

ORDINANCE NO. 2009-H

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCKRELL HILL REPEALING IN ITS ENTIRETY CHAPTER 113 OF THE CODE OF ORDINANCES; ESTABLISHING A NEW CHAPTER 113 ENTITLED "PEDDLERS AND SOLICITORS;" ESTABLISHING REGULATIONS; PROVIDING DEFINITIONS; ESTABLISHING PERMIT REQUIREMENTS; PROHIBITING SOLICITATION IN SPECIFIC LOCATIONS; PROHIBITING SPECIFIC ACTIVITIES AND CONDUCT; PROHIBITING SOLICITATION AFTER SPECIFIC HOURS; PROVIDING A PENALTY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cockrell Hill, Texas (the "City") possesses, pursuant to article § 311.002 of the Texas Transportation Code, as amended, the exclusive control and power over public streets, highways and alleys of the City; and

WHEREAS, pursuant to article § 215.031 of the Texas Local Government Code, as amended, the City Council has the power and authority to license, tax, suppress, prevent or otherwise regulate peddlers and hawkers; and

WHEREAS, the City Council hereby finds that there has been and continues to be an ever increasing number of commercial, charitable and religious solicitors within the City; and

WHEREAS, the City Council finds that the regulation of such solicitors is in the best interest of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS, THAT:

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Chapter 113 of the Code of Ordinances of the City of Cockrell Hill is hereby repealed in its entirety and a new Chapter 113, entitled "Peddlers and Solicitors" shall hereinafter be established and shall read as follows:

"PEDDLERS and SOLICITORS

§ 113.01 Purpose.

That this Chapter is and shall be deemed an exercise of the police powers of the state and of the city for the public safety, comfort, convenience, and protection of the city and the citizens thereof, and all of the provisions of this Chapter shall be constructed for the accomplishment

of that purpose. The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic. Reasonable regulation of solicitation on public ways and in public places is necessary to protect the public health, safety and welfare. The regulations contained in this Chapter are not intended in any way to prohibit or hamper speech that is protected by the constitution of both the United States and the State of Texas.

§ 113.02 Definitions.

- (a) *Automated Teller Machine.* Means a machine, other than a telephone:
 - (1) that is capable of being operated by a customer of a financial institution;
 - (2) by which the customer may communicate to the financial institution a request to withdraw a benefit for the customer or for another person directly from the customer's account or from the customer's account under a line of credit previously authorized by the financial institution for the customer; and
 - (3) the use of which may or may not involve personnel of a financial institution.
- (b) *Barker.* A person who stands on the property of a business and solicits customers with a loud spiel or gestures.
- (c) *Charitable purpose.* Means the solicitation of money or property for the benefit of a charity, philanthropy, or non-profit organization or for the poor, underprivileged, needy, crippled, or handicapped persons; the teaching of patriotism or assistance to veterans or veteran's organizations; or for existing educational institutions or for the establishment or endowment of educational institutions. Solicitation for one-self or one's family, commonly termed pan-handling, does not fall within this definition.
- (d) *Consumer.* Means an individual who acquires real or personal property, services, money, or credit for personal, family or household purposes.
- (e) *City.* Means the City of Cockrell Hill, Texas.
- (f) *Exterior Public Pay Telephone.* Means any coin or credit card reader telephone that is:
 - (1) installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and
 - (2) accessible and available for use by members of the general public.
- (g) *Hawker.* Person engaged in a temporary business or who travels from city to

city and is engaged in solicitation in a specific, non-moving location.

