

DIVISION 1. - PURPOSE, DEFINITIONS, SOLICITATION AND HANDBILLS

Sec. 18-481. - Purpose and intent.

The purpose of this chapter is to secure the general health, safety and welfare for the residents of the city by:

- (1) Prohibiting door-to-door solicitation activity and handbill distribution at residences during the times when such activity is most intrusive and disruptive to citizens' privacy;
- (2) Regulating the locations in which solicitation activity and handbill distribution may occur to promote safety and minimize congestion;
- (3) Regulating the manner in which any solicitation activity and handbill distribution may occur to promote good order and protect citizens from aggressive and intimidating practices; and
- (4) Requiring solicitors to obtain permits from the city to aid crime detection and deter deceptive practices and fraud.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3700, § 1, 8-9-2021)

Sec. 18-482. - Definitions.

In this chapter, the terms listed below shall have the following meaning:

Charitable purpose means the use of money or property for the benefit of:

- (1) Charity or philanthropy, or poor, impoverished, destitute, underprivileged, needy, refugee, diseased, injured, crippled, disabled, or handicapped persons, or persons in need of rehabilitation;
- (2) Patriotism, that is, for the teaching of patriotism or the relief or assistance of veterans or veteran's organizations; or
- (3) Existing educational institutions or for the establishment or endowment of educational institutions or in aid of the education of any person or group of persons.

City means the City of North Richland Hills, Texas.

City manager means the city manager of the city or the city manager's designated representative.

City sponsored event means a special event for which the city has issued a permit other than a solicitor's permit or has otherwise authorized to occur, and for which the city pays all or a portion of the costs of the event.

Curb means the line adjacent to the edge of the roadway which may be either a raised or lowered or a marked or unmarked surface.

Director means the Chief of the North Richland Hills Police Department or the director's designated representative.

Edible merchandise means prepackaged, non-potentially hazardous foods such as individually packaged candy, ice cream, chips, bottled or canned drinks, or other individually packaged food that does not require strict temperature control.

Handbill means any printed or written material, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any manner.

Handbill distribution activity means traveling by foot or vehicle, going door-to-door, house-to-house, building-to-building without intentionally making person-to-person contact, to distribute or leave on or at each premises handbills for any purpose.

Handbill distributor means any person who distributes or causes the distribution of handbills or engages in handbill distribution activity.

Minor means a person under the age of 18.

Permanent established business location means an established place of business operating in a permanent structure on a continuous basis.

Permanent structure means a structure for which a certificate of occupancy has been issued.

Public place means any area to which the public is invited or in which the public is permitted, and includes, but is not limited to: the parking lot of any commercial establishment, the right-of-way of any street or highway, but does not include the offices or work areas of work places not entered by the public in the normal course of business.

Roadway means that portion of a street or highway designed, improved or ordinarily used for vehicular travel, typically delineated by curbs or the edge of the pavement.

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.

Sidewalk means the portion of a street or highway that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Solicitation activities or *solicitation activity* means the act of traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building or occupying space in or traveling on or through any public place in the city while intentionally making person-to-person contact to ask, barter or communicate in any other 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.

Exceptions. The term solicitation activity shall not include:

- (1) Activity of a salesperson calling upon or dealing with manufacturers, wholesalers, distributors, brokers, dealers, service providers or retailers at their place of business in the usual course of business;
- (2) Activity approved in conjunction with a city sponsored event;
- (3) Activity conducted in conjunction with a residential yard or garage sale;
- (4) Activity of a business conducted at the permanent established business location of that business;
- (5) Activity conducted with consent of the owner or person in control of the property and not conducted while traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building;
- (6) Activity for which a special use permit has been issued pursuant to the city's zoning ordinance;
- (7) Activity conducted in connection with a mass gathering event under the city's zoning ordinance;
- (8) Activity conducted at a city park pursuant to a concession agreement with the city or in accordance with applicable park ordinances and policies;
- (9) Visitation or fund raising by members of an organization from its own members;
- (10) Personal contact by individuals, political candidates or parties or their supporters seeking solely to advocate particular points of view, issues or candidates;
- (11) Persons seeking solely to promote religious views;
- (12) Handbill distribution activity;
- (13) Persons seeking solely to promote charitable purposes;
- (14) Any activity exempted from regulation by law.

Solicitor means a person who engages in solicitation activities.

Solicitor's permit or *permit* means a permit issued by the director which allows a person to conduct solicitation activities within the city.

