

ORDINANCE NO. 2022-6-21

AN ORDINANCE REGULATING RESIDENTIAL SOLICITORS, PEDDLERS OR CANVASSERS; ESTABLISHING REGISTRATION REQUIREMENTS FOR RESIDENTIAL SOLICITORS OR PEDDLERS; REGULATING HANDBILLS, COMMERCIAL FLYERS AND SIGNS; PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, many citizens of this community expect their local government to assist them in preserving their privacy and avoiding petty annoyances that disrupt their quiet enjoyment of their homes; and

WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved; and

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of our citizens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STAPLES, TEXAS, AS FOLLOWS:

Definitions. As used in this ordinance the following words have the meaning indicated.

A."Residential Solicitor" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of: (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

B. "Canvasser" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

(1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

c. "Peddler" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A "peddler" does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "residential solicitor".

Exceptions. This ordinance shall not apply to a federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer, Staples churches, Staples residents supporting fundraising or local 501C3 fundraising groups.

Permit Required for Residential Solicitors or Peddlers. No person shall act as a residential solicitor or peddler within the city without first obtaining a permit in accordance with this ordinance.

Fee. The fee for the issuance of each Permit shall be:

\$50.00 per person

(a) Application for Permit. Any person or organization (formal or informal) may apply for a Permit by completing an application form at the office of the City Secretary, during

regular office hours. The City Council shall issue at Permit conditioned upon the applicant's written agreement to comply with the terms of the Permit. The application for Council consideration must be filed with the City Secretary no later than 5 business days prior to the regular City Council meeting.

(b) Application. Applicants for Permit under this article, whether a person, firm or corporation, charitable, religious, patriotic, civic, fraternal or social organization, or educational institution, or other philanthropic or non-profit organization shall file a written sworn application signed by the applicant with the City of Staples showing:

- A. The name, the address, and phone number of the person(s), business, firm or corporation, charitable, religious, patriotic, civic, fraternal or social organization, or educational institution, or other philanthropic or non-profit organization that will be carrying out the applicant's business.
- B. The location in the city where it is proposed to carry on the applicant's business or organization, and the length of time during which it is proposed that the business shall be conducted. If said location is not a public place then a contact person(s), phone number and signature of the contact person(s) shall be provided on the application to approve utilization of said location for requested business.
- C. A statement of the type of solicitation, service or material to be distributed or sold.
- D. The application for Council consideration must be filed with the City Secretary no later than 7 business days prior to the regular City Council meeting held on the third Tuesday of each month.
- E. The applicant shall provide and wear at all times a name tag bearing a current photo, business name and address of employer.

Prohibited Acts. No residential solicitor, peddler or canvasser shall:

- A. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right of way (public or private) indicating a prohibition against soliciting, peddling or canvassing. Such sign need not exceed one square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two inches in height (the phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and canvassers).
- B. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the residential solicitor, peddler or canvasser.
- C. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of way to the front or main entrance, except by express invitation of the resident or occupant of the property.
 - 1. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
 - 2. No persons shall engage in residential solicitation, peddling or canvassing prior to 10:00 a.m. or after 4 p.m., except that the above prohibitions shall not apply when the residential solicitor, peddler or canvasser has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

On Sundays or any national holiday.
- D. Engage in any conduct in solicitations that are fraudulent or harassing to residents.
- E. Display signs of any kind in public rights-of-way within the city limits.

Display of Permit. It shall be the responsibility of the residential solicitor or peddler to display or have available upon his person evidence of compliance with the Permit requirement provided for

under the provisions of the codes of the city. Any police officer shall have the right to request evidence of compliance with such provisions requiring a Permit. If any residential solicitor or peddler is observed to be in violation of any provisions of this ordinance, the person in violation may be issued a citation.

Validity of Residential Solicitor's or Peddler's Permit. A residential solicitor's or peddler's Permit shall be valid within the meaning of this ordinance for a period of fourteen (14) days from its date of issuance or the term requested, whichever is less.

Distribution of Handbills and Commercial Flyers. In addition to the other regulations contained herein, a residential solicitor leaving handbills or commercial flyers about the community shall not attach a handbill or commercial flyer to any privately owned property in a manner that causes damage to such privately owned property.

Violation. Any person violating any part of this ordinance or failing to observe any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars. Subsequent to the receipt of a citation of a violation of the provisions of this ordinance, a police or code enforcement officer shall, upon a continuation of the violation, seize the permit and forward it to the City Secretary on the next regularly scheduled business day.

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

Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

Government Code. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

Effective Date: This ordinance shall be in full force and effect from and after it is approval.

This Ordinance was introduced before the city Council of the City of Staples, Texas, passed, approved and adopted on this the 16th day of August 2022.

Ronnie Clark

Mayor City of Staples

Attest:

Marilyn Devere, City Secretary