

**ORDINANCE NO. 2022-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS, AMENDING PRIOR ORDINANCE 2015-04 DATED JUNE 16, 2015, REQUIRING A SOLICITATION PERMIT “DOOR TO DOOR” PROVIDING A PENALTY BY FINE FOR VIOLATION; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Hallsville, Texas, a Type A General Law municipality, has the authority to adopt ordinances, acts, laws, and/or regulations, not inconsistent with Texas state law, which are found to be necessary for the government, interest, welfare, and/or good order of the municipality as a body politic pursuant to *Texas Local Government Code* § 51.012 and other applicable provisions of Texas law; and

**WHEREAS**, the City Council of the City of Hallsville, Texas, a Type A General Law municipality, has the authority to adopt ordinances, acts, laws, and/or regulations, licensing, taxing, suppressing, preventing, or otherwise regulating peddlers pursuant to Tex. Local Gov't Code § 215.031; and

**WHEREAS**, the City Council finds and determines that every “Door to Door” solicitor, peddler, or canvasser shall obtain a permit from the City Secretary or other person so designated or by vote of the City Council before soliciting, peddling, or canvassing within the City.

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

- (a) **Permit Required.** No canvasser, peddler, or solicitor may canvass, peddle, or solicit within the City limits without first having obtained a permit from the City.

(1) **Exception.** No permit shall be required for a federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer.

(2) **Exception.** Persons under the age of 13 shall not be required to apply for or carry a permit as long as they are supervised by a person 18 years or older who has obtained a permit in accordance with this ordinance. No person under the age of 13 shall act as a peddler, solicitor, or canvasser within the city without being supervised by a person 18 years or older who has obtained a permit in accordance with this ordinance. No permit shall be required for any persons under the age of 13 who have a lemonade or other similar stand on private property or are participating in a school sanctioned or sponsored fundraiser as long as they are supervised by a person 18 years or older.

(3) **Exception.** No permit shall be required for a security services contractor license holder or an employee of a security services contractor license holder engaging in business or performing a service as authorized and regulated under the Texas Private Security Act, Tex. Occ. Code § 1702.001, et. seq.

(b) **Definitions.** The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) **Canvasser, Canvassing or Canvass.** A person, firm, corporation, or entity, who makes or attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the primary purpose of: (1) attempting to enlist support for or against a particular

religion, philosophy, ideology, political party, issue or candidate, and in connection with such purpose the canvasser asks for, seeks, or solicits a donation of money for or against such cause, or (2) who distributes a handbill or flyer advertising a noncommercial event or service, which seeks or solicits a donation of money for or against such cause.

(2) **Good(s)**. Any form of tangible personal property.

(3) **Peddler, Peddling or Peddle**. A person, firm, corporation, or entity, who makes or attempts to make personal contact with a resident either at his or her residence or at a parade held on City streets without prior specific invitation or appointment from the resident or at any other location within the City limits for the primary purpose of attempting to sell one or more goods or services.

(4) **Sell or Selling**. Any exchange of money for goods or services, including but not limited to orders involving future payment or delivery.

(5) **Service(s)**. The performance of work or labor, including but not limited to work or labor furnished in connection with the sale or repair of goods.

(6) **Solicitor, Soliciting or Solicit**. A person, firm, corporation, or entity, who makes or attempts to make personal contact with a resident either at his or her residence without prior specific invitation or appointment from the resident or at any other location within the City limits for the primary purpose of:

(a) attempting to engage in a home solicitation transaction, or solicit in person from house to house in the City to sell or attempt to sell goods, merchandise, wares, services or anything of value or to take or attempt to take orders for the future delivery of goods, merchandise, wares or any personal property of any

nature whatsoever, or take or attempt to take orders for services to be furnished or performed in the future, or to distribute commercial handbills or other advertisements on private property, without first having obtained a permit.

(b) distributing a handbill or flyer advertising a commercial event or service.

(c) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service. **Exemption:** A permit shall not be required for the sale of goods offered by students of any public or private school, Boy Scouts, Girl Scouts or any similar organization where the proceeds are of the sale are to be applied to any charitable purpose.

