



Legislation Details (With Text)

File #: 14-322 **Version:** 1 **Name:** Aggressive Solicitation
Type: Ordinance **Status:** Consent Agenda
File created: 3/12/2014 **In control:** City Council Regular
On agenda: 3/27/2014 **Final action:**

Title: Presentation, possible action, and discussion on an ordinance amending Chapter 4, Section 1, "Business Regulations," "Solicitors, Charitable Solicitors, Itinerant Vendors, Handbill Distributors" by establishing a registry for Home Solicitation, and Section 18, formerly repealed "Solicitation by Coercion," of the Code of Ordinances, City of College Station, Texas, as set out below; providing a severability clause; declaring a penalty; and providing for an effective date.

Sponsors:

Indexes:

Code sections:

Attachments: [Ordinance, with attached A & B](#)
[Exhibit A \(which will be amending section 4-1\)](#)
[Exhibit B \(which will be amending 4-18\)](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Presentation, possible action, and discussion on an ordinance amending Chapter 4, Section 1, "Business Regulations," "Solicitors, Charitable Solicitors, Itinerant Vendors, Handbill Distributors" by establishing a registry for Home Solicitation, and Section 18, formerly repealed "Solicitation by Coercion," of the Code of Ordinances, City of College Station, Texas, as set out below; providing a severability clause; declaring a penalty; and providing for an effective date.

Relationship to Strategic Goals:

- Good Governance
- Neighborhood Integrity
- Sustainable City

Recommendation(s): Staff recommends approval of the amendments regarding City ordinance Chapter 4 "Business Regulations."

Summary: Solicitation practices within the City have seen both change and growth since the language in Chapter 4, Section 1 was adopted by the City Council in the early 1990s. The proposed ordinance provisions would provide a reasonable time, place, manner restrictions for door to door solicitation in Section 1, as well as tools for law enforcement in Section 18 to address aggressive solicitation city-wide.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance, with attached A & B
2. Exhibit A (which will be amending section 4-1) and an
3. Exhibit B (which will be amending 4-18)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, “BUSINESS REGULATIONS” SECTION 1 “SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS”, BY ESTABLISHING A REGISTRY FOR HOME SOLICITATION, AND SECTION 18, FORMERLY REPEALED “SOLICITATION BY COERCION,” OF THE CODE OF ORDINANCES, CITY OF COLLEGE STATION, TEXAS, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That **CHAPTER 4, “BUSINESS REGULATIONS” SECTIONS 1 AND 18** of the Code of Ordinances, City of College Station, Texas, be amended as set out in **Exhibits “A” and “B”**, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney

EXHIBIT "A"

That **CHAPTER 4, "BUSINESS REGULATIONS" SECTION 1 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS,"** of the Code of Ordinances of the City of College Station, Texas be amended and is to read as follows:

Sec. 4-1. HOME SOLICITATION AND ITINERANT VENDORS

A. Purpose and Findings. The City Council finds that: The City has received numerous and continuous complaints from citizens about persons going onto residential premises (including premises that contain conspicuous signs prohibiting solicitations) to solicit, sell, or take orders for goods and services and to distribute commercial printed matter; and

1. Those citizens have expressed concerns that such solicitations result in criminal activity (including burglary and fraud) and disturb the privacy of their homes; and
2. The city council believes that establishing a registration program for those home solicitors will protect the citizens against criminal activity (including, but not limited to, burglary and fraud), minimize the unwelcome disturbance of citizens and the disruption, of their privacy, and otherwise preserve the public health, safety, and welfare; and
3. The City Council believes it is in the interest of the public health, safety, and welfare to prohibit persons convicted of certain crimes from being home solicitors in the City of College Station, Texas; and
4. The City Council has considered the following criteria:
 - a. the nature and seriousness of the crimes;
 - b. the relationship of the crimes to the purposes for requiring a certificate of registration to engage in the occupation;
 - c. the extent to which a certificate of registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously has been involved; and
 - d. the relationship of the crimes to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the registered occupation; and has determined that the crimes listed in Subsection F(1)b(1)-(11) of Section 4-1, "Home Solicitors and Itinerant Vendors," of the Code of Ordinances, College Station, Texas, as provided in this ordinance, are serious crimes which directly relate to the duties and responsibilities of a home solicitor, whose job is to solicit, sell, and take

orders for goods and services, and to distribute commercial printed matter, on residential premises in the city; and