- (h) *Itinerant Vendor.* Person engaged in a temporary business or who travels from city to city and is engaged in solicitation in a specific, non-moving location.
- (i) *Laundry mat.* Means laundry mats that are privately-owned, but are open to the public regardless of whether owner of the laundry mat has given permission for solicitation.
- (j) *Non-profit organizations.* Is any organization that does not aim to make a profit, and which is not a public body. This definition includes entities such as, but is not limited to, Multiple Sclerosis, American Heart Association, Muscular Dystrophy, American Cancer Society, Cockrell Hill public safety departments, Boy Scouts of America, Girl Scouts, etc.
- (k) *Parking lot.* Includes public or private parking areas, regardless of whether owner or property has given permission for solicitation.
- (l) *Parkway.* Shall mean the area between the edge of the designated street and the adjacent owner's property line.
- (m) *Peddler, solicitor, vendor or person.* Means any individual, firm, company, partnership, corporation, association, trust, society, religious sect, organization, league, or other legal entity and includes any trustee, receiver, assignee, agent, or similar representative.
- (n) *Public Transportation Stop.* Means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.
- (o) *Religious organization.* Is an organization that is dedicated to the support of a church, religious society, or any other religious sect, group, or order.
- (p) *Seasonal sales.* Temporary sale and display of either cut trees typically during the winter season or pumpkins and fall decorations typically during the fall.
- (q) *Self-Service Car Wash.* Means a structure:
 - (1) at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
 - (2) that is accessible and available for use by members of the general public.

- (r) *Self-Service Fuel Pump.* Means a fuel pump:
 - (1) from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, without the aid of an employee or attendant of the premises at which the fuel pump is located; and
 - (2) that is accessible and available for use by members of the general public.
- (s) *Sidewalk.* Means any surface provided for the exclusive use of pedestrians.
- (t) *Solicitation.* Conduct whereby a person or its agent, member, or representative:
 - (1) either orally, in writing or by gesture, asks for a ride, employment, property, financial aid, money, or any article representing monetary value, for any purpose;
 - (2) whether orally, in writing or by gesture, sells or offers to sell food, beverages, goods, services, publications, or subscriptions;

“Solicitation” shall include persons engaged in the delivery of handbills or circulars door to door for the solicitation of money, products, services or other items of pecuniary value. An offer of membership in any organization is expressly excluded. “Solicitation” shall also include activities conducted by persons known as “hawkers” or “barkers”
- (u) *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, which includes parkways, alleys, and sidewalks.
- (v) *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.
- (w) *Vehicle.* Means any wheeled vehicle. This definition includes bicycles, push carts and any other wheeled vehicle of whatever kind or character.

§113.03 Permits Required.

- (a) It shall be unlawful for any person to attempt or to peddle, sell, solicit, canvass, hawk, bark or take orders for any services, wares, merchandise, or goods, or any article of value, including plants, flowers, paintings, novelties, painting house numbers on streets, firewood, books, magazines, photographs, or any articles for future delivery, on a sidewalk, parking lot or parkway

within the city or from door to door without having first obtained a permit therefor from the city.

- (b) Each person engaged in peddling, hawking, barking, soliciting, vending or selling as defined in paragraph (a) above must have a permit issued under the terms of this section, and such permit shall be personal to the applicant and shall not be reproduced nor assigned nor transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.
- (c) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this Chapter, and such permit shall indicate the hours when peddling, solicitation and selling within the city is permitted in accordance with the provisions of this Chapter.
- (d) It shall be unlawful for any person who shall solicit funds in the city to represent in connection with such solicitation of funds that the issuance of a permit or identification card by the city constitutes an endorsement thereof.
- (e) It shall be unlawful for any person to solicit funds for a purpose other than that set out in the registration statement or application upon which the permit was issued.
- (f) A permit shall not be issued to any person under thirteen (13) years of age.
- (g) Solicitation shall be deemed completed when made, regardless of whether the person making the solicitation receives any contribution or makes any sale.

§ 113.04 Permit Application.

