

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE OFFICIAL CITY CODE OF ORDINANCES BY AMENDING CHAPTER 111, "PEDDLERS AND SOLICITORS"; PROVIDING FOR REGULATIONS FOR SOLICITATION, CANVASSING, AND HANDBILL DISTRIBUTION IN THE CITY; DEFINING TERMS; ESTABLISHING BUSINESS/RETAIL SOLICITATION-FREE ZONES; BANNING OUTDOOR SOLICITATIONS IN SOLICITATION-FREE ZONES, WITH CERTAIN DEFENSES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL CITY NEWSPAPER; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield, 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 Council has determined that in order to prevent and deter deceptive practices and fraud, it is necessary to require door-to-door solicitors to register and to regulate those activities; and,

**WHEREAS**, the City Council has determined that solicitation, canvassing and handbill distribution at residences and other private property at certain times and under certain circumstances greatly intrudes on the privacy and personal property rights of the citizens of Mansfield and can result in litter; and,

**WHEREAS**, the City Council finds that solicitations conducted in outdoor areas of high pedestrian traffic create a safety hazard and an increased potential for criminal activity against persons using businesses, stores, shopping centers, restaurants, clubs, performance halls, parking lots and other venues and facilities associated with retail or entertainment, since those persons often have their attention distracted from their surroundings, sometimes with cash conspicuously in their possessions, thereby making them more vulnerable to and intimidated by solicitors; and,

**WHEREAS**, the City Council finds that businesses, stores, shopping centers, restaurants, clubs, performance halls, parking lots and other venues and facilities associated with retail sales or entertainment in the City should be declared as solicitation-free zones to encourage tourism, pedestrian traffic, economic development, and residential development in those areas and to otherwise further public health, safety, and welfare; and,

**WHEREAS**, the City Council has determined that solicitations and sales by persons standing within the roadway or on medians and traffic islands of streets and highways within the City endangers such persons and the motoring public and greatly increases traffic congestion within the City; and,

**WHEREAS**, the City Council has determined that solicitations and sales by persons directed towards the occupant of any vehicle on any street or highway within the City endangers such persons and the motoring public and also greatly increases traffic congestion within the City and distracts drivers from their primary duty of observing their surroundings; and,

**WHEREAS**, the City Council has determined that it is necessary to prohibit solicitations and sales within the roadway, and on medians, and traffic islands of streets and highways and that it is also necessary to prohibit solicitations and sales directed at the occupants of any vehicle on any highway or street within the City; and,

**WHEREAS**, it is the intent of the City Council to not infringe on any rights protected by First and Fourteenth Amendments to the United States Constitution; and,

**WHEREAS**, in light of the foregoing, the City Council now deems it advisable and necessary to amend the current regulations concerning solicitation within the City in order to protect the public health, safety and general welfare of the citizens of the City of Mansfield, Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THAT:**

### **SECTION 1.**

The above findings are hereby found to be true and correct and are incorporated herein in their entirety.

### **SECTION 2.**

Chapter 111, "Peddlers and Solicitors," of Title XI, "Business Regulations," of the Code of Mansfield, Texas is hereby amended in its entirety to read as follows:

## **"CHAPTER 111. PEDDLERS AND SOLICITORS**

### **ARTICLE I. GENERALLY**

#### **Sec. 111.01. Purpose.**

The purpose of this chapter is to provide for the general health, public safety and welfare, comfort, convenience and protection of the city and the residents of the city by:

- (1) Prohibiting door-to-door solicitation and canvassing activity at residences during the times when such activity is most intrusive and disruptive to citizens' privacy;
- (2) Regulating the locations in which solicitation activity may occur to promote safety and minimize congestion;

- (3) Regulating the manner in which any solicitation activity, canvassing activity or handbill distribution may occur to promote good order, prevent litter and protect citizens from aggressive and intimidating practices; and
- (4) Requiring solicitors to register with the city to aid crime detection and deter deceptive practices and fraud.

The provisions of this chapter shall be construed to accomplish these purposes.

## **Sec. 111.02. Definitions.**

In this chapter:

*Canvasser* means a person who engages in canvassing activities.