5. The City Council has determined that the very nature of the occupation of a home solicitor brings such a person into constant contact with the public, which gives the person repeated opportunities to participate in. crimes of violence or dishonesty, or crimes against the public health, safety, or morals, should the person be so inclined, and, thus, it is the opinion of the city council that the crimes listed in Subsection F(1)b(1)-(11), as set forth in this ordinance, render a person unable, incompetent, and unfit to perform the duties and responsibilities of a home solicitor in a manner that would promote the public safety and trust; and
6. The City Council has determined that no person who has been convicted of a crime as listed in Subsection F(1)b(1)-(11), as set forth in this ordinance, is presently fit to engage in home solicitation in the city until the respective time periods designated in that subsection have expired, and thus should be disqualified from being issued a certificate of registration as a home solicitor until the expiration of those time periods.
7. The City Council finds that the regulations of this ordinance do no prevent door-to-door activity and that ample alternative channels of communication exist outside of the time limitations, including solicitation via telephone, electronic communication, public solicitation outside of the privacy of citizens' doorsteps, and solicitation via direct mail, television, radio, and internet.
8. The purpose of this ordinance is to further the City's legitimate and compelling interest in securing City of College Station citizens' general health, safety and welfare by:
 - a. Prohibiting door-to-door home solicitation during times when such activity is most intrusive and disruptive to citizens' privacy and the security of their homes;
 - b. Regulating the manner in which door-to-door solicitation activity may occur so as to protect citizens in the privacy of their own homes from aggressive and intimidating practices; and
 - c. Requiring home solicitors to register with the City obtain and conspicuously wear City-issued identification badges while soliciting, so as to minimize deceptive practices, fraud and aid law enforcement in crime detection.

B. Prohibitions.

1. It is unlawful for a person 14 years of age or older to solicit an occupant of residential premises, unrequested:
 - a. Without first registering and obtaining an identification badge issued by the City in accordance with this section;
 - b. Except between the hours of 9:00 a.m. and one half-hour (1/2) after sunset;
 - c. If the residence conspicuously displays at or near the primary entrance to the residence, a readily legible sign, bearing any of the words: "NO TRESPASSING"/"NO PEDDLERS"/"NO ADVERTISEMENTS"/"NO SOLICITATION"/"NO HANDBILLS."
 - d. At a location other than the primary entrance to the residence.
2. It is unlawful for the registrant to allow any other person to use or wear their own City-issued identification badge.
3. It is unlawful for any registrant or registrant's agent to represent that the City's issuance of a certificate of registration or identification badge constitutes the City's endorsement or approval of the purposes of any particular solicitation.

C. Home Solicitors and Itinerant Vendors.

1. **Agent** means any person employed by or contracting with a home solicitor.
2. **Certificate of Registration** means a certificate of registration issued to a home solicitor under this section.
3. **City Manager or his designee** means the City Manager for the City of College Station or his designated representative.
4. **Commercial Printed Matter** means any printed or written matter whether on a sample, device, circular, leaflet, pamphlet, paper or booklet or whether printed, reproduced or copied of any matter or literature which advertises for sale of any merchandise, product, commodity, or services; or
 - a. Directs attention to any business, or commercial establishment, or other activity for the purpose of either directly or indirectly promoting sales;
 - b. Directs attention to or advertises a meeting, performance, exhibition, or event for which an admission fee is charged or a collection is taken to defray expenses; or

- c. While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising or for the private benefit and gain of any person so engaged as the advertiser or distributor.

