

ORDINANCE NO. 2009 - 05

AN ORDINANCE OF THE CITY OF CANTON, TEXAS, ESTABLISHING REGULATIONS FOR SOLICITING, SELLING OR TAKING ORDERS FOR ANY GOODS, WARES, MERCHANDISE OR SERVICES WITHIN THE CITY LIMITS OF CANTON, TEXAS; ESTABLISHING REGULATIONS FOR THE SOLICITATION OF DONATIONS OR DISTRIBUTION OF HANDBILLS WITHIN THE CITY LIMITS OF CANTON, TEXAS; PROVIDING FOR THE ISSUANCE AND REVOCATION OF PERMITS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION THEREOF

WHEREAS, the City Council of the City of Canton, Texas has determined that in order to protect the privacy of its citizens and to prevent crime, including deceptive practices, fraud, and burglary, it is necessary to register and regulate solicitors who conduct business by going door-to-door; and

WHEREAS, the City Council of the City of Canton, Texas has determined there exists certain safety hazards within the City of Canton, Texas, created by persons who solicit, distribute handbills, sell or take orders for any goods, wares, merchandise or services on City and State streets, rights-of-way and alleys, and that such conduct creates a potential public safety hazard to the other residents and visitors of the City of Canton, Texas; and

WHEREAS, the City Council of the City of Canton, Texas, has resolved to provide for the comfort and safety of said residents and visitors through its legislative and police powers pursuant to authority granted by the State of Texas and to provide a penalty for the violations of the provisions of same;

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

SECTION ONE. VIOLATIONS

A. Door-to-Door Solicitation

Required Permit: It shall be unlawful for any person to act in the following manner without first having applied for and obtained a permit from the Canton City Council:

1. to go from house to house or from place to place in the City of Canton, Texas, soliciting for donations or soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines.

Exception: The permit requirement shall not apply to:

1. Canton citizens who are engaged in solicitation activities involving fund-raising for registered nonprofit organizations, charitable organizations, religious organizations, civic organizations, or Canton and Martins Mill public or private schools or groups directly affiliated with such schools;
2. Canton citizens who are political candidates or engaged in door-to-door advocacy of a political issue, in religious proselytizing, or in the distribution of handbills and canvassing unrelated to home solicitation transactions;
3. the distribution of mail by the U.S. Postal Service or the distribution of newspapers.

Restrictions: It shall be unlawful for any person to act in the following manner:

1. to engage in door-to-door solicitation activities in residential areas between the hours of 9:00 p.m. and 9:00 a.m.;
2. 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 securing an audience with the occupant and engaging in or attempting to engage in a solicitation, if a card stating "No Solicitors" (or words of similar meaning) is exhibited in a conspicuous place at or near the main entrance of the residence, unless at the request of the owner or occupant;
3. to go upon any commercial property for the purpose of securing an audience with the owner, manager or patrons of a business and engaging in or attempting to engage in a solicitation, if a card stating "No Solicitors" (or words of similar meaning) is exhibited in a conspicuous place at or near the main entrance to the business, unless at the request of the owner or manager.

B. Solicitation and Distribution of Advertising in Public Rights-of-Way and on Private Property

Required Permit: It shall be unlawful for any person to act in the following manner without first having applied for and obtained a permit from the Canton City Council:

1. to solicit, sell or take orders for, or offer to sell or take orders for, any goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines upon any public property, sidewalk, street, alley, or right-of-way;
2. to scatter, distribute, throw, deposit or place any advertisement upon any public property, sidewalk, street, alley or right-of-way, or deposit, place or leave any such advertisement in any automobile, truck, bus or other vehicle on public property, or within any public building or upon any public grounds within the limits of the city;
3. to scatter, distribute, throw, deposit or place any advertisement upon any private property or business, or to place or leave any such advertisement in any automobile, truck, bus or other vehicle on private property;
4. to distribute or cause to be distributed within the territorial limits of the city any printed or written advertising matter by placing, or causing to be placed, the same in any yard or on any porch not in possession or under the control of the person so distributing same;

Exceptions: The permit requirement shall not apply to:

1. Canton citizens who are political candidates or engaged in door-to-door advocacy of a political issue, in religious proselytizing, or distribution of handbills and canvassing unrelated to home solicitation transactions;
2. the distribution of mail by the U.S. Postal Service or to the distribution of newspapers;
3. any person participating by permission for said activity in a city-sponsored event or a special event for which a permit has been obtained.