*Canvassing* or *canvassing activity* means the act of:

- (1) Traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building; or
- (2) Occupying space in or traveling on or through any public place in the City,

personally contacting persons to communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills, leaflets, hand signing or by any other method, direct or implied, for any purpose other than selling or taking orders for goods, wares, merchandise or services.

*Chief of police* means the chief of police of the city.

*City* means the city of Mansfield, Texas.

*City manager* means the city manager of the city or the city manager's designated representative.

*Curb* means the line adjacent to the edge of the roadway which may be either a raised or lowered or a marked or unmarked surface.

*Handbill* means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any manner.

*Handbill distribution* means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building without personally contacting persons to distribute or leave on or at each premises handbills for any purpose

*Minor* means a person under the age of 18.

*Non-profit organization* means an organization or entity that is exempt from the payment of tax pursuant to section 501(c)(3) of the Internal Revenue Code.

*Permanent established business location* means an established place of business operating in a permanent structure on a continuous basis.

*Permanent structure* means a structure for which a certificate of occupancy has been issued.

*Public place* means any area to which the public is invited or in which the public is permitted, and includes, but is not limited to, the parking lot of any commercial establishment, the right of way of any street or highway, but does not include the offices or work areas of work places not entered by the public in the normal course of business.

*Roadway* means that portion of a street or highway designed, improved or ordinarily used for vehicular travel, typically delineated by curbs, edge-lines, or the edge of the pavement.

*Selling* means to sell, dispense, peddle, hawk, display, offer to sell or solicit for sale by offering or exposing for sale any goods, wares, merchandise or services.

*Sidewalk* means the portion of a street or highway that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

*Solicitation activities* means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building or occupying space in or traveling on or through any public place in the City while personally contacting persons to ask, barter or communicate in any manner, whether orally, by written or printed materials including but not limited to handbills or leaflets, hand signing or by any other method, direct or implied, for the purpose of selling or taking orders for goods, wares, merchandise or services.

*Solicitor* means a person who engages in solicitation activities.

*Street or highway* means the width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular traffic.

*Traffic safety vest* means a high visibility vest made of fluorescent orange, pink, blue or yellow material that may be clearly seen at any time of the day.

### **Sec. 111.03. Exemptions.**

- (a) This chapter does not apply to:
- (1) The activity of a person with an appointment calling upon or dealing with manufacturers, wholesalers, distributors, brokers or retailers at their place of business and in the usual course of business;
  - (2) The activity of a person acting at the request or invitation of the owner or occupant of a residence;
  - (3) Activity approved in conjunction with a city-sponsored event;
  - (4) Activity conducted in conjunction with a residential yard or garage sale;
  - (5) Activity of a business conducted at the permanent established location of that business;
  - (6) Activity conducted on property not owned or under control of the city with consent of the owner or person in control of the property not conducted while traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building;
  - (7) Sales made under the authority of and by judicial order;
  - (8) The activity of a government employee acting within the course and scope of their official duties serving, delivering or posting official notices including notices of code

violations, water restrictions, utility outages, burn bans, special event impacts or security issues; or

- (9) The distribution of newspapers to subscribers.
- (b) It shall be an affirmative defense to prosecution for any offense under this chapter that the activity of the defendant is listed in subsection (a).

**Sec. 111.04. General regulations.**

- (a) A person commits an offense if the person engages in solicitation or canvassing activity at a residence:
  - (1) Before 9:00 a.m., or
  - (2) After 7:00 p.m. Central Standard Time or 9:00 p.m. Daylight Savings Time; or,
  - (3) Sunday; or
  - (4) Any of the following holidays: Good Friday; Thanksgiving Day; the day after Thanksgiving Day; Christmas Eve; Christmas Day.
- (b) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution at a premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation or canvassing activity is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of the premises, a sign, not less than four inches by three inches in size, containing the words "NO SOLICITORS," "NO TRESPASSING," or words of similar meaning in letters not less than two-thirds of one inch in height.
- (c) A person who is not the owner or tenant of a premises commits an offense if the person removes, defaces or otherwise renders illegible a sign placed by the owner or tenant of the premises pursuant to subsection (b).
- (d) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and remains or lingers on a premises after being informed by the owner or tenant that they are not welcome.
- (e) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution in an aggressive or intimidating manner. The term "aggressive or intimidating manner" means:
  - (1) Blocking the path of a person who is the object of the activity, or
  - (2) Following behind, ahead or alongside a person who walks away from the solicitor after being solicited, approached, accosted or offered a handbill, leaflet or any other item.
- (f) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and distributes, deposits, places, throws, scatters, or casts a handbill at a residence except by:
  - (1) Handing or transmitting the handbill directly to the owner or occupant then present in or upon the premises, or