5. Distribution means:

- a. To hand or attempt to hand commercial printed matter to an owner or occupant or a residential premises or to any other person then present on the residential premises.
- b. To place, deposit or distribute commercial printed matter on residential premises.

6. Goods means property of every kind.

7. Home Solicitation means the business of soliciting, selling or taking orders for goods or services or distributing commercial printed matter by going to one or more residential premises in the City in person or by an agent.

8. Home Solicitor means a person who engages in home solicitation under this Section.

9. Identification Badge: means a badge issued to a Home Solicitor registrant or applicant's agent under this section, containing:

- a. The registrant's or registrant's agent's photograph, as applicable;
- b. The expiration date of the registrant's certificate of registration; and
- c. The phrase, "*Home Solicitor Registered under Chapter 4 of the City of College Station Code of Ordinances*" or similar language or indicia of City registration, as approved by the City Manager or his designee.

10. Itinerant Vendor or I-Vendor means any person who sets up and/or operates a temporary business on privately owned property within the City, whether improved or unimproved, soliciting, selling, taking orders for or offering to sell or take orders for any goods or services. The term shall include:

- a. Outdoor sales booths
- b. Set ups
- c. Tailgate sales

- d. Truckload sales
 - e. Tent sales
 - f. Auctions
 - g. Temporary parking space rentals
11. **Person** means any natural individual, organization, corporation, trust, partnership, association or any other legal entity.
12. **Registrant** means any person issued a certificate of registration as a home solicitor under this section.
13. **Residential Premises** means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes (whether inhabited, uninhabited or vacant), whether single-family, multi-family and including any yard, grounds, walk driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to the dwelling, house, building or other structure.
14. **Temporary** shall mean any business transaction in the City of College Station for which definite arrangements have not been made for hire, rental or lease of a structure conforming to City Codes.
15. **Temporary Parking Space Rental** shall mean the rental of a parking space(s) as temporary activity for an event not associated with the permanent use of the premises.
16. **Services** means any work done for the benefit of another person.

D. Registration of Home Solicitors Required; Defenses

1. A person commits an offense if that person:
- a. Personally, by an agent, or as the agent of another, engages in a home solicitation without a valid certificate of registration issued to the person under this section;
 - b. Engages in a home solicitation by using an agent who does not hold a valid certificate of registration issued under this chapter; or
 - c. Engages in a home solicitation by acting as an agent of another person who does not hold a valid certificate of registration issued under this section.

2. It is a defense to prosecution under Subsection D(1)(a) that:
 - a. The person was soliciting for a noncommercial purpose, including but not limited to, a charitable, educational, civic, patriotic, philanthropic, political, or religious purpose;
 - b. The person was on the residential premises by express invitation of the owner, occupant, or other person in control of the premises;
 - c. The person was a wholesale agent or factory representative who sells or exhibits for sale goods, wares, or merchandise and was conducting business with a person engaged in the business of buying, selling, and dealing in the same type of goods, wares, or merchandise;
 - d. The person was soliciting newspaper sales, or delivering newspapers pursuant to a request by or contract with the owner, occupant, or other person in control of a residential premises;
 - e. The solicitation, sale, or taking of orders for goods or services took place upon residential premises owned, leased, or controlled by the person or by the person's employer;
 - f. The person was a governmental entity, or an officer, employee, or agent of a governmental entity, placing a notice or other information on the premises in the performance of official duties; or
 - g. The person was the United States Postal Service or a private courier service registered with the Federal Motor Carrier Safety Administration, or an employee or agent of those services, delivering an item of mail, a notice, or a package to the premises.
3. Before taking any enforcement action under this section, the City Manager or his designee, any police officer, or any City code enforcement officer shall ask the apparent offender's reason for being on the residential premises or for depositing any item on the premises. The City Manager or his designee, the police officer or the City code enforcement officer shall not issue a citation or make an arrest under this section unless he or she reasonably believes that an offense has occurred.