- (a) Every person desiring to solicit in Cockrell Hill shall unless otherwise exempted apply for a permit from the City Secretary. Each application for a permit required by this section shall be in writing, under oath, notarized and shall set out the following:
 - (1) Name of the applicant, with his permanent residence;
 - (2) Whether the person represents a partnership, corporation or association, and:
 - a. The business address and telephone number of the applicant;
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner;
 - c. If a corporation, the person applying shall state whether it is organized under the laws of Texas or is a foreign corporation, and must show the mailing address, business location,

telephone number, name of the individual in charge of the Cockrell Hill office of such corporation, and the names and addresses of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation;

- d. If an association, the application shall show the association's principal business address and telephone number. If the association is part of a multistate organization or association, the mailing address and business locations of its local office.
- (3) The specific location in which the applicant intends to solicit under the permit;
 - (4) The names mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation of funds.
 - (5) The kind, type and character of goods or services he proposes to offer for sale, including the name brand, manufacturer and distributor of food, goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale;
 - (6) Full description of goods and /or services for solicitation;
 - (7) How often the applicant will solicit during the year;
 - (8) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.
 - (9) A description of the methods and means by which the solicitation of funds is to be accomplished.
 - (10) The names of any cities where applicant has obtained a permit within the previous five (5) years;
 - (11) Whether the applicant, or any solicitor listed in the application, has ever been convicted of a felony or a misdemeanor involving moral turpitude;
 - (12) State driver's license number or a state approved identification card number of applicant and each solicitor;
 - (13) If a motor vehicle is to be used during the time when the applicant will be soliciting, a description of the vehicle, together with the motor vehicle registration number, license number, and a copy of the vehicle's current proof of liability insurance;

- (14) A copy of the applicant's current State of Texas Sales Tax Permit together with written documentation from the State Comptroller that all sales taxes that may be due and owing by the applicant have been fully paid; and
 - (15) A sworn statement from the property owner, if applicable, consenting to the applicant's use of his/her property for the solicitation activities indicated in the permit application.
- (b) In addition, there shall be attached to each application for a permit, the following:
- (1) Two (2) recent photographic likenesses of the applicant's face, and any solicitor soliciting under said permit, which photographs shall not exceed one (1) inch square in size.
 - (2) A certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager or district or area manager of the company for which the applicant works, sells or solicits stating that the applicant is an employee and/or agent of such company.
 - (3) A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization.
 - (4) A copy of a valid health permit for any applicant engaged in the sale or distribution of food or beverages shall be included. A solicitor's equipment shall be subject to inspections by the health department at the time of application and at periodic intervals thereafter.

§ 113.05 Application Fee. The application shall be accompanied by a fee for the original solicitor or applicant, plus a fee for each additional solicitor, as set forth in the City of Cockrell Hill Fee Schedule, for the investigation and administration of the provisions of this Chapter. All fees shall be paid to the City Secretary prior to acceptance of a permit application. In addition, the applicant shall pay a fee for each identification card issued, as set forth in the City of Cockrell Hill Fee Schedule.

§ 113.06 Permits Generally.

- (a) Investigation of Applicant. It shall be the duty of the police chief, or his/her authorized designee, to secure a background check through any lawful means on each applicant, and all other persons listed on the application before

issuance of a permit, *which investigation may include but is not necessarily limited to personal interviews with named individuals, criminal history checks, verification of references and information contained within the application.*

- (b) Issuance of Permit. A permit applied for under this Chapter shall be issued by the city within thirty (30) days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on its application. A permit requested under this chapter shall be issued for the length of time requested, not to exceed one (1) year. *An expired permit may be renewed under the same terms and conditions as the original application and subject to the same fees.*
- (c) Form of Permit. Each permit shall be printed in black except that the following shall be printed prominently thereon: “The issuance of the permit is not an endorsement by the City of Cockrell Hill or any of its officers or employees.” Each permit shall bear a permit number which is the same as the file containing the application filed by the applicant.
- (d) Permit to be Displayed. It shall be unlawful for any person to sell or solicit in the city without carrying the identification card and displaying the permit required, by this section on his person, in plain view, while engaged in such soliciting or selling.
- (e) Exhibiting Permit. Every solicitor or peddler or seller shall identify themselves as a salesman upon approaching a citizen in a public place or at a private dwelling and explain his purpose, whether it be direct sales, solicitation or orders of the demonstration of goods or merchandise, or any combination of purposes thereof, and shall produce for inspection, upon request by any person, the solicitor’s permit issued by this city.
- (f) Solicitors’ identification cards. Each identification card issued by the City shall bear the name of the applicant, the application number, the name of the solicitor, or agent, and the expiration date of the permit, and it shall have printed prominently thereon: “This identification card is not an endorsement of the solicitation by the City of Cockrell Hill or any of its officers or employees. It is your duty to verify all information given to you by this solicitor.” The applicant shall provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued.
- (g) Responsibility for Acts of Solicitors. The recipient of a permit or named applicant shall be responsible for the acts of his/her authorized representatives or solicitors listed in permit application in connection with solicitation activities. In this regard, the recipient of the permit shall actively supervise all persons listed in the permit application, which supervision shall include but not be limited to remaining within the corporate city limits during