Street or *highway* means the width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular traffic.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3700, § 2, 8-9-2021)

Sec. 18-483. - Permit required for solicitors.

- (a) A person commits an offense if the person engages in solicitation activities in the city without first obtaining a solicitor's permit from the director.
- (b) A solicitor's permit shall be valid for six months following the date of issuance unless a shorter period is requested by the applicant.
- (c) An applicant for a solicitor's permit shall pay a permit fee at the time the application is submitted. The amount of the solicitor's permit fee shall be set forth in the schedule of fees approved by the city council.
- (d) No permit shall be required for persons under 18 years of age if engaged in fundraising activities for an organization using all profits for young people's activities or donating all profits to charities other than a sponsoring organization, nor shall a permit be required for the organization for which such young persons are soliciting.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3700, § 3, 8-9-2021)

Sec. 18-484. - Solicitor's permit application.

- (a) A person or organization desiring to conduct solicitation activities within the city shall make a written application on a form provided by the director for a solicitor's permit. The application shall contain the following information for each person who will be conducting solicitation activities:
 - (1) The name, driver's license or state issued identification, date of birth, phone number and permanent, and, if different, local address;
 - (2) A valid state driver's license number or a state-approved identification card number with a photograph (The director will make a photocopy and attach to the application);
 - (3) If a vehicle is used, a description of the same, together with the state where licensed, license number and the vehicle identification number;
 - (4) Except as provided by subsection 18-483(d), two photographs, measuring at least 1.5 inch x 1.5 inch and showing the head and shoulders of the person in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;
 - (5) Proof of possession of any license or permit which, under federal, state, or local laws or regulations, the person is required to have in order to conduct the proposed solicitation. Copies of all such licenses and permits shall be attached to the application;
 - (6) If the applicant is:
 - (7) The nature of solicitation activity (i.e. the merchandise to be sold or offered for sale; or the nature of the services to be furnished);
 - (i)

Employed by another, the name and physical street address (not a post office box) and telephone number of the employer together with credentials in written form establishing the authority of the employee to act for the employer;

- (ii) Acting as an agent, the name, the physical street address (not a post office box), and telephone number of the principal being represented, with credentials in written form establishing the relationship and authority of the agent to act for the principal; or
- (iii) Acting as a volunteer for a nonprofit organization, the name and physical street address (not a post office box) of the organization being represented must be provided;
- (7) The nature of solicitation activity (i.e. the merchandise to be sold or offered for sale; or the nature of the services to be furnished; or the type of pamphlets or handbills to be distributed);
- (8) 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;
- (9) The names of all other cities in which the applicant has conducted solicitation activities in the past six months;
- (10) Whether the applicant will receive a payment for goods or services at the time of solicitation or will demand, accept or receive payment or the deposit of money in advance of final delivery, and if so, the amount sought or the basis for calculation of such payment;
- (11) If the applicant has pleaded guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor, or any law or ordinance involving fraud, deceit, misrepresentation, a sex offense, theft, trafficking a controlled substance, illegal possession of a firearm, stalking, a crime of moral turpitude, or any act of violence against persons or property, a description of each such conviction or plea and the date of the offense;
- (12) If the applicant is an entity that sponsors or employs minors as solicitors and is submitting one application, the information set forth in subsection (a). A permit will be required for each such minor.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3543, § 1, 10-8-2018; Ord. No. 3700, §§ 4, 5, 8-9-2021)

Sec. 18-485. - Solicitation by minors; applications.

- (a) A minor who conducts solicitation activities shall be sponsored or employed by a person over the age of 18, a corporation, company or organization. The person, company, corporation or organization that is sponsoring or employing the minor(s) is responsible for the conduct of the minor and obtaining a solicitor's permit on the minor's behalf.
- (b)

Each minor 16 years of age or older who engages in solicitation activities or who is sponsored or employed by any person, company, corporation or organization that engages in solicitation activities shall obtain a solicitors permit as required by section 18-483.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3700, § 6, 8-9-2021)

Sec. 18-486. - Reserved.

Editor's note— Ord. No. 3543, § 2, adopted October 8, 2018, repealed § 18-486, which pertained to bond and derived from Ord. No. 3077, § 1, 10-26-2009.

Sec. 18-487. - Issuance of solicitor's permit.