E. Registration Application for Home Solicitors - Application; Fee; Expiration; non-transferability; Material Changes.

1. To obtain a certificate of registration to conduct home solicitations, a person must file a written application with the City Manager or his designee on the City-issued form. The application must include the following:

- a.** If the applicant is a company:
 1. The company name, address, and telephone number;
 2. The name, address, telephone number, and title of each of its officers;
 3. The date and place of incorporation or establishment of the business; and
 4. The name, address, date of birth and telephone number of each person who will be conducting a home solicitation in the city for the applicant; and
 5. Proof of applicant's compliance with state or federal law for the operation of the proposed business, to include Chapter 51, Texas Labor Code, as amended; and
 6. Any other information the City Manager or his designee determines necessary to the enforcement and administration of this section.

- b.** If the applicant is an individual:
 1. The applicant's name, address, and telephone number.
 2. The name, address, date of birth and telephone number of any individual or company for which the applicant is acting as an agent.
 3. The name, address, date of birth and telephone number of each person who will be conducting a home solicitation in the city for the applicant.
 4. A photograph of the applicant taken within the preceding 12 months, which clearly depicts the applicant's facial features.
 5. The applicant's date of birth and driver's license number (with the state of issuance) or, if the applicant does not have a driver's license, the number from another government-issued personal identification card containing the applicant's photograph and date of birth.
 6. The names of other communities in which the applicant has worked as a home solicitor in the past 12 months and, if the

applicant was an agent of different companies in the other communities, the names of those companies.

7. The nature, character, and quality of the goods or services to be advertised, offered for sale, or delivered as part of the home solicitation.
 8. Whether the applicant, upon obtaining an order for goods or services, will demand, accept, or receive payment or a deposit of money in advance of final delivery of the goods or services.
 9. The dates, times, and locations for which the applicant proposes to conduct home solicitations in the City.
 10. An outline of the method or methods to be used in conducting the home solicitations.
 11. Whether the applicant has been convicted of any crime listed in Subsection F(1)b(1)-(11) within the time period listed in Subsection F(1)(b)(10)(a)-(b) and the applicant's signed consent authorizing the city to obtain a criminal history report on the applicant.
 12. Proof that the applicant possesses all licenses or permits required by the City Code of Ordinances, College Station, Texas or by state or federal law for the operation of the proposed business.
 13. If the applicant is an agent of an individual or company, written proof of the applicant's authority to represent the individual or company.
 14. Any other information the City Manager or his designee determines necessary to the enforcement and administration of this Section.
2. An application filed under this section must be accompanied by a nonrefundable registration fee of \$50.
 3. A certificate of registration expires thirty (30) days after the date of issuance, but may be renewed once for another successive thirty days, if the application is made within the initial thirty (30) day registration period. Each renewal application must verify permit information as correct, and remit a renewal fee of \$25.00. Upon expiration, the registrant may apply for a registration renewal in the same manner prescribed by this section for a new registration.

4. Neither a certificate of registration nor an identification badge is transferable from one person to another, but
 - a. Both may be used by the registrant to act as an agent for different individuals or companies during the registration term if the City Manager or his designee is notified in accordance with Subsection E, and
 - b. A registrant under E(1)(a) may request additional copies of the certificate of registration at the time of issuance so that each agent may comply with the display requirements of this Section.
5. A registrant shall notify the City Manager or his designee within five (5) days after any material change in the information on the application during the registration term. A material change includes, but is not limited to:
 - a. When a registrant becomes an agent for another individual or company;
 - b. When a registrant terminates an individual's authority to serve as the registrant's agent;
 - c. A change in the nature, character, and quality of the goods or services; or
 - d. A change in the dates, times, and locations proposed for conducting home solicitations in the city.

