



ORDINANCE NO. 3802

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, RENAMING AND AMENDING IN ITS ENTIRETY CHAPTER 54 “PEDDLERS AND SOLICITORS” OF THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH RELATING TO THE REGULATION OF THE MANNER OF CONDUCTING SOLICITATION WITHIN THE CITY; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE EXCEPT WHERE OTHERWISE PROVIDED IN SAID CHAPTER 56; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch, Texas, finds it to be in best interest and necessary for the protection of the public health and safety to amend the City’s regulations relating to the conduct of solicitation within the City.

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

SECTION 1. Chapter 54 “Peddlers and Solicitors” of the Code of Ordinances of the City of Farmers Branch, Texas, is retitled and amended in its entirety to read as follows:

CHAPTER 54. SOLICITORS

Sec. 54-1. - Purpose.

This chapter is and shall be deemed an exercise of the police powers of the state and of the city for the public safety and protection of the city and the citizens thereof, and all of the provisions of this chapter shall be constructed for the accomplishment of that purpose. It is the intent of this chapter to protect the citizens of Farmers Branch in their homes, and to permit all persons the use of streets, sidewalks, and public transportation free from actions that may jeopardize the unimpeded use of such areas, while at the same time, allowing both businesses, charities, and other persons to conduct constitutionally protected activities.

Sec. 54-2. - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

- (1) *Arterial roadway* means those streets and highways identified on the City’s most current version of the Thoroughfare Plan as streets with four or more lanes that have actually been constructed to include four or more travel lanes.

- (2) *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 matter or literature.
- (3) *Hike and bike trail* means a trail designed, provided for or intended for the exclusive use of pedestrians, bicyclists, or both.
- (4) *Merchant* means a party to a consumer transaction other than a consumer.
- (5) *Merchant's place of business* means a merchant's main or permanent branch office, or a merchant's local address.
- (6) *Parkway* means the area between the edge of the designated street and the adjacent owner's property line.
- (7) *Person* means any individual, group, firm, company, partnership, corporation, association, trust, society, organization, or other legal entity and includes any trustee, receiver, assignee, agent, or similar representative of any of the foregoing.
- (8) *Personal commercial sales* means personal contact for the sales of goods or services by a merchant, or merchant's agent, to a consumer at a location other than the merchant's place of business.
- (9) *Sidewalk* means any surface provided or intended for the use of pedestrians.
- (10) *Solicitation* or any other action form of the word solicit means conduct whereby a person, either orally, in writing, or in any other manner of communication:
 - (i) Engages in the act of asking for, begging, or otherwise trying to obtain money, gifts, or other item of value, whether real or intrinsic, for said person;
 - (ii) Sells or offers to sell goods, services, publications, or subscriptions;
 - (iii) Engages in personal commercial sales;
 - (iv) Distributes with or without remuneration goods, services, publications, subscriptions, handbills, or circulars; or
 - (v) Makes a request for signatures on a petition or opinions for a survey.

Solicitation shall be deemed completed when made, regardless of whether the person making the solicitation receives any benefit or compensation or makes a sale.

- (11) *Solicitor* means a person who engages in solicitation and shall include peddlers and hawkers.

- (12) *Street* means the portion of the street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public street purposes, to include parkways, alleys, and sidewalks.
- (13) *Sunset* means the time of day identified by the National Weather Service as the time for sunset for that day for the city.
- (14) *Traffic island* or *median* means a barrier within a street or roadway to exclude vehicles, designated for the purpose of separating or directing streams of vehicular traffic.

Sec. 54-3.- Application to governmental agency.

This chapter shall not apply to a federal, state, or local government or public utility employees acting in the performance of the employees' duties for their employer.

Sec. 54-4. - Unlawful solicitation and prohibitions.

- (a) Unless the transaction is the result of a request made to such person by the occupant of such private residence, no person shall solicit at a private residence in the city during the following days and times:
 - (1) Monday through Saturday before 9:00 a.m. or after the earlier of sunset or 8:00 p.m.;
 - (2) Anytime on Sunday; or
 - (3) New Year's Day, Martin Luther King, Jr. Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day, and any other day designated as a federal holiday.
- (b) It shall be unlawful for any person to solicit in an area with heightened personal security concerns or where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others, including within 25 feet of the following facilities:
 - (1) Automated Teller Machines (ATMs);
 - (2) Entrances, exits and premises of banks, credit unions, or other financial institutions;
 - (3) Exterior public pay telephones;
 - (4) Self-service car washes;
 - (5) Self-service fuel pumps;
 - (6) Public transportation stops and facilities;
 - (7) Ride share stops; or