- (2) Without using adhesive or tape, placing or depositing the handbill in a manner that secures the handbill and prevents it from being blown away, except that mailboxes may not be used when the use is prohibited by federal postal laws or regulations.
- (g) A person commits an offense if the person secures a handbill at a residence in the manner described by subsection (f)(2):
  - (1) In a place that is more than five feet from the front door of the residence; or
  - (2) When another handbill has already been left or secured at the residence and has not been removed from the outside of the residence
- (h) A person commits an offense if the person engages in solicitation activities without wearing a traffic safety vest.

**Sec. 111.05. Solicitation and canvassing in public right-of-way.**

- (a) A person commits an offense if the person engages in solicitation or canvassing activity within the roadway, or on any median or traffic island within the right-of-way of any street or highway within the city.
- (b) A person commits an offense if the person engages in solicitation activity by a direct transaction or exchange with the occupant of any vehicle stopped or traveling on any street or highway in the city which is designated as an arterial or collector on the city's thoroughfare plan. An offense under this subsection occurs when the offer, solicitation or distribution is made regardless of whether a transaction is completed.
- (c) A person commits an offense if the person engages in solicitation or canvassing activity on a sidewalk within the city in a manner that impedes the flow of pedestrian traffic.
- (d) A person commits an offense if the person engages in solicitation or canvassing activity on a sidewalk in such a manner that the sidewalk is occupied by any tent, table, blanket, container, box, rack or any other physical structure. Solicitation or canvassing activity on a sidewalk is permitted if the handbills, leaflets, or other written or printed material, goods, wares or merchandise are carried and displayed by the person engaged in the solicitation or canvassing activity.
- (e) It is a defense to prosecution under subsections (a) or (b) above if the person engages in solicitation activity to operate a taxi cab, mail carrier, vehicle for hire such as commercial servicing or repair of any disabled motor vehicle.
- (f) It is a defense to prosecution under subsection (a) if the person engages in solicitation activity from a vehicle in a manner that does not violate section 111.06(a)(1).

**Sec. 111.06. Solicitation from a vehicle.**

- (a) A person commits an offense if the person conducts solicitation activities from a vehicle and:
  - (1) The solicitation is conducted at a location within the right of way of any street or highway in the city which is designated as a highway or freeway, major or minor arterial on the city's thoroughfare plan; or

- (2) The person stops the vehicle within a roadway to conduct business before the vehicle has been approached, called, or waived down by a prospective customer.
- (b) A person commits an offense if the person operates a vehicle from which solicitation activities are conducted upon any street or highway within the city in a manner that blocks or impedes access to or from any alley, street or driveway, or impedes the flow of traffic on any public street or highway.
- (c) A person commits an offense if the driver of a vehicle is distributing funds or material items to a solicitor and the activities are conducted upon any street or highway within the city in a manner that blocks or impedes access to or from any alley, street or driveway, or impedes the flow of traffic on any public street or highway.

**Sec. 111.07. Penalty.**

- (a) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500.00 for each offense as provided in section 10.99. Each attempted or completed act of handbill distribution or solicitation or canvassing activity shall constitute a separate and distinct offense.
- (b) In case of any willful violation of any of the terms and provisions of this chapter, the city, in addition to imposing the penalties provided in subsection (a), may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations, and the definition of any violation as a misdemeanor shall not preclude the city from invoking the civil remedies given it by the laws of the state.
- (c) The court trying a civil or criminal cause under subsections (a) or (b) shall have the right and power upon judgment or conviction of any person for violation of any of the provisions of this chapter to decree and to make as a part of the judgment or conviction in such cause the forfeiture of the permit required by this chapter. When a permit is forfeited in this manner, no further certificate shall be issued to that person for one year from the date of judgment or conviction.