F. Issuance, Denial, and Display of Registration: Identification Badge.

1. The City Manager or his designee shall issue a certificate of registration to the applicant within three (3) business days after receipt of the application unless any of the following applies:
 - a. The applicant has failed to provide material information requested or made a false statement of a material fact on the application form or in a hearing concerning the application or registration.
 - b. The applicant has been convicted of a crime involving:
 1. Criminal homicide as described in Chapter 19 of the Texas Penal Code, as amended;
 2. Kidnapping as described in Chapter 20 of the Texas Penal Code, as amended;
 3. A sexual offense as described in Chapter 21 of the Texas Penal Code as amended;

4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, as amended;
5. Robbery as described in Chapter 29 of the Texas Penal Code, as amended;
6. Burglary as described in Chapter 30 of the Texas Penal Code, as amended;
7. Theft as described in Chapter 31 of the Texas Penal Code, as amended, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a home solicitation business;
8. Fraud as described in Chapter 32 of the Texas Penal Code, as amended, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a home solicitation business;
9. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, as amended, or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law; or
10. Criminal attempt to commit any offenses listed in Subsections F(1)b(1) through F(1)b(9) for which:
 - a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the applicant was convicted of a misdemeanor offense;
 - b. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the applicant was convicted of a felony offense; or
 - c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two or more convictions of any misdemeanor offense or combination of misdemeanor offenses.
11. The offense descriptions in Subsections F(1)b(1) through F(1)b(10) are meant to be descriptive only and not as exclusive to

2. The City Manager or his designee shall send to the registrant by certified mail, return receipt requested, a written statement setting forth the reasons for the revocation and notifying the registrant of the right to appeal.
3. If the City Manager or his designee revokes a certificate of registration, the fee already paid for the registration will be forfeited. A person whose certificate of registration has been revoked under this section may not apply for or be issued a new registration for a period of one (1) year after the date the revocation took effect, except that, if the City Manager or his designee determines that the basis for the revocation has been corrected, the person may apply for and be issued a new certificate of registration if at least 90 days have elapsed since the date the revocation took effect.

I. Time and Manner for Conducting Home Solicitations

1. A person commits an offense if the person conducts or attempts to conduct (either personally or through an agent), a home solicitation at a residential premises:
 - a. Before 9:00 a.m. or 30 minutes after sunset of any day, Monday through Sunday; or
 - b. At any time on any federally observed holiday.
2. It is a defense to prosecution under Subsection (a) that the visit to the residential premises resulted from the owner or occupant's request or appointment.
3. In this section, "sunset" means the time of day in the city as published on the weather page of the official city newspaper as the time for sunset on that day.

J. Itinerant Vendor (I-Vendor) Permit and Application.

1. Every itinerant vendor must have a non-transferable permit issued by the City of College Station Planning and Development Services.
2. An applicant shall apply for an I-Vendor permit on a City-issued form that shall be submitted with the following information :
 - a. Name of the applicant;
 - b. Legal name of the business entity, if any, state of incorporation, filing of partnership or articles of association;
 - c. Sales tax number with a copy of sales tax permit or 501(c)(3) documentation;
 - d. Local phone number;

- e. Permanent business location, address and phone number;
 - f. Signed permission from the private property owner or owner's representative to utilize the property as proposed;
 - g. Graphic showing the location of activity on the proposed property with information as requested on the application;
 - h. Applicant's date of birth;
 - i. Driver's license number and issuing state;
 - j. If the action is to be a solicitation of funds, then a description of that purpose will be set out in the application;
 - k. A statement under oath (acceptable photo identification required) listing each individual applicant's convictions in any state, the United States or U.S. possession within the last five (5) years;
 - l. For food sales, proof of compliance with the Brazos County Health Department's regulations shall be provided;
 - m. A list of the kind, amount, and character of goods or services to be sold or distributed;
 - n. A bond in the sum of not less than one thousand dollars (\$1,000.00), executed by the itinerant vendor, with two (2) or more good and sufficient sureties satisfactory to Finance Director, which bond shall be payable to the City of College Station to cover the cost for cleaning debris caused by such temporary use, including the cost either of any required City Services, and potential damage or injury to property. The bond shall be valid for a period of no less than thirty (30) days after the applicant terminates the temporary use. The City may use the bond for cleanup and repair of either City property or debris removal from the private property necessitated or caused by the applicant's permitted use.
3. A signed statement that a business recognizes any individual operating under its permit as an employee and not as an independent contractor and accepts the responsibilities imposed by state law for the acts of its employees.
4. An application for an I-Vendor permit shall be accompanied by a fee of fifty dollars (\$50.00).
5. A permit may be denied when:
- a. The required information is incomplete, incorrect or shows that a person is not otherwise entitled to conduct business as proposed.

