

ORDINANCE NO. 050

AN ORDINANCE OF THE CITY OF HIGHLAND HAVEN, TEXAS, REGULATING PEDDLERS, SOLICITORS AND CERTAIN TEMPORARY VENDORS; PROVIDING DEFINITIONS; PROVIDING REGULATIONS AND PROHIBITIONS; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR RELATED MATTERS.

Whereas, the regulation of peddlers and solicitors is necessary for the public health and safety;

Whereas, protecting private residents of the City from unwanted annoyance of solicitors or peddlers protects the peace in the community;

Whereas, the City has no desire to interfere with free speech, open dialogue and exchange of opinion;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HIGHLAND HAVEN, TEXAS, THAT:

Section 1. 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:

"Noncommercial purpose or cause" means a purpose or cause not created, existing or espoused for the generation of profit or the remuneration of individuals, including, but not limited to, the religious or charitable solicitation of contributions, seeking political support or contributions, the promotion of civic causes, the promotion of conservation of resources or animals, advocating a philosophy or religion, or minors conducting fundraising activities, who represent an organization for the benefit of youths, including but not limited to Boy Scouts, Girl Scouts, little league groups, and school groups.

"Peddler" means any person, whether a resident of this city or not, who sells or offers for sale for immediate delivery any goods, merchandise, or products, whether at one or more fixed locations or by carrying goods, merchandise or products from house to house, business to business, street to street, or upon public property; a merchant shall be considered temporarily in business unless it is the intention of such merchant to establish a permanent business. Transfer of payment at the time of sale or later is immaterial. The word "peddler" shall include the terms "solicitor" and "commercial solicitor". This term shall not include individuals connected with a noncommercial purpose or cause.

"*Solicitor*" means any person who engages in a temporary business within the city limits and who solicits or attempts to solicit the sale or conveyance of any order for services, commercial goods, wares, merchandise, subscriptions, publications, food or products to be delivered at a future date or time, whether such activity is conducted at one or more fixed locations or by soliciting from house to house, business to business, street to street, or upon public property; a person shall be considered temporarily in business unless it is the intention of such person to establish a permanent business.

"*Person*" shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

"*Services*" shall mean the performance of labor for the benefit of another or at another's command.

Section 2. Exemptions. The following persons are exempt from the provisions of this ordinance:

- (a) Newspaper carriers
- (b) Individual, one time only sales of personal property items sold by the owner thereof at his private residence
- (c) Organized community and festival events held by the City, the Highland Haven Property Owner's Association, or the Highland Haven Ladies Club when held upon land owned by the Highland Haven Property Owner's Association.
- (d) Mail and parcel delivery carriers
- (e) Children under the age of fifteen (15) when engaged in "trick or Treating" on Halloween night

Section 3. Use of public places. It shall be unlawful for any peddler or solicitor to sell or solicit or take orders for or offer to sell or take orders for or display any goods, wares, merchandise, photographs, newspapers, magazines, food, drink or confection on any public square, park, street, road, highway, alley or other public property within the limits of the city.

Section 4. Refusing to leave. Any peddler or solicitor who enters upon any premises and refuses to leave such premises, after having been notified or requested to leave by the owner, occupant or person in charge or control of such premises, shall be deemed guilty of a misdemeanor.

Section 5. Entrance to premises restricted.

It shall be unlawful for any peddler or solicitor to enter upon any private premises or to ring the doorbell or rap or knock in anyway in a manner calculated to attract the attention of the occupant when such premises are posted with a sign stating "no peddlers allowed" or "no solicitations allowed" or other words to such effect.

(a) A person desiring that no merchant or other person engage in home solicitation at his or her residence shall exhibit in a conspicuous place upon or near the main entrance to the building, a weatherproof card, not less than three inches by four inches in size, containing the words "no peddlers allowed" or "no solicitations allowed" or other words to such effect. The letters shall not be less than two-thirds of an inch in height.

(b) No person shall 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 or for the purpose of securing an audience with the occupant or engaging in or attempting to engage in a home solicitation transaction if a card, as described in subsection (a) of this section, is exhibited in a conspicuous place upon or near the main entrance to the building, unless the visit is the result of a request made by the occupant.

(c) No person, other than the occupant of the building, shall remove, deface or render illegible, a card placed by the occupant pursuant to subsection (a) of this section.

(d) Any person who has gained entrance to a residence for audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by an occupant.

Section 6. Hours of operation. It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting within the city BETWEEN THE HOURS OF 6 PM AND 9 AM, or at any time on Sundays; excepting business conducted pursuant to a specific appointment with, or invitation from, the prospective customer.

Section 7. Soliciting at intersections. It shall be unlawful for any person to solicit funds, to advertise, or to distribute any item, either on foot or in automobiles, for any cause whatsoever, at any intersection or crossing of streets within the city limits.

Section 8. Misrepresentation. It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of any goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

Section 10. Penalties. Any person convicted of violating any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Five Hundred dollars (\$500.00).

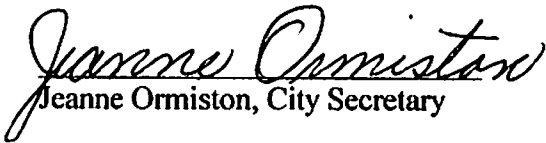
Section 11. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

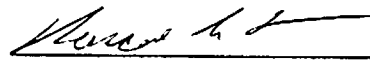
Section 12. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this the 19th day of APRIL, 200~~2~~⁵. A.L.H.

ATTEST:

THE CITY OF HIGHLAND HAVEN, TEXAS


Jeanne Ormiston, City Secretary



Roscoe L. Holt, Mayor