

ORDINANCE NO. 2022-35

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE’S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, CHAPTER 82 (PEDDLERS AND SOLICITORS), BY REPEALING OR AMENDING SECTIONS 82-1 DEFINITIONS, BY REPEALING OR AMENDING 82-2 (UNLAWFUL SOLICITATION AND HANDBILL DISTRIBUTION), 82-3 (SUPERVISION OF CHILD SOLICITORS), 82-4 (PERMIT OR CERTIFICATE OF REGISTRATION—GROUNDS FOR DENIAL OR REVOCATION), 82-5 (SAME—APPEAL FROM DENIAL OR REVOCATION), 82-31 (EXCEPTIONS TO ARTICLE), 82-32 (REGISTRATION STATEMENT), 82-33 (REGISTRATION FEE), 82-34 (CERTIFICATE OF REGISTRATION ISSUANCE, DURATION AND FORM), 82-35 (SOLICITOR’S IDENTIFICATION), 82-36 (PUBLIC DISCLOSURE), 82-7 (EXHIBITING CARD PROHIBITING SOLICITORS AND HANDBILL DISTRIBUTORS), 82-71 (EXCEPTIONS TO ARTICLE), 82-72 (APPLICATION FOR PERMIT), 82-73 (PERMIT FEE), 82-74 (EXEMPTIONS FROM PERMIT FEE), 82-75 (PERMIT ISSUANCE, DURATION AND FORM), 82-76 (SOLICITOR’S AND HANDBILL DISTRIBUTOR’S INFORMATION), AND 82-77 (PUBLIC DISCLOSURE); PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE, PENALTY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Wylie, Texas (“City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Wylie, Texas (“Wylie” or “City”) to amend Chapter 82 (Peddlers and Solicitors), by repealing or amending Sections 82-1 (Definitions), 82-2 (Unlawful Solicitation and Handbill Distribution), 82-3 (Supervision of Child Solicitors), 82-4 (Permit or Certificate of Registration—Grounds for Denial or Revocation), 82-5 (Same-Appeal from Denial or Revocation), 82-31 (Exceptions to Article), 82-32 (Registration Statement), 82-33 (Registration Fee), 82-34 (Certificate of Registration Issuance, Duration and Form), 82-35 (Solicitor’s Identification), 82-36 (Public Disclosure), 82-7 (Exhibiting card Prohibiting Solicitors and Handbill Distributors), 82-71 (Exceptions to Article), 82-72 (Application for Permit), 82-73 (Permit Fee), 82-74 (Exemptions from Permit Fee), 82-75 (Permit Issuance, Duration and Form), 82-76 (Solicitor’s and Handbill Distributor’s Information), and 82-77 (Public Disclosure) of Wylie’s Code of Ordinances, Ordinance No. 2021-17, as amended (“Code of Ordinances”), as set forth below; and

WHEREAS, the City Council has further investigated and determined that recent changes in relevant law justify amending the Code of Ordinances as set forth below to, among other things, ensure that certain procedures in Chapter 82 (Peddlers and Solicitors) of the Code of Ordinances do not conflict, nor are inconsistent, with applicable law; and

WHEREAS, the City Council has further investigated and determined that in order to promote the public health, safety and welfare of Wylie and its citizens, it is in the best interest of Wylie and its citizens to amend the Code of Ordinances, as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to the Code of Ordinances, Chapter 82 (Peddlers and Solicitors), Sections 82-1 (Definitions) 82-2 (Unlawful Solicitation and Handbill Distribution), 82-3 (Supervision of Child Solicitors), 82-4 (Permit or Certificate of Registration—Grounds for Denial or Revocation), 82-5 (Same-Appeal from Denial or Revocation), 82-31 (Exceptions to Article), 82-32 (Registration Statement), 82-33 (Registration Fee), 82-34 (Certificate of Registration Issuance, Duration and Form), 82-35 (Solicitor’s Identification), 82-36 (Public Disclosure), 82-71 (Exceptions to Article), 82-72 (Application for Permit), 82-73 (Permit Fee), 82-74 (Exemptions from Permit Fee), 82-75 (Permit Issuance, Duration and Form), 82-76 (Solicitor’s and Handbill Distributor’s Information), and 82-77 (Public Disclosure). The Code of Ordinances, Chapter 82 (Peddlers and Solicitors), Sections 82-2 (Unlawful Solicitation and Handbill Distribution), 82-3 (Supervision of Child Solicitors), 82-4 (Permit or Certificate of Registration—Grounds for Denial or Revocation), 82-5 (Same-Appeal from Denial or Revocation), 82-32 (Registration Statement), 82-31 (Exceptions to Article), 82-33 (Registration Fee), 82-34 (Certificate of Registration Issuance, Duration and Form), 82-35 (Solicitor’s Identification), 82-36 (Public Disclosure), 82-7 (Exhibiting Card Prohibiting Solicitors and Handbill Distributors), 82-71 (Exceptions to Article), 82-72 (Application for Permit), 82-73 (Permit Fee), 82-74 (Exemptions from Permit Fee), 82-75 (Permit Issuance, Duration and Form), 82-76 (Solicitors’ and Handbill Distributor’s Information), and 82-77 (Public Disclosure) are hereby amended as follows:

“CHAPTER 82 – PEDDLERS AND SOLICITORS

Sec. 82-1 Definitions.