b. If a location plan or diagram does not meet the following requirements:

- (i)** The itinerant vendor must locate the activity in an existing parking lot.
- (ii)** If there is an open and operating business at the location during the time of co-utilization, then the itinerant vendor cannot utilize more than five (5) percent of the available parking space, or sixteen (16) spaces, whichever is smaller.
- (iii)** The location of the activity in the parking lot shall not cause a traffic hazard.

c. A permit maybe denied where: An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity.

- 6.** An itinerant vendor's signage must comply with City ordinance.
- 7.** Every permit shall be displayed where it can be read by the general public at the temporary business location.
- 8.** A permit may be revoked upon conviction of any offense committed in the City of College Station while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application.
- 9.** A permit may be suspended if applicant or the business has been charged with a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.

K. Itinerant Vendor Permit – Term, Limitations and Representations.

1. Duration.

- a.** Itinerant vendors' permits shall be valid for one (1) year, provided that sales may not be conducted for longer than three (3) consecutive days or twenty-one (21) cumulative days.
- b.** No use may be continued beyond the period of the permit, absent compliance with all provisions of the City's Unified Development Ordinance, as amended.
- c.** If sales are conducted out of a tent, the tent may only be set up two (2) days prior to any sales period and it must be taken down two (2) days after any sales period.

- d. One (1) day is defined as twenty-four (24) hours.

2. Zoning and location restrictions.

- a. No itinerant vendor may locate in an area unless the zoning classification of the area permits the type of business or service to be performed or provided.
- b. No itinerant vendor may locate in the street or city right-of-way.
- c. Temporary parking space rentals shall not exceed three (3) consecutive days or twenty-one (21) cumulative days per year unless compliance with all provisions of the City Unified Development Code, as amended. For the use of premises for temporary parking space rentals pursuant to the permit, the permanent business shall be closed or have excess parking as provided by the City Unified Development Code, as amended.

3. Representation of Endorsement prohibited. It shall be unlawful for any person to represent that the issuance of either a permit or a certificate of registration by the City of College Station constitutes an endorsement or approval of the purposes of a solicitation sale by the City.

M. Exemptions to Itinerant Vendor Permits.

1. Christmas tree sales are exempted from the Itinerant Vendor permit location requirement of five (5) percent or sixteen (16) spaces and are exempted from the time requirement of three (3) consecutive days or twenty-one (21) cumulative days. Christmas tree sales may be made during the Christmas holiday season, November 15 through December 24.
2. A charitable organization holding a bazaar, fete, rummage sale, car wash or other special event for the purpose of raising funds no more than two (2) times per year is exempt from this ordinance.
3. Itinerant Vendors selling unrefined farm products shall be required to pay an application fee but shall not be required to provide a bond.

N. Delivery of Notices – Any written notice that the City is required to give any applicant or registrant under this section is deemed to be delivered:

1. On the date the notice is hand delivered to the applicant or registrant; or
2. Three days after the date the notice is placed in the United States mail with proper postage and properly addressed to the applicant or registrant at the address provided for the applicant or registrant in the most recent registration application.

O. Presumption of distribution of commercial printed matter.

Whenever commercial printed matter is placed, deposited, or distributed, or caused to be placed, deposited, or distributed, in violation of this section, it is presumed that the person named on the commercial printed matter is the person who committed the violation, either personally or through an agent.

