

ORDINANCE NO. 2014-30

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS, AMENDING THE CODE OF ORDINANCES CHAPTER 17, SECTIONS 17-9, 17-12, AND 17-13, RELATING TO PEDDLERS AND SOLICITORS; PROVIDING FOR A PENALTY BY FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500); PROVIDING A SAVINGS CLAUSE; REPEALING CONFLICTING ORDINANCES; DECLARING AN EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Grapevine City Council consists of residents of the City with varied backgrounds, experiences, and interests; and

WHEREAS, in considering this ordinance, the City Council relies on the entirety of its experiences and knowledge; and

WHEREAS, the City of Grapevine, Texas, is a home-rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Grapevine currently regulates peddlers and solicitors in a manner to promote good order and protect citizens and non-citizens, while at the same time maintaining the First Amendment right to communicate through that medium; and

WHEREAS, the City of Grapevine has endeavored to protect the health, safety, and welfare of the public from the negative impacts associated with soliciting since at least 2003; and

WHEREAS, the regulation of door-to-door solicitation services the City's interests in preventing crime and protecting the privacy of its residents; and

WHEREAS, the City's efforts to protect its citizens have included a 5:00 p.m. curfew on peddling and soliciting, and said curfew has played an important role in the City's overall safety plan; and

WHEREAS, the City Council finds the regulations provided in this ordinance allow the Police Department to focus its operations on crime-related activity during the evening, night, and early morning hours when calls for service naturally increase; and

WHEREAS, everything about law enforcement is priority based, and any time taken away from dealing with priority major criminal activity and the prevention of that makes the Police Department less effective; and

WHEREAS, due to the extremely complex nature of crime, the City and its Police Department attempt to devise as many strategies and tactics and utilize as many tools as they can to cover as many bases as possible; and

WHEREAS, the curfew allows the Police Department to concentrate on the greatest likelihood of encountering the unsavory type of characters during peak times, and has enhanced residents' comfort level and safety; and

WHEREAS, the curfew has served as an enhancement to the other tactics, tools, and strategies employed by the Police Department; and

WHEREAS, there is no magic bullet to fight and prevent crime; and

WHEREAS, the philosophy behind the solicitor ordinance is to do everything the City can do legally to ensure the safety of the City and its citizens; and

WHEREAS, the entirety of the solicitor ordinance has contributed to making our community a safer place; and

WHEREAS, it is not possible to delineate the proportionate effect of the multiple measures or strategies implemented to protect the health, safety, and welfare of the public, including the solicitor ordinance; and

WHEREAS, the decrease in residential burglaries has at least a temporal connection to the City's 2004 amendments to the solicitor ordinance; and

WHEREAS, the City reviews, updates, and amends ordinances on an as needed basis; and

WHEREAS, the purpose of such reviews and amendments is to maximize the effectiveness of the City's rules and regulations, while accommodating protected activities such as free speech; and

WHEREAS, the City Council endeavors to allow people to be free from interruption at home and to have comfort that unknown persons will not come up to their door and disturb them while at home with their families; and

WHEREAS, anecdotal evidence shows that Grapevine residents have been reluctant to utilize "no solicitation" signs at their residences to protect themselves from undue annoyance and harassment; and

WHEREAS, the City Council finds that posting “no-solicitation” or similar signs alone is inadequate to protect its citizens from undue annoyance; and

WHEREAS, the City Council finds that the regulations provided by this ordinance are necessary to promote the City’s legitimate and compelling interests and are provided without reference to the content of any message; and

WHEREAS, the City Council finds that the City has a legitimate and compelling interest in protecting the privacy of its residents in a most important place, the homestead; and

WHEREAS, the City Council determines that preserving the sanctity of the home, including the right to be free from unwanted and unwelcome intrusion, is a compelling governmental interest; and

WHEREAS, the City Council finds that the City has a legitimate and compelling interest in preventing undue annoyance of its residents; and

WHEREAS, the City Council finds that the City has a legitimate and compelling interest in protecting its residents from crime; and

WHEREAS, the City Council finds door-to-door activities pose an inherent risk of crime; and

WHEREAS, the City Council finds that curfew regulations limiting the hours and days when a person may solicit or peddle on private property are necessary to prevent undue annoyance of its residents and to protect the sanctity of citizens’ homes; and

WHEREAS, the City Council finds that curfew regulations limiting the hours and days when a person may solicit or peddle on private property are necessary to prevent crime to property and persons and to protect the health and safety of persons engaged in solicitation; and