(7) **Violation.** It shall be unlawful for any canvasser, peddler, or solicitor to violate the provisions of this ordinance. Any violation of this ordinance shall be deemed a Class C misdemeanor, and any canvasser, peddler, or solicitor convicted thereof shall be fined a sum not to exceed \$500.00 per violation. Each and every act constituting a violation hereof and each failure or refusal to comply with any provision shall be a separate offense and shall be punished as such.

(c) **Permit Application**

(1) **Submission.** To obtain a permit, a canvasser, peddler, or solicitor must submit an application on a form provided by the City Secretary. The applicant must be the person, firm, corporation, or other entity, which will canvass, peddle, or solicit within the City limits. Applications must be made in writing at City Hall, and any fees charged for such permit (as may now or hereafter be set by the

City Council) shall be paid at the time any such application is submitted. Where canvassing, peddling, or soliciting is commenced before a permit is obtained as required herein, the permit fee shall be doubled.

(2) **Minimum Requirements.** The permit application shall include at minimum the following information:

- (A) The company/applicant's name, address, and telephone number;
- (B) A letter from the company or business showing evidence of the authority of the person(s) applying for the application;
- (C) A description, including description of the goods or services being sold or promoted;
- (D) Must provide a copy of driver's license and/or a state issued identification card for ALL individuals who will be going door to door;
- (E) Must provide a 2X2 photo of ALL individuals who will be going door to door;
- (F) The full legal name of each individual who will be peddling, soliciting, or canvassing;
- (G) Each applicant must pass a criminal background check with no history of felony convictions or misdemeanor convictions related to theft, assault, destruction of property or other violations pertaining to other persons or property;
- (H) That the permit required by this section shall not be transferable;
- (I) Any other information required to be submitted from time to time

by the City; and

- (J) Description (year, make, type) and license plate number and state of registration of all vehicles to be used in peddling, soliciting, or canvassing and a copy of the vehicle's current proof of liability insurance.

(3) **Application Expiration.** Any application for a permit made hereunder shall expire in accordance with Texas Local Government Code § 245.002(e) on or after the length of time the permit was issued and filed with the City Secretary if:

- (a) the applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the form and content of the permit application;

- (b) the City provides to the applicant within the 3rd business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

- (c) the applicant fails to provide the specified documents or other information within the time provided in the notice.

- (d) **Application Evaluation and Permit Issuance.** Applications shall be evaluated for compliance with the provisions of this ordinance. A permit shall be issued promptly after application, unless it is determined that: (1) The applicant has been convicted of a felony or a class A or B misdemeanor; or (2) Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect. An application which fails comply

with the provisions of this ordinance may be rejected, without prejudice to the applicant resubmitting a subsequent application.

- (e) **Permit Fees.** Fees shall be established by the City Council on an annual basis.
- (f) **Permit Display.** Each permit shall be available of the canvasser, solicitor, or peddler, or otherwise displayed, so to be reasonably visible to any person who might be approached by said canvasser, solicitor, or peddler.
- (g) **Hours of Operation.** No canvasser, peddler, or solicitor may canvass, peddle, or solicit except between the hours of 9:00 A.M. – 7:00 P.M., CST.
- (h) **No Solicitor Signs.** Any canvasser, solicitor, or peddler who solicits, canvases, or peddles, or attempts to solicit, canvas, or peddle, at a place where a sign clearly indicates that solicitors, canvassers, or peddlers are unwelcome is in violation of this ordinance.
- (i) **General Provisions.** If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance is hereafter determined to be invalid or violative of the laws of the State of Texas or the Constitution of the United States by a court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Council of the City of Hallsville that all other terms and provisions of this ordinance not affected thereby shall remain in full force and effect.
- (j) **Effective Date.** The provisions of this ordinance are effective as of the date of adoption of this ordinance, or upon the date that the publication requirements are met, whichever is later.

**PASSED AND APPROVED by an affirmative vote of the members of the City**

**Council is the \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

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Jesse Casey, Mayor

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Laura Welch, City Secretary