**Secs. 111.08—111.10. Reserved.**

**ARTICLE II. PERMIT**

**Sec. 111.11. Permit required for solicitation; fees.**

- (a) A person commits an offense if the person engages in solicitation activities in the city without a valid permit issued by the chief of police or the designee of the chief of police.
- (b) A permit shall be valid for one year following the date of its issuance unless a shorter period is requested by the applicant.
- (c) An applicant for a permit shall pay a non-refundable application fee at the time the application is submitted.

- (d) The amount of the non-refundable application fee shall be \$100.00. If a person, firm, corporation or organization engages in solicitation activity through two or more agents, employees, or volunteers the non-refundable application fee for each additional agent, employee or volunteer shall be \$100.00 per each agent, employee, or volunteer. The non-refundable application fee shall be used for the purpose of defraying administrative expenses incident to the issuing of permit.
- (e) A non-profit organization or a person conducting solicitation activity on behalf of a non-profit organization is exempt from payment of the application fee.

**Sec. 111.12. Application.**

A person desiring to conduct solicitation activities within the city shall make a written application on a form provided by the chief of police for a permit. The application shall contain or be submitted with the following information:

- (a) The full name, date of birth, phone number and address of the applicant;
- (b) A valid state driver's license number or a state-approved identification card number (the chief of police or the designee of the chief of police will make a photocopy and attach to the application) of the applicant;
- (c) Except as provided by section 111.13(c), two photographs of the applicant, measuring one and one-half-inch by one and one-half-inch and showing the head and shoulders of the applicant in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;
- (d) If a vehicle or vehicles are used to conduct the solicitation activity, a description of each vehicle, its license plate number and vehicle identification number, the name and license number of the driver who will operate each vehicle, and adequate proof under state law that each driver maintains financial responsibility for the vehicle they will operate shall be attached to the application;
- (e) If the applicant is acting as an employee, agent or volunteer, the name and physical street address (not a post office box) and telephone number of the employer, principal or organization with credentials in written form establishing the relationship and authority of the employee, agent or volunteer to act for the employer, principal or organization;
- (f) If applicable, the merchandise to be sold or offered for sale, the nature of the services to be furnished;
- (g) the approximate time period within which the solicitation is to be made, stating the date of the beginning of the solicitation activity, its projected conclusion and the proposed dates and times of solicitation;
- (h) Whether the applicant, upon any order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery;
- (i) If the applicant, or the applicant's employer or principal has pled guilty, or nolo contendere to, or has been convicted of a felony or misdemeanor involving fraud,



deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property within ten years preceding the date of application, a description of each such conviction or plea, the name of the court and jurisdiction in which the complaint or indictment was filed and the date of the offense;

- (j) If the applicant, or the applicant's employer or principal is a person against whom a civil judgment or administrative decision based upon fraud, deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property has been entered or ordered within ten years preceding the date of application, a description of judgment or action, the case or cause number, if any, and the court or administrative agency that rendered the judgment or decision;
- (k) If the solicitation activity is to be conducted on behalf of a non-profit organization, proof of such status shall be attached to the application.

**Sec. 111.13. Solicitation by minors; applications.**

- (a) A minor who conducts solicitation activities shall be sponsored or employed by a person over the age of 18, a corporation, firm or organization. The person, corporation, firm or organization that is sponsoring or employing the minor(s) is responsible for controlling the conduct of the minors and the minors shall be under the constant supervision of a person 18 years of age or older.
- (b) A person, corporation, firm or organization that sponsors or employs one or more minors as solicitors may submit one application and pay one nonrefundable application fee, in the amount of \$100.00 for the permit of the minors regardless of the number of minors who conduct solicitation activities. The sponsor or employer shall provide the chief of police the name(s), date(s) of birth, address(es) and driver's license number(s) (if applicable), and a notarized parental consent for each minor that will be conducting solicitation activities. The parental consent form to employ a child to solicit, which shall be obtained from the Texas Workforce Commission, shall acknowledge the release of the information set forth above.
- (c) A minor that does not submit an application is exempt from section 111.16 and shall be required to carry while conducting solicitation activities only a copy of the approved solicitor's permit application.

