Service or 8 p.m., whichever is earlier on a given day.
- (3) on Sunday, any federally designated holiday; or any day where the Department of Homeland Security has declared an orange or red state of alert.

(b) A person commits an offense if the person engages in solicitation or handbill

distribution activity at a premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation and handbill distribution activity is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of a premises, a sign, not less than one (1) inch by three (3) inches in size, containing the words "NO SOLICITORS", "NO TRESPASSING", "NO SOLICITORS OR HANDBILLS" or words of similar meaning.

(c) A person commits an offense if the person engages in solicitation activities 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;
- (2) Following behind, ahead or alongside a person who walks away from the solicitor or canvasser after being solicited, approached, accosted or offered a handbill, leaflet or any other item;
- (3) Shouting, making any outcry, blowing a horn or whistle, or using any sound device, including any loud speaker or sound amplifying system in violation of the City's noise ordinance for the purpose of attracting attention to one's location;
- (4) Suggesting that the person or their family is in danger or will suffer harm if they do not purchase the goods or services offered by the solicitor;
- (5) Failing to immediately step back from the door after knocking or ringing a doorbell and remain at least three feet back from such door unless and until invited into the home.

(d) No handbill shall be delivered to any uninhabited building.

(e) No commercial handbill shall be distributed or circulated in or upon any public place or outdoor area.

(f) No handbill shall be deposited upon or in any motor vehicle unless such vehicle is occupied and the occupant expressly accepts such handbill.

(g) No handbill shall be delivered or distributed to any residential property in a manner which could result in such handbill being blown or drifting about or away from such property.

(h) No handbill shall be nailed, tacked, stapled, glued or taped to any door or structure or attached in any other manner which could mar or leave adhesive residue.

(i) It shall be an offense for any person to engage in the distribution or delivery of

any commercial handbill without registering as required. The distribution of any handbill containing any commercial message shall be deemed to constitute distribution of a commercial handbill by the business which is the subject of the commercial message and an offense hereunder.

- (j) It shall be an offense for any person who engages in the delivery of a commercial handbill to refuse to identify himself to a police officer. ”

SECTION 2. Division 2 of Article VII of Chapter 18 of the North Richland Hills Code of Ordinances regulating itinerant merchants is hereby repealed.

SECTION 3. Divisions 3 and 4 of Article VII of Chapter 18 of the North Richland Hills Code of Ordinances regulating charitable solicitation and religious solicitation are hereby repealed.

SECTION 4. Chapter 70 of the Code of Ordinances of the City of North Richland Hills, Texas, is hereby amended by amending Article IV by adding a new Sec. 70-112 which shall read as follows:

“Sec. 70-112. Painting Address Numbers on Street Curbs.

(a) *Definition.* A curb painting vendor means a person who engages in the business of painting address numbers on street curbs for remuneration.

(b) *Purpose, restrictions* In order to protect citizens against crime, including deceptive practices, fraud, and burglary, to minimize the unwelcome disturbance of citizens and the disruption of citizens' privacy, and to preserve the public health, safety, and general welfare by registering and regulating those persons engaged in the business of painting address numbers on street curbs, every curb painting vendor shall

- (1) use reflective paint to paint curbs;
- (2) comply with the provisions of Article VII of Chapter 18 of this code;
- (3) provide to each business or residence that is being solicited a copy of a brochure, pamphlet or flier or advertising the curb painting vendor's services, which shall include the following statement in bold and conspicuous type on the cover thereof:

"The City of North Richland Hills does not endorse or sponsor this business and does not require that you paint your curb."

SECTION 5. Appendix A of the North Richland Hills Code of Ordinances is hereby amended by eliminating the license fees for itinerant merchants or itinerant vendors and adding the following fees under Chapter 18:

“Solicitor’s permit: \$100 for each person engaging in solicitation activities.

Commercial handbill distribution: \$10 per person distributing handbills.”

SECTION 6. Cumulative.

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

SECTION 7. Severability.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and section 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 8. Penalty.

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 fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9. Savings.

All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provision of any other ordinances regulating solicitation or canvassing activities that 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 10. Publication.

The City Secretary of the City of North Richland Hills is hereby directed to publish the caption and penalty of this ordinance in the official City newspaper.

SECTION 11. Effective date.

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on this 26th day of October, 2009.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Patricia Hutson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

George A. Staples, City Attorney