

ORDINANCE NO. 2019-02

An Ordinance entitled "AN ORDINANCE REGULATING RESIDENTIAL DOOR-TO-DOOR SELLING OR SOLICITING; PROVIDING REQUIREMENTS AND PERMITS THEREFORE; DECLARING AN EMERGENCY THEREFORE; AND FOR OTHER PURPOSES;"

Section 1: DEFINITION- The term "residential door-to-door selling or soliciting," for the purposes of this article, shall refer to the activity or practice of going, whether by foot or by any type of conveyance, from place to place, house to house, from street to street or from door to door to residential living units for the purpose of selling or attempting to sell goods or services, whether to be currently delivered or delivered at a subsequent time, or for the purpose of requesting or attempting to request donations or contributions by a person who has not obtained a prior appointment to call at such residential unit. Provided, such term shall not be interpreted so as to include such activities of religious, charitable, or other non-profit organizations, or members of recognized religious organizations when engaged in as a direct incident to the exercise by such members of their freedom of religion rights under the Constitution of the United States nor to such activities by persons while engaged in the sale of newspapers in exercise of their freedom of the press rights under the Constitution of the United States, and neither shall the provisions of this article be applicable to the activities of organizations classified as tax exempt under the provisions of section 501 of the 1954 Internal Revenue Service Code, and amendments and regulations pertaining thereto.

Section 2: PENALTIES- Any person found guilty of violating the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine which shall be no less than \$100.00 per day and no greater than \$500.00 per day, and each day a violation occurs shall be a separate offense. The penalty for violating the provisions of section 4 below shall be that penalty set forth in A.C.A. § 4-89-104.

Section 3: COMPLIANCE- No person, firm, company, corporation, association, partnership, sole proprietorship or other legal entity shall engage in the activity of residential door-to-door selling or soliciting within the city without first complying with the provisions of this article.

Section 4: ADOPTION OF STATUTE- A.C.A. tit. 4, ch. 89 [§ 4-89-101 et seq.], pertaining to home solicitation sales, is hereby adopted by reference.

Section 5: HOURS OF OPERATION- It shall be unlawful for any person, whether the registration provided for in this article has been accomplished or not, to engage in the activity of residential door-to-door selling or soliciting before 8:00 a.m. or after 6:00 p.m. of each day of the week except Sunday. It shall be unlawful for any person to engage in such activities at any time on Sundays.

Section 6: FALSE REPRESENTATION- It shall be unlawful for any person engaged in the activity of residential door-to-door selling or soliciting to make use of any plan, scheme or ruse or make any statement which indicates or implies that the purpose of such person's visit is other than to obtain orders for or make sales of goods or services or obtain commitments for or collect donations or contributions.

Section 7: REMAINING AFTER NOTICE TO LEAVE- It shall be unlawful for any person engaging in the activity of selling or attempting to sell goods or services or requesting or attempting to request donations or contributions at a residential living unit, whether or not such person is engaging in the activity of residential door-to-door selling or soliciting as defined herein, to continue to engage in such activity or remain on such premises after having been asked or instructed by the occupant of such premises to leave such premises.

Section 8: IDENTIFICATION- It shall be unlawful for any person engaging in the activity of residential door-to-door selling or soliciting to fail to identify himself by name, legal entity represented and purpose of call immediately, after normal greeting, upon contact with any residential occupant, and such identification shall be given in all cases prior to entering into such occupant's premises.

Section 9: SOLICITING AND PEDDLING PROHIBITED IN BUSINESS DISTRICT- It shall be unlawful for any person, agent of such person, except agents or representatives of newspapers, educational, religious, charitable or other nonprofit organization, to station himself upon, or to loiter upon, any public street sidewalk, alley or other public way within the areas of the city which are now or may hereafter be used for business purposes, for the purpose of selling, offering for sale, or soliciting orders for the sale of goods, wares, and merchandise, including magazines, and/or peddling or hawking the same, or to sell, to offer for sale, or to solicit orders for the sale of goods, wares and merchandise, including magazines and/or to peddle or to hawk the same in such areas.

Section 10: REGISTRATION REQUIRED- It shall be unlawful for any person to engage in the activity of residential door-to-door selling or soliciting within the city unless the legal entity represented by such person has a current registration on file with the city.

Section 11: INFORMATION REQUIRED- Each legal entity required to register by this division shall, before engaging in such activity, register itself with the city clerk or recorder, or other agent of the city designated for such purpose by the city mayor. Such registration shall be on forms supplied by the city and shall contain the following information:

(1) Name, address and telephone number of the supervisor or manager of the entity's activities within the city.

(2) The correct (legal) name of the entity together with the entity's home office address, home office telephone number and designated agent for service of process at its home office and within the state, if such an agent has been designated within the state.

(3) A listing of the anticipated period during which such sales and solicitations shall be conducted within the city.

(4) A listing of the three (3) most recent cities in which the supervisor or manager identified in (1) above shall have engaged in the applicant's activities.

Section 12: FEE- As reimbursement of the cost of maintenance of such register of persons engaging in such activities, the city recorder, or other agent of the city designated by the city council, shall charge a fee in the amount of \$10.00 for each registration required by this ordinance.

Section 13: DURATION- The registration provided for in this ordinance shall be effective for the shorter of the following periods of time:


- (1) From registration to the end of the period of time listed on the registration during which the legal entity anticipates engaging in such activities.
- (2) From registration to the termination of the employment relationship of the registered local supervisor or manager within the city so that a new registration is required with each replacement of the local manager or supervisor of the entity's operations in the city.
- (3) From the date of registration to a date two weeks beyond the date of registration.

It being necessary for the preservation of the public health, safety, and peace, and in order to prevent fraudulent and harassing residential solicitation, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon its passage.

PASSED AND APPROVED THIS 10 DAY OF June, 2019,
BY VOTE OF THE CITY COUNCIL.

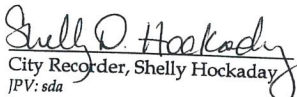


APPROVED:



Mayor, Hugh Hardgrave

ATTEST:


City Recorder, Shelly Hockaday
JPV: sda