all solicitation activity and responding promptly (within ten minutes) to calls by city representatives relative to the solicitation activity which may include responding to an on-site complaint from a citizen.

§ 113.07 Revocation or Denial of Permit.

(a) Revocation of Permit.

(1) If, after the permit required by this section has been issued, the building official, or his authorized designee, finds that the permit was obtained by false representation in the application, or the permit has been reproduced or transferred or assigned to another person or the applicant has led someone to believe the permit is an endorsement of the applicant's product or service by the city, or in the event of fraud or misrepresentation by the permit holder, or in the event the permit holder has failed to furnish the items required by this Chapter, such permit may be revoked by the city building official or his authorized designee. In the event that the Chief of Police or designee, during the course of investigation finds a conviction of the permit holder of a felony or a misdemeanor involving moral turpitude the permit can or will be suspended or revoked upon recommendation of the Chief of Police or designee.

(2) If the Chief of Police or designated command staff or the building official has probable cause to believe that a solicitor has engaged in prohibited conduct as defined by this Chapter, the officer may revoke the permit of the permit holder.

(3) If more than one complaint of misconduct by a solicitor or group of solicitors working for the same company is received, the permit may be immediately revoked by the City.

(b) Appeal from Denial or Revocation of Permit. Should an applicant be denied a permit, or have a permit revoked, he may appeal that action to the city council of the City of Cockrell Hill by submitting a letter to the city administrator or his designee within ten (10) days to complain of that action. A hearing of the denial will then be scheduled for the next regular meeting of the city council, or a special meeting of the city council, to be held within fifteen (15) days of the appeal. The city council shall render a decision on the appeal within one day of the date of the hearing. Such hearing shall be an administrative hearing. Adherence to formal rules of evidence shall not be required. The decision of the city council shall be final and binding. No new application for a permit will be considered for six (6) months after denial or revocation, unless said denial or revocation is without prejudice or is conditional and the conditions have been satisfied as determined by the city building official.

§ 113.08 Bond.

Each person engaging in solicitation activities requiring cash deposits or taking orders on delivery purchases (COD) or who requires a contract of agreement to finance the sale of any goods, services or merchandise for future delivery, or for services to be performed in the future, shall furnish to the city *a cash bond* in the amount of ten thousand dollars (\$10,000.00), naming the applicant for the permit as principal. *The bond shall be in full force and effect for one year from the date of issuance of the permit, unless otherwise extended by demand of the City due to the revocation of the permit, or an anticipated delivery date beyond 12 months, in order to protect the citizens of the City of Cockrell Hill from potential losses associated with such solicitations.*

§ 113.09 Permit Exemptions.

- (a) The following persons engaged in the activities set out in paragraphs (A) through (C) below in the City of Cockrell Hill shall first register with the City by filling out a form to be promulgated by the city in accordance with the provisions of this Chapter and by furnishing proof that he/she is actually engaged in such activity in the city, and the city shall issue to such person a registration certificate exempting him from the terms and conditions of this section and from paying a fee therefore, namely:
 - (1) public utility companies or others operating under a franchise granted by the city;
 - (2) commercial agents dealing with local business establishments in the usual course of business; and
 - (3) insurance salesmen, real estate salesmen and others licensed by the state.