Restrictions: It shall be unlawful for any person to act in the following manner:

1. to engage in the distribution of handbills or advertising in residential areas between the hours of 9:00 p.m. and 9:00 a.m.;
2. to engage in the distribution of handbills or advertising upon any public sidewalk, street, alley, or right-of-way between dusk and dawn;
3. to foist upon any person a handbill without the consent of such person;
4. to scatter, distribute, throw, deposit or place any advertisement upon any private property or business, or to place or leave any such advertisement in any automobile, truck, bus or other vehicle on private property without the property owner's consent;
5. to post, throw or otherwise place any advertisement in or upon any private premises which are temporarily or continuously uninhabited or vacant;
6. to distribute handbills or advertising to motorists on a State highway or right-of-way in the city limits of Canton. They have been deemed unsafe for said activity due to the speeds at which motorists may travel.

Any person who has gained entrance or access to a premises or an audience with the occupant, whether invited or not, shall immediately depart such premises when requested to leave by the occupant.

The Police Chief may limit activity based upon the unsafe conduct of a participant or safety concerns during hazardous weather or traffic conditions.

C. Solicitation of Donations on Public Property

Required Permit: It shall be unlawful for any person to solicit donations on public property, sidewalks, streets, alleys, or rights-of-way without first having applied for and obtained a permit from the City Council of the City of Canton.

Exceptions: The permit requirement shall not apply to any organization already scheduled to solicit donations through December 31, 2009; however, the restrictions shall apply.

Restrictions: The following limitations and regulations shall apply:

1. Only Canton chapters or Canton volunteers representing a nationally-recognized 501(c)(3) non-profit organization or a Canton 501 (c)(3) non-profit organization collecting for a charity, shall be permitted to conduct such solicitations during First Monday Trade Days. Permits will be limited to January, February, March, June, July, August and September as soliciting impedes traffic flow and increases safety concerns in high volume periods defined as April, May, October, November and December.
2. Only Canton non-profit organizations shall be permitted to conduct such solicitations for special occasions during periods other than First Monday Trade Days.
3. Educational programs benefitting Canton's youth do not qualify for this permit. The City's First Monday Parking Lot Program is a fund-raising assistance program available to these organizations.

4. Soliciting is limited to the intersection of Highways 198 and 64 where traffic is controlled by four-way stop signs. Other major intersections have been deemed unsafe due to the speeds at which motorists may travel.
5. Soliciting will only be allowed for a maximum of four (4) consecutive hours during daylight hours on the dates specified on the permit.
6. All persons soliciting for the organization shall be required to wear highly-visible clothing.
7. Participating children must be a minimum age of twelve (12) years and must be accompanied and directly supervised by an adult at all times.
8. Such solicitations shall not impede the flow of traffic or create a safety hazard.
9. The organization must post a sign at least 2' x 2' in size at each location of solicitation stating the name and location of the organization.
10. The Police Chief may limit solicitations based on safety concerns during hazardous weather or increased traffic conditions, or on unsafe conduct of any participants.
11. Failure to comply with the regulations shall result in the termination of the permit and denial of future requests by the same organization.

SECTION TWO. APPLICATION FOR PERMIT

An application for Council consideration must be filed at City Hall on a form provided by the City at least five (5) business days prior to the regular City Council meeting. Applicants shall be notified of the Council's decision for approval or denial within three business days following the City Council meeting.

