

ORDINANCE NO. 150

AN ORDINANCE OF THE TOWN OF ANNETTA, TEXAS, REQUIRING REGISTRATION OF AND IDENTIFICATION BADGES FOR SOLICITORS; PROVIDING REGULATIONS FOR SOLICITATION ACTIVITIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS;; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Annetta, Texas is a Type A general law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town 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 Town 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 Annetta; and

WHEREAS, the Town Council finds that regulations addressing all these concerns are in the best interest of the health, safety and welfare of the citizens of Annetta; and

WHEREAS, it is the intent of the Town 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 TOWN COUNCIL OF THE TOWN OF ANNETTA, TEXAS:

SECTION 1

SOLICITORS

Sec. 1 Purpose

The purpose of this ordinance is to protect the citizens against deceptive practices and fraud; 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 solicitors.

Sec. 2 Definitions

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 manner.

Minor means a person under the age of 18.

Non-Profit Organization means an organization or entity that is exempt from the payment of tax pursuant to section 501(c)(3) of the Internal Revenue Code.

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.

Solicitation Activities means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building personally contacting persons to ask, barter or communicate in any 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 selling or taking orders for goods, wares, merchandise or services or collecting money for any purpose. The term does not include:

- (1) the activity of a salesperson with an appointment calling upon or dealing with manufacturers, wholesalers, distributors, brokers or retailers at their place of business or homes and in the usual course of business;
- (2) the activity of a person acting on behalf of an organization that is only directed at the members of the organization; or
- (3) the activity of a person collecting money or soliciting funds only from foundations.

Solicitor means a person who engages in solicitation activities.

Town means the Town of Annetta, Texas.

Town Secretary means the Secretary of the Town or the Secretary's designated representative.

Sec. 3 Registration Required

(a) A person commits an offense if the person engages in solicitation activities in the Town without first registering with the Town and obtaining a registration certificate and town-issued identification badge from the Town Secretary.

(b) A registration certificate shall be valid for thirty (30) days following the date of its issuance unless a shorter period is requested by the applicant.

(c) An applicant for a registration certificate shall pay a non-refundable application fee at the time the application is submitted.

(d) The amount of the non-refundable application fee shall be \$50.00. If a person, firm, corporation or organization engages in solicitation activity through two or more agents, employees or volunteers the non-refundable application fee shall be \$50.00 for the first solicitor plus an additional non-refundable application fee of \$25.00 for each additional solicitor. The non-refundable application fee shall be used for the purpose of defraying administrative expenses incident to the issuing of registration certificates and identification badges.

(e) A non-profit organization or a person conducting solicitation activity on behalf of a non-profit organization is exempt from payment of the application fee.

Sec. 4 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, firm or organization. The person, corporation, firm or organization that is sponsoring or employing the minor(s) is responsible for controlling the conduct of the minors and the minors shall be under the constant supervisor of a person eighteen (18) years of age or older.

(b) A person, corporation, firm or organization that sponsors or employs one or more minors as solicitors may submit one (1) application and pay one \$50.00 non-refundable application fee for the registration of the minors regardless of the number of minors who conduct solicitation activities. The sponsor or employer shall provide the Town Secretary the name(s), date(s) of birth, address(es) and driver's license number(s) (if applicable), and a notarized parental consent for each minor that will be conducting solicitation activities. The parental consent form, which shall be provided by the Town Secretary, shall acknowledge the release of the information set

forth above and shall state that the Town is authorized to photograph their minor child.

Sec. 5 Application

A person desiring to conduct solicitation activities within the Town shall make a written application on a form provided by the Town Secretary for a registration certificate. The application shall contain or be submitted with the following information:

- (a) the full name, date of birth, phone number and address of the applicant;
- (b) a valid state driver's license number or a state-approved identification card number (the Town Secretary will make a photocopy and attach to the application) of the applicant;
- (c) if a vehicle or vehicles are used to conduct the solicitation activity, a description of each vehicle, its license plate number and vehicle identification number, and the name and license number of the driver who will operate each vehicle;
- (d) copies of all such licenses and permits which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed solicitation;
- (e) if the applicant is acting as an employee, agent or volunteer, the name and physical street address (not a post office box) and telephone number of the employer, principal or organization; with credentials in written form establishing the relationship and authority of the employee, agent or volunteer to act for the employer, principal or organization;
- (f) if applicable, the merchandise to be sold or offered for sale, the nature of the services to be furnished;
- (g) 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;
- (h) if the applicant, the applicant's employer or principal or minor solicitor who is 17 years of age or older has plead guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, misrepresentation, within five (5) years preceding the date of application, a description of each such conviction or plea and the date of the offense;
- (i) if the solicitation activity is to be conducted on behalf of a non-profit organization, proof of such status shall be attached to the application;

(j) if the applicant is an entity or organization that sponsors or employs minors as solicitors and is submitting one application for those minors, the information set forth in Section 4(b).

Sec. 6 Application Review and Registration Acceptance

(a) Upon receipt of an application, the Town Secretary shall review the application to ensure compliance with this ordinance.