WHEREAS, the City Council finds the regulations of this ordinance do not prevent door-to-door activity and that ample alternative channels of communication exist beyond the curfew requirements, including solicitation via telephone and other electronic communication, public solicitation outside of the privacy of citizens’ doorsteps, and solicitation via direct mail, television, radio, and internet; and

WHEREAS, the City Council finds that an unanticipated visit by a stranger on citizens’ doorsteps is capable of causing fear or suspicion or anxiety resulting in a call for service; and

WHEREAS, the City Council finds the regulations provided in this ordinance are an integral component of the City's safety plan and that crime prevention efforts would be less effective without the provisions of this ordinance; and

WHEREAS, the City Council finds that regulations requiring persons who engage in door-to-door contact with its citizens to obtain a permit are necessary to prevent crime to property and persons; and

WHEREAS, the City Council is authorized to adopt ordinances to protect the health, safety, and welfare of its citizens; and

WHEREAS, the City Council has determined that it is a necessity to regulate activities as provided for herein to safeguard the public; and

WHEREAS, the City Council is authorized by law to adopt the provisions contained herein, and has complied with all the prerequisites necessary for the passage of this ordinance; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including but not limited to the Open Meetings Act; and

WHEREAS, the purposes of this ordinance include protecting and promoting the public health, safety, and general welfare of the citizens of the City of Grapevine.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

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

Section 2. That the Grapevine Code of Ordinances, Chapter 17 Peddlers and Solicitors, Section 17-9 relative to Hours of Operation is hereby amended to read as follows:

"It shall be unlawful for any person acting as a peddler or solicitor to go in or upon the premises of a private residence in the city prior to 9:00 a.m. or after dusk (30 minutes after sunset) of any day, Monday through Saturday, or at any time on Sunday or any other federally designated holiday, or, on any day where the Department of Homeland Security has issued a formal alert regarding a specific or credible terrorist threat resulting in an imminent or elevated threat level. This section shall not apply to a visit to the premises as a result of a request or invitation made by the occupant."

Section 3. That the Grapevine Code of Ordinances, Chapter 17 Peddlers and Solicitors, Section 17-12 relative to Prohibited Conduct is hereby amended with the following addition:

“(7) Peddle or solicit at any residence listed on the City’s “do-not solicit list.”

Section 4. That the Grapevine Code of Ordinances, Chapter 17 Peddlers and Solicitors is hereby amended by the adoption of a new Section 17-13 as follows:

“Sec. 17-13 Do-Not Solicit List

- (1) The city manager, or their designee, shall develop and maintain a list of residences where peddling or soliciting is prohibited and such list shall be referred to as the “do-not solicit list.”
- (2) Any property owner or occupant may elect to add or remove his or her residence to or from the do-not solicit list through the procedures developed by the city manager. The property owner or occupant making such a request will be required to affirm that he or she is an owner or occupant of the residence, and is making the request on their behalf and on behalf of any other occupant at that address.
- (3) The city manager shall make the do-not solicit list available on the City’s website and to any person upon request.
- (4) The city secretary shall provide a do-not solicit list to each person issued a permit under this ordinance.”

Section 5. That the City Manager is directed to monitor and review the impact and effects of this ordinance and to provide updates to the City Council on an as needed basis. If, for any reason, this ordinance fails to achieve its stated goals or otherwise proves ineffective, the City Manager is directed to present recommended revisions to the City Council for review and consideration.

Section 6. That any person, firm, or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall upon final conviction thereof be fined in the amount not to exceed five hundred dollars (\$500.00). Each and every day any such violation shall continue shall constitute a separate violation hereunder.

Section 7. That if any section, sentence, clause, or phrase of this ordinance be declared unconstitutional for any reason, it shall not affect the constitutionality and the validity of any other section, sentence, clause, or phrase, and the City Council declares that it would have passed all other sections, sentences, clauses, or phrases of this ordinance notwithstanding the unconstitutionality or invalidity of any paragraph, section, sentence, clause or phrase hereof.

Section 8. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Grapevine, Texas, shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding of not guilty or nolo contendere, or dismissal.

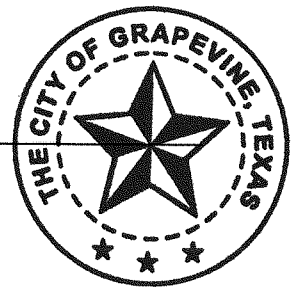
Section 9. That the fact that the present ordinances and regulations of the City of Grapevine, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the public which requires that this ordinance shall become effective from and after the date of its final passage, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS on this the 3rd day of June, 2014.

APPROVED:



William D. Tate
Mayor



ATTEST:



Jodi C. Brown
City Secretary

APPROVED AS TO FORM:



John F. Boyle, Jr.
City Attorney