- (a) The following words or phrases, when used in this chapter, shall have the meaning ascribed to them by this section.

Automated teller facility means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

Business day means any day except Saturday, Sunday or any local, state or national holiday.

City of Wylie or City means the City of Wylie, Texas.

City Manager means the City Manager of the City of Wylie, Texas, or his/her Designee.

Handbill means and includes any printed or written matter, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies of any matter or literature.

Public area means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility or shop.

Solicitation means to request, by spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor’s purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

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.

Traffic island means a barrier within a street or roadway to exclude vehicles, designated for the purpose of separating or directing streams of vehicular traffic.

- (b) All terminology used in this chapter not specifically defined above, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body and/or the latest volume of Webster's Collegiate Dictionary.

Sec. 82-2. – Unlawful solicitation and handbill distribution.

- (a) No person shall peddle, solicit, distribute handbills, hawk, sell or take orders for or offer to take orders for any item or service at a private residence in the city after sunset on any day until 9:00 a.m. unless the transaction is the result of a request made to such person by the occupant of such private residence. The term "sunset" means the time of day identified by the National Weather Service as the time for sunset for that day for the city. There shall be no solicitations at any time on federally designated holidays, without prior invitation from the occupants of said private residence.
- (b) It shall be unlawful for any person to solicit or distribute handbills in person at a private residence where the owner, occupant or any other person then present in or upon such private premises has indicated that no such activities are welcomed or if there is placed upon such premises in a conspicuous place upon or near the main entrance to the residence, a card containing the words "NO SOLICITORS" OR "NO TRESPASSING". The letters shall be not less than two-thirds of an inch in height and should be displayed on a weather proof card not less than three inches by four inches in size.
- (c) It shall be unlawful for any person to solicit in person at a gated community which shall exhibit in a conspicuous place upon all entrances to the community the words "NO SOLICITORS" OR "NO SOLICITATION". The letters shall not be less than one and a half inches in height and shall be displayed on a weatherproof card not less than 8 inches by 12 inches in size. It shall be an affirmative defense to a violation under this section that the solicitation occurred at the written request of a homeowner/resident in the gated community. The solicitor shall only solicit at the address covered by the written request.
- (d) It shall be unlawful for a person to engage in aggressive solicitation which includes the approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- (e) It shall be unlawful for a person to solicit in the following locations;
 - (1) within 25 feet of:
 - (a) an automated teller facility
 - (b) the entrance or exit of a bank or
 - (c) the entrance or exit of a check cashing business
 - (2) at a public transportation stop
 - (3) in an aggressive manner in a public area

- (f) No person shall engage in solicitation through the delivery of handbills or circulars by placing said handbills or circulars on motor vehicles, public utility posts, or other location such that the same constitutes littering under V.T.C.A, Health and Safety Code Ch. 365. It is presumed that the person or business whose address or telephone number is listed in the 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. 82-3. Supervision of child solicitors.

It shall be unlawful for any person to use children thirteen (13) years of age or less for any type of solicitation or handbill distribution purposes unless the children are actively supervised by an adult individual at least eighteen (18) years of age. In all cases the supervising adult shall be within one hundred (100) yards of the child solicitor.

Sec. 82-4. Exemptions.

- (a) The provisions of this chapter shall not apply to:
 - (1) The regular delivery of newspapers or magazines or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered;
 - (2) The interruption of service notices by utility companies;
 - (3) The distribution of mail by the United States government; and
 - (4) The service of any lien foreclosure or governmental notices of any character distributed by the City or any other governmental entity.

Secs. 82-73—82-100. Reserved.

ARTICLE III. JOB PLACEMENT ACTIVITIES

Sec. 82-101. Prohibition of job placement activities in unauthorized locations.

- (a) No person shall engage in or attempt to engage in job placement activities in an unauthorized location. This section shall not apply to job placement activities concerning employment or business for the owner or lawful tenants of the subject premises.
- (b) This section shall only apply to unauthorized locations where the location has a notice posted in both English and Spanish in a conspicuous place at each entrance and exit to such location not less than 18 by 24 inches in size with lettering not less than one inch in height and not to exceed, in total area, six square feet. The notice shall be in substantially the following form:

“It is unlawful to engage in job placement activities on these premises.”

- (c) This article shall override other ordinances regulating the placement of signage, temporary or permanent, for the purpose of solicitation or job placement in and throughout the City.

Secs. 82-102—82-120. Reserved.

SECTION 3: Penalty. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Wylie from filing suit to enjoin the violation. Wylie retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 4: Savings/Repealing. The Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 5: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 6: Effective Date. This Ordinance shall be effective immediately upon its passage and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS on this 26th day of April, 2022.

Matthew Porter, Mayor

**ATTESTED AND
CORRECTLY RECORDED:**

Stephanie Storm, City Secretary

DATE OF PUBLICATION: May 4, 2022, in The Wylie News