- (8) A public parking garage.
- (c) It shall be unlawful for any person to:
 - (1) Block, obstruct or hinder the free flow of traffic in the lawful use of a street or alley;
 - (2) Block, obstruct or hinder the free passage of a person in the lawful use of the sidewalk, parkway, or hike and bike trail; or
 - (3) Impede access within the right-of-way that is required to be provided under the Americans with Disabilities Act of 1990, as amended.
 - (d) It shall be unlawful to solicit in an area with a heightened public safety concern, including:
 - (1) On traffic islands or medians within 150 feet of signalized intersections on arterial roadways;
 - (2) On a public street or alley where motor vehicles are moving or momentarily stopped in traffic;
 - (3) Inside of designated construction or work zones; or
 - (4) On traffic islands or medians within 150 feet of the following high accident locations:
 - (i) Valley View Lane and Marsh Lane;
 - (ii) Alpha Road and Inwood Road;
 - (iii) Valley View Lane and Josey Lane;
 - (iv) Valley View Lane and the Service Roads of I-35 (Stemmons Freeway);
 - (v) Luna Road and the Service Roads of I-635 (LBJ Freeway);
 - (vi) Valwood Parkway and the Service Roads of I-35 (Stemmons Freeway);
 - (vii) Valley View Lane and Luna Road;
 - (viii) Ridgeoak Way and Marsh Lane;
 - (ix) Galleria Drive and Inwood Road;
 - (x) Spring Valley Road and Dallas Parkway;
 - (xi) Spring Valley Road and Midway Road;
 - (xii) Valley View Lane and Webb Chapel Road;
 - (xiii) McEwen Road and Midway Road;

- (xiv) Valwood Parkway and Josey Lane;
 - (xv) Royal Lane and Luna Road; or
 - (xvi) Spring Valley Road and Inwood Road.
- (e) It shall be unlawful to engage in personal commercial sales at any private residence or other premises exhibiting a sign in a conspicuous place at or near the main entrance to the residence or other premises that is sufficiently legible to be seen by an ordinarily observant person and contains the words "NO SOLICITORS," "NO SOLICITATION," "NO SOLICITING," or other similar language. Such signage shall not restrict non-personal commercial sales activities.
- (f) It shall be unlawful to solicit at or in city buildings or property except as expressly allowed at an event sponsored by the city or as allowed by a special event permit.
- (g) It shall be unlawful for a person engaged in solicitation in any manner to:
- (1) Misrepresent the purpose of a solicitation;
 - (2) Misrepresent the affiliation of persons engaged in solicitation;
 - (3) Continue efforts to solicit from an individual once that individual informs the solicitor in any manner that the individual does not wish to give anything to, or to buy or receive anything from that solicitor;
 - (4) Remove, deface, or render illegible a card or sign placed by the occupant of a residence pursuant to this chapter;
 - (5) Enter property upon which a sign has been posted prohibiting solicitation; or
 - (6) Remain on property after the property owner, or the property owner's designee, representative or agent, has instructed the solicitor to leave.
- (h) It shall be unlawful for any person to engage in aggressive solicitation which shall include the following forms of conduct:
- (1) Confronting a person in a way that would cause a reasonable person to fear injury or other harm;
 - (2) Confronting a person by approaching or speaking to the person in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person, or upon property in the person's immediate possession;

- (3) Touching a person without the person's consent;
- (4) Using obscene or abusive language toward someone while attempting to solicit a person;
- (5) Forcing oneself upon the company of another by engaging in any of the following:
 - (i) Continuing to solicit in close proximity to the person addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication;
 - (ii) Blocking the passage of the person solicited; or
 - (iii) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation;
- (6) Acting with the intent to intimidate someone into giving money or other item or service of value; or
- (7) Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution or donation.

Sec. 54-5. - Presumption.

It is presumed that the person or business whose address or telephone number is listed in any notice, poster, paper, or device, or who is otherwise named, described, or identified in the notice, poster, paper, or device, is the person or business who committed the violation, either personally or through an agent or employee.

Sec. 54-6. - Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine, not exceeding \$500 for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this chapter.

SECTION 2. All provisions of the Ordinances of the City of Farmers Branch, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City 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 sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 5. Unless a lesser fine is established in Chapter 56 of the Code of Ordinances as amended by this Ordinance, any person, firm or corporation violating any of the provisions or terms of this Ordinance shall 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 shall be deemed to constitute a separate offense as set forth in Section 1-14 of the Code of Ordinances.

SECTION 6. This ordinance shall take effect immediately following its passage and publication in accordance with the provisions of the charter and state law.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THIS THE 6TH DAY OF JUNE 2023.

ATTEST:

APPROVED:

Stacy Henderson, City Secretary

Terry Lynne, Mayor

APPROVED AS TO FORM

Peter G. Smith, City Attorney

(kbl:5/32/2023:135182