(b) The Town Secretary shall authorize the registration within thirty (30) days of receipt of the application unless:

(1) an investigation reveals that the applicant or the applicant's employer, principal or organization falsified information on the application;

(2) within five years preceding the date of application, the applicant or the applicant's employer, principal or organization has plead guilty or nolo contendere to, or has been convicted of, a felony or misdemeanor involving fraud, deceit or misrepresentation;

(3) a judgment based upon fraud, deceit, or misrepresentation has been entered against the applicant or the applicant's employer, principal or organization within five years preceding the date of application;

(4) the applicant provided no proof of authority to act on behalf of the employer, principal or organization; or

(5) the application does not contain the information or documents required by Section 5.

(c) The denial and the reasons for the denial shall be noted on the application, and the applicant shall be notified of the denial by notice mailed to the applicant and the applicant's employer, principal or organization at the address shown on the application or the last known address. The notice of denial shall be mailed within thirty (30) days of the receipt of the application.

Sec. 7 Registration certificate and identification badge

(a) Upon authorization of the registration, the Town Secretary shall deliver a registration certificate and identification badge for each solicitor, and shall forward a copy of the certificate to the Parker County Sheriff's Office.

- (b) The registration certificate shall show:
- (1) the name and address of the solicitor;
 - (2) the solicitor's employer, principal or organization, if applicable;
 - (3) the kind of goods or services to be sold or offered for sale, if applicable;
 - (4) a description and license plate number of any vehicle to be used in carrying out the solicitation activities, if applicable;
 - (5) a registration number; and
 - (6) the dates of issuance and expiration of the certificate.
- (c) The original or copy of the registration certificate must be carried by a solicitor while engaged in solicitation activities.
- (d) The identification badge issued by the Town shall be worn by a solicitor while engaging in solicitation activities so that it may be easily read by those being solicited. Lost or damaged badges may be replaced for a non-refundable fee of \$5.00 per badge.
- (e) A registration certificate and an identification badge shall be used only by the solicitor to whom they were issued and may not be transferred to another person.

Sec. 8 Regulations

- (a) A person commits an offense if the person engages in solicitation activity at a residence before 8:30 a.m. or after 9:00 p.m.
- (b) A person commits an offense if the person engages in solicitation 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 activity is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of the premises, a sign, not less than four (4) inches by three (3) inches in size, containing the words "NO SOLICITORS," "NO TRESPASSING," or words of similar meaning in letters not less than two-thirds (2/3) of one inch in height.
- (c) A person, who is not the owner or tenant of a residence, commits an offense if the person removes, defaces or otherwise renders illegible a sign placed by the owner or tenant of the residence pursuant to Subsection (b).
- (d) A person commits an offense if the person engages in solicitation activities and remains

or lingers on a premises after being informed by the owner or tenant that they are not welcome.

(e) 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; or
- (2) following behind, ahead or alongside a person who walks away from the solicitor after being solicited, approached, accosted or offered a handbill, leaflet or any other item.

(f) A person commits an offense if the person solicits edible merchandise without keeping all articles for sale to the public as well as the wagons, vehicles, or other conveyances used in the transportation of such merchandise in a clean and sanitary condition.

(g) A person commits an offense if that person sells or offers to sell any unsound or unwholesome merchandise or give a false weight of measure to such offered for sale.

Sec. 9 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 Town which is designated as an arterial or collector on the Town’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 Town 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. 10 Revocation or Suspension of Registration

A registration certificate issued pursuant to this ordinance may be revoked or suspended by the Town Secretary, after notice and hearing, for any of the following reasons:

- (a) fraud, misrepresentation, or false statement contained in the application for registration;

- (b) fraud, misrepresentation, or false statement made by a solicitor in the course of conducting solicitation activities;
- (c) a plea or conviction of a crime described in Section 6(b)(3);
- (d) a judgment involving a matter described in Section 6(b)(4); or
- (e) a violation of the regulations described in Section 8.

Sec. 11 Appeals

- (a) A person who is denied a registration certificate or whose registration is revoked or suspended by the Town Secretary, may appeal the decision to the Town Council by filing notice of appeal with the Town Secretary within 15 days after the notice of the decision is mailed to the address indicated on the application or the last known address.
- (b) Within 10 days of the receipt of the notice of appeal, the Town Secretary shall set a time and place for a hearing on the appeal which shall be not later than 40 days from the date of receipt of the notice of appeal.
- (c) Notice of the time and place of the hearing shall be delivered to the person by mail, sent to the address indicated on the application or the last known address of the appellant.
- (d) The decision of the Town Council on the appeal is final. No other administrative procedures are provided by the Town.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Annetta, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

All rights and remedies of the Town of Annetta, Texas, are expressly saved as to any and all violations of the provisions of any other ordinances and of the Code of Ordinances of the Town of Annetta which 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 and of such Code, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

It is hereby declared to be the intention of the Town 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 Town Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

Any person who commits an offense under this ordinance shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a person shall be in violation of this ordinance shall constitute a separate offense.


SECTION 6.

The Town Secretary of the Town of Annetta is hereby directed to publish in the official newspaper of the Town of Annetta, the caption, penalty clause, and effective date clause once as authorized by Chapter 52 of the Local Government Code.

SECTION 7.

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED on this 18th day of September 2014.



Bruce Pinckard, Mayor

ATTEST:



Chad Roberts, Town Secretary



Ordinance 150 Solicitors Permit
Adopted: September 18, 2014