- (a) The director shall approve or deny the issuance of a solicitor's permit to an applicant and notify the applicant within 30 days after receipt of the application. If the permit is denied the applicant shall be notified of this decision by mail sent to the address shown on the application. The permit shall not be approved if the director finds one or more of the following to be true:
 - (1) The application for a solicitor's permit does not contain the information required by section 18-484;
 - (2) False or misleading statements are found to be included in the application for a solicitor's permit;
 - (3) The applicant, employer or principal is a person against whom a civil judgment based upon fraud, deceit, or misrepresentation has been entered within five years;
 - (4) Within five years preceding the date of the application, the applicant, employer or principal has pleaded guilty or nolo contendere to, or has within such time been convicted of, a felony or misdemeanor, or any law or ordinance involving fraud, deceit, misrepresentation, a sex offense, theft, trafficking a controlled substance, illegal possession of a firearm, stalking, a crime of moral turpitude, or any act of violence against persons or property;
 - (5) The applicant is a registered sex offender;
 - (6) Within the six months preceding the date of the application, the applicant has failed to comply with any rule, regulation or ordinance of another city or state concerning solicitation activity; or
 - (7) The applicant has an outstanding warrant of arrest for any offense described in subsection (a) (4);
- (b) If an application is denied, the reasons for denial shall be noted on the application.
- (c)

Except as otherwise provided in this chapter, the director shall issue to each approved permit holder a photo identification tag under the terms of this article. Such photo identification tag shall be worn constantly in a conspicuous place by the permit holder while conducting solicitation activities in the city.

- (d) A person commits an offense if the person wears or displays a photo identification tag issued to another person or alters a photo identification issued hereunder.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3543, §§ 3, 4, 10-8-2018; Ord. No. 3700, § 7, 8-9-2021)

Sec. 18-488. - Revocation or suspension of solicitor's permit.

- (a) A permit may be revoked or suspended by the director for any of the following reasons:
 - (1) The director finds that any fact or event in subsection 18-487(a) is true or has become true since the application was completed; or
 - (2) The solicitor conducts solicitation activities in violation of any provision of this chapter.
- (b) Upon revocation, the director shall immediately deliver written notice to the permit holder stating the action and the reasons supporting such action. A written notice shall be delivered or mailed to the solicitor's address as shown on the application.
- (c) The director shall have the authority to seize any and all permits and photo identification tags possessed by persons conducting business as a solicitor while the official notification process is underway. At such time, all solicitation activities conducted under the authority of that permit shall cease.
- (d) Should more than one complaint be received that solicitors for any product or service have violated any of the provisions of this ordinance, the director shall immediately suspend all solicitor permits for such product or service and notify the permit holder(s) of such suspension. Unless appealed as provided by the following section, such suspension shall become a forfeiture of all such permits.

(Ord. No. 3077, § 1, 10-26-2009)

Sec. 18-489. - Appeals.

- (a) A person who is denied a solicitor's permit, or whose permit is revoked or suspended by the director, may appeal the decision to the city manager by filing a notice of appeal with the director within 15 days after the notice of decision is delivered or mailed to the address indicated on the application.
- (b) Within ten days of the receipt of the notice of appeal, the city manager shall set a time and place for a hearing on the appeal which shall be not later than 30 days from the date of receipt of the notice of appeal. The city manager may designate a person to hear such appeal.
- (c)

Notice of the time and place of the hearing shall be delivered to such person or mailed to the person at the address indicated on the application. Notice shall be sent within ten days of the receipt of the notice of appeal.

- (d) The decision of the city manager or his designee on the appeal is final. No other administrative procedures are provided by the city.

(Ord. No. 3077, § 1, 10-26-2009)

Sec. 18-490. - Regulation of solicitors; generally.

- (a) A solicitor shall identify himself as a solicitor upon approaching a person at a residence or at any other location in the city and explain his purpose, whether it be direct sales, solicitation of orders or services, or the demonstration of merchandise, or any combination of such purposes.
- (b) A person who uses a vehicle in solicitation activities shall post a sign located in a conspicuous place on the vehicle, identifying the name of the person, company or organization that the person represents. If the name is an individual person, it must be followed by the word "solicitor". The lettering on the sign must be at least two and one-half inches high.
- (c) A solicitor who holds a current City of North Richland Hills health permit is permitted to solicit for the sale of edible merchandise. Any such solicitor shall keep all articles for sale to the public in a clean and sanitary condition, as well as the wagons, vehicles, or other conveyances used in the transportation of such merchandise and shall meet all applicable federal, state and local regulations.
- (d) A solicitor commits an offense if he or she sells or offers to sell any unsound or unwholesome merchandise or give a false weight of measure to such offered for sale.
- (e) A solicitor commits an offense if he or she represents that the city or any of its employees or officials has endorsed or approved the goods or services which the solicitor is attempting to sell or take orders for.
- (f) A solicitor commits an offense if he or she attempts to contact a person at an address where a "No Solicitors" sign is posted.
- (g) A solicitor commits an offense if he or she fails to depart immediately when requested or ordered to leave.
- (h) A solicitor commits an offense if he or she fails to immediately step back from the door after knocking or ringing a doorbell and remaining at least three feet back from such door unless and until invited into the home.
- (i) It shall be an offense for a person not prominently displaying a valid permit issued to such person under this article for the purpose described in the application for such permit to engage in solicitation within the city.
- (j)