P. Violations; Penalty.

1. A person who violates a provision of this section, or who fails to perform an act required of the person by this section, commits an offense. A person commits a separate offense for:
 - a. Each day or portion of a day during which a violation is committed, permitted, or continued;
 - b. Each item placed, deposited, or distributed on residential premises in violation of this section; and
 - c. Each residential premises to which a home solicitation is conducted in violation of this section.
2. The penalties provided for in Section 1-5 of this Code, as amended, are in addition to any other enforcement remedies and penalties which the City may have under city ordinances and state law.

EXHIBIT “B”

That **CHAPTER 4, “BUSINESS REGULATIONS” SECTION 4-18**, formerly repealed “**SOLICITATION BY COERCION**,” now “**RESERVED**,” of the Code of Ordinances of the City of College Station, Texas be amended and is to read as follows:

4-18 AGGRESSIVE SOLICITATION

A. Findings. The City Council finds that:

- (1)** Aggressive solicitation is disturbing and disruptive to residents and businesses. It contributes to the loss of access to and enjoyment of public places, as well as a sense of fear, intimidation, and disorder to the community.
- (2)** Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear or intimidation, unwanted physical contact, or intentional blocking of pedestrian or vehicular traffic.
- (3)** The presence of individuals who solicit money from persons at or near banks, automated teller machines or facilities, check cashing businesses, credit access businesses, bus stops, self-service or automated car washes, self-service fuel pumps, parking meters or pay stations and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.
- (4)** This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

B. Definitions.

- (1) Aggressive Manner** means any of the following:
 - a.** Making any physical contact with or touching another person during the solicitation without the person's consent.
 - b.** Approaching or following the person being solicited, if that conduct is:
 - (i)** Likely to cause a reasonable person to fear either imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - (ii)** Reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
 - c.** Continuing to solicit a person after the person has made a negative response.
 - d.** Blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation.
 - e.** Using obscene or abusive language or gestures toward the person being solicited.

- (2) **Automated Teller Machine** means a device, linked to a bank's account records, which is able to carry out banking transactions.
- (3) **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.
- (4) **Bank** means a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.
- (5) **Check Cashing Business** means a person in the business of cashing checks, drafts, or money orders for consideration.
- (6) **Credit Access Business** has the meaning given that term by Section 393.601 of the Texas Finance Code, as amended.
- (7) **Parking Meter or Pay Station** means a location on a street, parking lot or parking garage where persons pay for parking by either cash or credit to a person or at a machine or other device designed to accept payment.
- (8) **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.
- (9) **Self-Service or Automatic Car Wash** means a structure at which a vehicle may be either automatically washed or manually washed or vacuumed by its owner or operator with equipment activated by the cash or credit payment at a machine or other device designed to accept payment, which is accessible for use by members of the general public.
- (10) **Self-Service Fuel Pump** means a fuel pump:
 - a. From which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, with or without the aid of an employee or attendant of the premises at which the fuel pump is located,
 - b. Which is accessible for use by members of the general public.
- (11) **Solicit** means to request, by the 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.

C. Aggressive Solicitation Prohibited. A person commits an offense if the person solicits:

- (1) In an Aggressive Manner in a public area.
- (2) In a bus or at a bus stop.
- (3) Within twenty-five (25) feet of the following areas where the public is considered vulnerable or where solicitation would interfere with the flow of traffic:

- a. An automated teller facility;
- b. An automated teller machine;
- c. The entrance or exit of a bank;
- d. The entrance or exit of a check cashing business;
- e. The entrance or exit of a credit access business;
- f. A self-service or automated carwash or self-service fuel pump;
- g. A parking meter or parking pay station on a street;
- h. A public parking garage;
- i. At a marked crosswalk; or
- j. The entrance or exit of a restaurant or patio area of a bar or restaurant.

D. Exception. During a permitted street closure event or a permitted city sponsored special event, it shall not be an offense under subsection (C)(3) for persons registered with a valid City of College Station permit to solicit in such locations when authorized and so defined in the approved street closure or special event permit.

E. A violation of this section shall be punishable by a fine not to exceed five hundred dollars (\$500.00).