**Sec. 111.14. Reserved.**

**Sec. 111.15. Application review and Permit acceptance.**

- (a) Upon receipt of an application, the chief of police or the designee of the chief of police shall review the application to ensure compliance with this chapter.
- (b) The chief of police shall authorize the permit within 30 days of receipt of the application unless:
  - (1) An investigation reveals that the applicant or the applicant's employer, principal or organization falsified information or omitted information on the application;

- (2) Within ten years preceding the date of application, the applicant or the applicant's employer, principal or organization has pled guilty or nolo contendere to, or has been convicted of, a felony or misdemeanor described in section 111.12(i);
  - (3) Within ten years preceding the date of application, a civil judgment or administrative decision described in section 111.12(j) has been entered or ordered against the applicant or the applicant's employer, principal or organization;
  - (4) The applicant provided no proof of authority to act on behalf of the employer, principal or organization;
  - (5) The application does not contain the information or documents required by section 111.12.
- (c) The denial and the reasons for the denial shall be noted on the application, and the applicant shall be notified of the denial in person or by notice mailed to the applicant and the applicant's employer, principal or organization at the address shown on the application or the last known address. The notice of denial shall be mailed within 30 days of the receipt of the application.

**Sec. 111.16. Permit.**

- (a) Upon authorization of the permit, the chief of police or the designee of the chief of police shall deliver a permit for each solicitor.
- (b) The permit shall be in the form of a photo identification tag and shall contain the following information:
  - (1) The name and address of the solicitor;
  - (2) The solicitor's employer, principal or organization, if applicable;
  - (3) The kind of goods or services to be sold or offered for sale, if applicable;
  - (4) A description and license plate number of any vehicle to be used in carrying out the solicitation activities, if applicable;
  - (5) A permit number; and
  - (6) The dates of issuance and expiration of the certificate.
- (c) When engaged in door to door solicitation, each solicitor shall wear a high visibility vest provided by the city displaying the current year. Each permit shall be affixed to the vest at all times while conducting door to door sales.
- (d) A permit shall be used only by the solicitor for whom it was issued and may not be transferred to another person. A person commits an offense if the person wears or displays a photo identification tag issued to another person.
- (e) A person who uses a vehicle in conducting solicitation activities shall post a sign located in a conspicuous place on or in the window of the vehicle, identifying the name of the person, company or organization that the person represents. If the name is an individual person, it

must be followed by the word "solicitor" The lettering on the sign must be at least two and one-half inches high. A person commits an offense if the person violates this subsection.

**Sec. 111.17. Revocation or suspension of Permit.**

A permit issued pursuant to this chapter may be revoked or suspended by the chief of police, after notice sent in written format by certified mail to the address listed on the application or hand delivered by a police officer, for any of the following reasons:

- (a) Fraud, misrepresentation, or false statement contained in the application for permit;
- (b) Fraud, misrepresentation, or false statement made by a solicitor in the course of conducting solicitation activities;
- (c) A plea or conviction of a crime described in section 111.12(i);
- (d) A judgment involving a matter described in section 111.12(j);
- (e) A violation of any of the regulations set forth in this chapter.

**Sec. 111.18. Appeals.**

- (a) A person who is denied a permit or whose permit is revoked or suspended by the police chief may appeal the decision to the city manager's office by filing notice of appeal with the city manager within 15 days after the notice of the decision is mailed to the address indicated on the application or the last known address.
- (b) Within ten days of the receipt of the notice of appeal, the city manager shall set a time and place for a hearing on the appeal which shall be not later than 40 days from the date of receipt of the notice of appeal.
- (c) Notice of the time and place of the hearing shall be delivered to the person by mail, sent to the address indicated on the application or the last known address of the appellant.
- (d) The decision of the city manager on the appeal is final. No other administrative procedures are provided by the city.

**Secs. 111.19, 111.20. Reserved**

### ARTICLE III. SOLICITATION OF FUNDS

#### Sec. 111.21. Definitions.

In this article:

*Aggressive or intimidating manner* means:

- (1) To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:
  - a. Imminent bodily injury; or
  - b. The commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;
- (2) To persist in a solicitation after the person solicited has given a negative response; or
- (3) To block, either individually or as part of a group of persons, the passage of a solicited person.