- (b) The following persons engaged in the activities set out in paragraphs (1) through (5) below in the City are exempt from any registration requirements in addition to the exemption from the permit requirements:
 - (1) Solicitations related to non-profit activities, including, but not limited to, public and/or private school-related activities, Girl Scouts, Boy Scouts, and Big Brothers and Sisters, which may involve children under the age of sixteen (16). Children under the age of sixteen (16) may participate in such activities to the extent they are actively supervised by a parent, guardian or other adult person, at least 18 years of age, who is responsible for the well being of the child;
 - (2) Religious, political or non-profit organizations and their representatives distributing handbills or pamphlets only for the purpose of communicating issues of general interest to the public need not register with the City or pay a permit fee. A donation

received from the distribution of handbills or pamphlets does not affect this exemption;

- (3) Ordinary commercial travelers who sell or exhibit for sale goods, wares or merchandise to persons selling and dealing in the same within the City;
- (4) Cockrell Hill citizens conducting a survey; and
- (5) Persons holding a concession agreement with the Town.

§ 113.10 Prohibited Location, Activities and Conduct.

- (a) It shall be unlawful for any person to peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service in the following places in the city:
 - (1) On any public street or alley or traffic island; or
 - (2) Within twenty-five feet of the following facilities:
 - a. Automated Teller Machines
 - b. Entrances and Exits of banks, credit unions, or other financial institutions
 - c. exterior public pay telephones
 - d. self service car washes
 - e. self service fuel pumps
 - f. public transportation stops
 - (3) Any residence which shall exhibit in a conspicuous place upon or near the main entrance to the residence containing the words “NO SOLICITORS.” 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.
 - (4) For purposes of Subsection (a), measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:
 - a. the nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in

- a facility, to the nearest part of the automated teller machine;
 - b. the nearest entrance or exit of a bank, credit union, or other similar financial institution;
 - c. the nearest part of an exterior public pay telephone;
 - d. the nearest part of the structure of a self-service car wash;
 - e the nearest part of a self-service fuel pump; or
 - f the nearest point of any sign or marking designating an area as a public transportation stop
- (b) It shall be unlawful for any person to block or obstruct or hinder the free flow of traffic in the lawful use of the street or free passage of pedestrians in the lawful use of the sidewalk. No solicitations, sales, or distribution of merchandise, products, or service shall be offered or made to occupants of motor vehicles moving or stopped in traffic on a public street or alley.
- (c) It shall be unlawful for a person engaged in solicitation to;
- i. Misrepresent the purpose of the solicitation;
 - ii. Misrepresent the affiliation of those engaged in the solicitation;
 - iii. Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or buy anything from that solicitor;
 - iv. Represent the issuance of any permit or registration under this Chapter as an endorsement or recommendation of the solicitation;
 - v. Remove, deface, or render illegible a card placed by the occupant of a residence pursuant to (a) (2) above.
 - vi. Go on property upon which the owner of the property or the person controlling the property has posted signs prohibiting solicitation; or
 - vii. Remain on property after the property owner, or the property owner's designee, representative or agent, has instructed the solicitor to leave.
- (d) No solicitor, or person working on his or her behalf, shall bark, shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the City, or otherwise be in violation of the City's noise ordinance.

- (e) 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 chapter 365 of the Texas Health and Safety Code. 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.
- (f) It shall be unlawful for any person to use children thirteen (13) years of age or younger for solicitation activities, unless otherwise expressly permitted herein, unless such children are actively supervised by a parent, guardian or other adult person at least 18 years of age who is registered as provided herein. For purposes of this section, actively supervised means that the adult person shall be within 100 feet of all children thirteen (13) years of age or younger for whom the adult person is responsible at all times when the children are engaged in solicitation activities.
- (g) It shall be an affirmative defense to prosecution under this Chapter if the person is occupying the public right-of-way for the purpose of selling newspapers or publications or other printed material which deal with the dissemination of information or opinion; however, this defense is not available if said act occurred upon the paved surface or shoulder of any public street, highway or road.
- (h) Public safety personnel or organizations participating in charitable activities shall be exempt from the requirements of subsection (a)(1) of this Section; however, activities should not hinder the flow of traffic.