It is an offense for a solicitor to solicit for the sale of any potentially hazardous food, whether packaged or unpackaged, raw or cooked, such as fish, beef, or poultry, or for the sale of fruit, produce or other unpackaged goods.

- (k) It shall be an offense for any solicitor to refuse to produce proof of identity upon the request of a police officer.

(Ord. No. 3077, § 1, 10-26-2009)

Sec. 18-491. - Solicitation in public right-of-way.

- (a) A person commits an offense if the person engages in solicitation activity within the roadway, or on any median or traffic island within the right-of-way of any street or highway within the city.
- (b) A person commits an offense if the person engages in solicitation activity by a direct transaction or exchange with the occupant of any vehicle stopped or traveling on the roadway of any street or highway in the city. An offense under this subsection occurs when the offer, solicitation or distribution is made regardless of whether a transaction is completed.
- (c) A person commits an offense if the person engages in solicitation activity on a sidewalk within the city in a manner that impedes the flow of pedestrian traffic.
- (d) It is a defense to prosecution under subsections (a) or (b) above if the person engages in solicitation activity to operate a taxi cab, mail carrier, vehicle for hire such as commercial servicing or repair of any disabled motor vehicle.
- (e) It is a defense to prosecution under subsection (a) if the person engages in solicitation activity from a vehicle in a manner that does not violate subsection 18-492(a)(1).

(Ord. No. 3077, § 1, 10-26-2009)

Sec. 18-492. - 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 city which is designated as an arterial or collector on the city'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 city and the vehicle is not equipped with warning lights that are in actual operation, whether or not the vehicle is stopped or moving.
- (c) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the city 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.

(Ord. No. 3077, § 1, 10-26-2009)

Sec. 18-493. - Offenses; restrictions on time for solicitors activity and handbill distribution activity.

- (a) A person commits an offense if the person engages in solicitation activity or handbill distribution activity at a residence:
 - (1) Before 9:00 a.m.; or
 - (2) After sunset as defined by the National Weather Service or 8:00 p.m., whichever is earlier on a given day.
 - (3) On Sunday, any federally designated holiday; or any day where the Department of Homeland Security has declared an orange or red state of alert.
- (b) A person commits an offense if the person engages in solicitation activity or handbill distribution 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 and handbill distribution activity are not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of a premises, a sign, not less than one inch by three inches in size, containing the words "NO SOLICITORS", "NO SOLICITING," "NO TRESPASSING", "NO SOLICITORS OR HANDBILLS" or words of similar meaning.
- (c) 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;
 - (2) Following behind, ahead or alongside a person who walks away from the solicitor or canvasser after being solicited, approached, accosted or offered a handbill, leaflet or any other item;
 - (3) Shouting, making any outcry, blowing a horn or whistle, or using any sound device, including any loud speaker or sound amplifying system in violation of the city's noise ordinance for the purpose of attracting attention to one's location;
 - (4) Suggesting that the person or their family is in danger or will suffer harm if they do not purchase the goods or services offered by the solicitor;
 - (5) Failing to immediately step back from the door after knocking or ringing a doorbell and remain at least three feet back from such door unless and until invited into the home.
- (d) No handbill shall be delivered to any uninhabited building.
- (e) No handbill shall be distributed or circulated in or upon any public place or outdoor area.
- (f) No handbill shall be deposited upon or in any motor vehicle unless such vehicle is occupied and the occupant expressly accepts such handbill.

(g) No handbill shall be delivered or distributed to any residential property in a manner which could result in such handbill being blown or drifting about or away from such property.

(h) No handbill shall be nailed, tacked, stapled, glued or taped to any door or structure or attached in any other manner which could mar or leave adhesive residue.

(Ord. No. 3077, § 1, 10-26-2009; Ord. No. 3700, § 8, 8-9-2021)

Secs. 18-494—18-500. - Reserved.