*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.

*Exterior public pay telephone* means any coin or credit card reader telephone that is.

- (1) Installed or located anywhere on a premise except exclusively in the interior of a building located on the premise; and
- (2) Accessible and available for use by member of the general public.

*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

*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 or a station of vacuums used in the cleaning a vehicle whether coin-operated or not, and
- (2) That is accessible and available for use by the general public.

*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 the general public.

*Solicitation* means to ask, beg or plead, whether orally or in written or printed manner or with an object for the purpose of receiving contributions, alms, charity, or gifts of items of value for oneself or another person.

*Solicitation-free zone* means any area or structure which provides any service, retail sales or entertainment for the general public and includes any parking lot used for customer parking associated with those areas or structures.

In this article, to the extent of any conflict between the definitions in this section and section 111.02, the definitions in this section shall control.

**Sec. 111.22. Offenses.**

- (a) A person commits an offense if he conducts a solicitation in an aggressive or intimidating manner.
- (b) A person commits an offense if he conducts a solicitation in any outdoor area in the city at any time after 7:00 p.m. Central Standard Time or 9:00 p.m. Daylight Savings Time; or Sunday; or any of the following holidays: Good Friday; Thanksgiving Day; the day after Thanksgiving Day; Christmas Eve; Christmas Day.

It is a defense to prosecution under this subsection if the solicitation:

- (1) Consists exclusively of passive, nonverbal acts, or
- (2) Was being conducted on the property with the advance written permission of the owner, manager or other person in control of the property.
- (c) A person commits an offense if he conducts solicitation at any time within a solicitation-free zone. It is an affirmative defense to prosecution under this subsection if the solicitation was being conducted on property with advanced written permission of the owner, manager, or other person in control of the property.
- (d) A person commits an offense if he conducts a solicitation of any person within 50 feet of:
- (1) An automated teller machine;
- (2) An entrance or exit of a bank, credit union, or other similar financial institution;
- (3) An exterior public pay phone;
- (4) A self-service car wash;
- (5) A self-service fuel pump;
- (6) A public transportation stop;
- (7) An outdoor dining area of a fixed food establishment
- (e) For the purpose of subsection (d) measurement will be made in a straight line, without regard to intervening objects or structures, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

- (1) 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,
  - (2) The nearest entrance or exit of a bank, credit union, or other similar financial institution,
  - (3) The nearest part of an exterior public pay phone,
  - (4) The nearest part of a structure of a self-service car wash,
  - (5) The nearest part of a self-service fuel pump,
  - (6) The nearest point of any sign or marking designating an area as a public transportation stop,
  - (7) The nearest part of any table in an outdoor dining area or, if the outdoor dining area is contained within an open-air enclosure, the nearest part of that enclosure.
- (f) It shall be unlawful for any person to conduct a solicitation within a roadway, or on any median or traffic island within the right-of-way of any street or highway within the city.
- (g) It shall be unlawful for the driver of any vehicle or any person to conduct a solicitation by a direct transaction or exchange with the occupant of any vehicle stopped or traveling on any street or highway in the city which is designated as an arterial or collector on the city's thoroughfare plan.
- (h) An offense under subsections (f) and (g) occurs when the solicitation is made regardless of whether a transaction is completed.”

### **SECTION 3.**

This ordinance shall be cumulative of all provisions of ordinances of the City of Mansfield, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

### **SECTION 4.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 5.**

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of the code or any other ordinances, as amended, or any other

ordinances affecting solicitation, canvassing, or handbill distribution which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.**

The City Secretary of the City of Mansfield is hereby directed to publish in the official newspaper of the City of Mansfield as provided by the Charter of the City of Mansfield.

**SECTION 7.**

This ordinance shall be in full force and effect from and after its date of passage and publication as required by law and it is so ordained.

**DULY PASSED AND ADOPTED ON THE FIRST AND FINAL READING,  
THIS 11<sup>TH</sup> DAY OF OCTOBER, 2021.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

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**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**E. Allen Taylor, Jr., City Attorney**