

ORDINANCE NO. 2005-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS, DEFINING, REGULATING AND LICENSING SOLICITORS AND CANVASSERS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS:

I

PERMIT AND LICENSE REQUIRED It shall be unlawful for any solicitor or canvasser as defined in Section II of this ordinance to engage in such business within the corporate limits of the City of Cumby, Texas, without first obtaining a permit and license therefore in compliance with the provisions of this ordinance.

II

DEFINITION A canvasser or Solicitor is defined as any individual, whether resident of the City of Cumby, Texas, or not, traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definitions shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

III

APPLICATION Applicants for permit and license under this ordinance must file with the City Secretary a sworn application in writing (in duplicate) on a form to be furnished by the City, which shall give the following information:

- a) Name and description of the applicant;
- b) Permanent home address and full local address of the applicant;
- c) A brief description of the nature of the business and the goods to be sold;
- d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- e) The length of time for which the right to do business is desired;
- f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- g) A photograph of the applicant's driver's license

At the time of filing the application, a fee of \$ 10.00 shall be paid to the City Secretary to cover the cost of investigation of the facts stated therein.

IV

**INVESTI-
GATION AND
ISSUANCE**

A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made.

B. If as a result of such investigation, it is found that the applicant has been finally convicted of a felony or a crime involving moral turpitude, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and Return the said application to the City Secretary, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.

C. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the City Secretary, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Police Department shall keep a permanent record of all licenses issued.

V

FEES

A. The license fee which shall be charged by the City Secretary for such license shall be \$ 5.00 per month, \$60.00 per year.

B. The annual fees herein provided shall be assessed on a calendar year basis and on or after July first the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year.

VI

BOND Every applicant, not a resident of the City of Cumby, Texas, or who being resident of the City of Cumby, represents a firm whose principal place of business is located outside the State of Texas, shall file with the Police Department a surety bond, running to the City in the amount of \$ 1,000.00, with surety acceptable to and approved by the Mayor, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Cumby, Texas, and the statutes of the State of Texas, regulating and concerning the business of solicitor and guaranteeing to any citizen of Cumby, Texas, that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of the City of Cumby, Texas, doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person.

VII

BADGES The Police Department shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

VIII

EXHIBITION OF LICENSE

Solicitors and Canvassers are required to exhibit their licenses at the request of any citizen.

IX

DUTY OF POLICE TO ENFORCE

It shall be the duty of any police officer of the City of Cumby, Texas, to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this ordinance against any person found to be violating the same.

X

RECORDS

The Chief of Police shall report to the City Secretary all convictions for violation of this ordinance. The Police Department shall maintain a record for each license issued and record the reports of violation therein.

XI

REVOCAION OF LICENSE

A. Permits and licenses issued under the provisions of this Ordinance may be revoked by the City Commission of the City of Cumby, Texas, after notice and hearing, for any of the following causes:

- 1) Fraud, misrepresentation, or false statement contained in the application for license;
- 2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or as canvasser;
- 3) Any violation of this ordinance;
- 4) Conviction of any crime or misdemeanor involving moral

turpitude; or

5) Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

XII

APPEAL Any person aggrieved by the action of the Cumby Police Department in the denial of a permit of license, or in the assessing of the fee as provided in Section V of this ordinance shall have the right of appeal to the Commission of the City of Cumby, Texas. Such appeal shall be taken by filing with the Commission, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Commission shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section XI of this ordinance for notice of hearing on revocation. The decision and order of the Commission on such appeal shall be final and conclusive.

XIII

EXPIRATION OF LICENSE All annual licenses issued under the provisions of this ordinance shall expire on the 31st day of December in the year when issued. Other than annual licenses shall expire on the date specified in the license.

XIV

PENALTY Any person violating any of the provisions of this ordinance shall upon conviction thereof, be punished by a fine not to exceed Two Hundred Dollars (\$200.00).

XV

**SEVERENCE
CLAUSE** The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

XVI

**REPEAL OF
CONFLICTING
ORDINANCES** All ordinance or parts of ordinances inconsistent with the provisions of this ordinance, be and the same are hereby repealed.

XVII

**EFFECTIVE
DATE** This ordinance shall take effect from and after its passage and publications as provided by law.

ADOPTED this 5th day of April 2005

Dennis Bailey
MAYOR - CITY OF CUMBY, TEXAS

ATTEST:

Mary France
CITY SECRETARY