§ 113.11 Solicitation Restrictions.

- (a) *Residential.* No person shall peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service at a private residence in the City of Cockrell Hill after sunset on any day until 9:00 a.m., Monday through Saturday, unless the transaction is the result of a request made to such person by the occupant of such private residence. For purposes of this Section “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 on Sunday, New Years Day, Fourth of July, Memorial Day (observed), Labor Day (observed), Thanksgiving, or Christmas Day.
- (b) *Non-Residential.* Except for the vending of food or drinks from a motor vehicle or other non-stationary means within construction, manufacturing or similar areas in the manner specified in subsection (g) below, solicitation shall be allowed only between the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday. All vending stands must be removed during non-vending

hours. All stands and other vending operations must be removed during non-operating hours.

- (c) *Stands.* Vendor stands shall not:
 - (1) Exceed 20 feet in length, 10 feet in width or 13 feet in height;
 - (2) Impede access to the entrance or driveway of any adjacent building, impede flow of traffic, or within 20 feet of fire hydrant;
 - (3) Occupy more than half of the available sidewalk width or 20 feet of such sidewalk, whichever is less.
- (d) *Handicapped Areas.* No solicitor shall conduct business within 20 feet of any handicapped parking space or access ramp.
- (e) *Removal of Trash.* All trash or debris accumulating within 50 feet of any vendor stand shall be collected by the solicitor and deposited in an authorized trash container. All solicitors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.
- (f) *Prohibited Areas.* A solicitation permit issued pursuant to this Chapter is valid only on specified public ways or in public places of the City of Cockrell Hill. The City shall prohibit vendors from selling on specified public ways or in public places if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands and motor vehicles are prohibited within 20 feet of a fire hydrant, fire escape, loading zone, or the driveway of a fire station, police station or hospital.
- (g) *Monthly Reports.* Upon request from the City, all vendors shall provide a copy of their monthly report of sales tax receipts to the City.
- (h) *Motor Vehicles.* Solicitation from a motor vehicle shall be prohibited if the solicitor:
 - (1) Stops, stands or parks the vehicle within 20 feet of any intersection, within any other prohibited area, or during prohibited hours;
 - (2) Conducts business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles

§ 113.12 Consumers Right to Cancel.

- (a) The merchant, peddler, or seller shall provide to the consumer in writing the right to cancel a solicitation transaction made in person or by telephone in which the consideration exceeds five dollars (\$5.00), until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a solicitation transaction. For purposes of a telephone solicitation, date of transaction means the day that the consumer receives the goods, services, or realty purchased in a solicitation transaction.
- (b) If the consumer chooses to cancel the solicitation transaction, notification by mail shall be considered given at the time mailed as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.
- (c) It shall be unlawful for a merchant, peddler, or seller to refuse to allow the customer to cancel the solicitation transaction.
- (d) Cancellations authorized, and the procedure and notice requirements set forth in Chapter 39 of the Texas Business and Commerce Code, as it may be amended, are applicable to this Section, for transactions applicable there under. The text of Chapter 39 is available in the City Secretary's office or on-line at:

<http://tlo2.tlc.state.tx.us/statutes/docs/BC/content/htm/bc.004.00.000039.00.htm#39.003.00>

§ 113.13 Penalty.

Any person violating any of the provisions or terms of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) and for Health and Safety Code Violations a fine not to exceed two thousand dollars (\$2,000.00) for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this Chapter.

§ 113.14 Public Disclosure.

All applications, whether or not a permit has been issued, shall be a public record and shall be available for inspection by members of the public during regular business hours, and copies may be obtained at cost.”

Section 3. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified verified and affirmed.

Section 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

PASSED AND APPROVED on the 21st day of April, 2009.



Luis Carrera, Mayor
City of Cockrell Hill, Texas

ATTEST:



Bret Haney, Executive Assistant
City of Cockrell Hill, Texas

[SEAL]

APPROVED AS TO FORM:



Robert F. Brown, City Attorney
City of Cockrell Hill, Texas