The application shall state the applicant's name, address, phone number, drivers license number, proof of identification, and proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business; the name, address, phone number, drivers license number, proof of identification, and proof of possession of any license or permit required by federal, state or local laws in order to conduct the proposed business of all persons to be permitted to solicit or distribute advertising door-to-door; the name, address, and phone number of the organization, firm or corporation that is being represented and proof of authorization for the applicant(s) to represent said organization, firm or corporation; a description of the products or services solicited, the nature of the advertisements, or the purpose and nature of the solicited donations; and the specific dates and times such applicant wishes to sell, solicit or distribute in the city.

All applications are subject to review by the Canton Police Chief, or his designee, to ensure the protection of the public health, safety, and general welfare.

SECTION THREE. ISSUANCE OR DENIAL OF PERMIT

The permit shall state the name and address of the person(s), organization, firm or corporation, if any represented, the kind of good or service offered for sale, the allowed action and/or purpose, and the area and period of time allowed for such use. At all times during the permitted activity, the permit holder shall have the issued permit in his possession and available for inspection if requested.

The City Council shall issue a permit conditioned upon the applicant's written agreement to comply with the terms of the permit unless Council finds:

1. the location, time, or manner of the activity would unreasonably interfere with the public's use of streets or endanger the safety and welfare of the public, the solicitors or their customers;
2. issuance of the permit would disrupt, to an unreasonable extent, the movement of traffic;
3. issuance of the permit would require a diversion of so great a number of police officers of the city it would deny reasonable police protection to the city;
4. issuance of the permit would require other city resources to the extent that it would deny reasonable use of city services to its citizens;
5. issuance of the permit would interfere or be in conflict with other permits already issued;
6. issuance of the permit would conflict with a restriction or regulation of this ordinance;
7. any information provided in the application is found to be false or misleading;
8. the applicant or a person named on the application is found to have been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property;
9. the applicant or a person named on the application has a conviction or judgment entered against him for fraud, deceit, or misrepresentation within the preceding five years;
10. the applicant provided no proof of authority to serve as agent of the organization, firm or corporation represented;
11. the applicant provided no proof of possession of any license or permit required by federal, state or local laws in order to conduct the proposed business;
12. the applicant has been denied a permit under this ordinance within the previous 12 months, and the applicant has not shown to the Council's satisfaction that the reasons for the earlier denial no longer exist.

SECTION FOUR. REVOCATION OF PERMIT

A permit may be revoked or suspended by the Police Chief for any of the following:

1. violation of a term, restriction, or regulation of this Ordinance or the issued permit;
2. any condition for denial or a permit stipulated in Section 3 is found or occurs following the issuance of the permit;
3. activities are conducted other than those described in the application and permit;
4. activities are conducted in such a manner as to create a public nuisance, constitute disorderly conduct, or endanger the health, safety, or general welfare of the public.

SECTION FIVE. PENALTIES

1. A person who violates a provision of this Ordinance is guilty of a misdemeanor which is punishable by a fine not less than \$1.00 and not to exceed \$500.00.
2. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

SECTION SIX. REPEAL OF CONFLICTING ORDINANCES

All other ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed.

SECTION SEVEN. SEVERABILITY

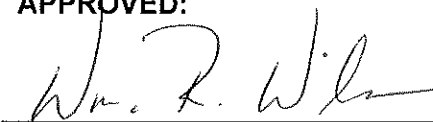
It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of 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 EIGHT. EFFECTIVE DATE

This ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

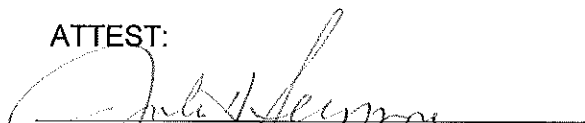
PASSED AND APPROVED this 24th day of February, 2009.

APPROVED:



William R. Wilson, Mayor
City of Canton

ATTEST:


Julie H. Seymore, City Secretary