

ORDINANCE NO. _____

AN ORDINANCE ADDING SECTIONS 22-35 (a)(5), 22-40 AND 22-41 REGULATING RESIDENTIAL SOLICITORS, PEDDLERS OR CANVASSERS; ESTABLISHING REGISTRATION REQUIREMENTS FOR RESIDENTIAL SOLICITORS, PEDDLERS; OR CANVASSERS REGULATING HANDBILLS AND COMMERCIAL FLYERS; PROVIDING PENALTIES FOR VIOLATIONS AND DECLARING AN EMERGENCY.

WHEREAS, many citizens of this community expect their local government to assist them in preserving their privacy and avoiding petty annoyances that disrupt their quiet enjoyment of their homes; and

WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved; and

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of our citizens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK, TEXAS, AS FOLLOWS:

Section 22-35 (a) is amended by adding (a) (5) as follows:

Prohibited Acts. (a) No residential solicitor, peddler or canvasser shall:

(5) Refuse to leave private property when requested.

Section 22-40. Denial or Revocation of License. (a) Grounds. Any license issued hereunder may be denied or revoked if the license holder is convicted of a violation of any provisions of this article or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a license under the terms of this article, or has been convicted of a felony within ten years or a misdemeanor of moral turpitude within ten years; has been incarcerated for such act within the last

ten years; or is a high-risk sex offender as classified by the state department of public safety website at www.txdps.state.tx.us.

(b) Notice. If the city secretary denies (or upon completion of an investigation revokes) the license, the decision shall immediately be conveyed to the applicant orally and a written report prepared of the reason for the denial which shall be immediately made available to the applicant.

(c) Appeal; hearing. The licensee shall have ten days from the date of revocation or denial in which to file written notice of appeal to the city manager for the order denying or revoking the license. After hearing the appeal on the revocation or denial, the city manager shall either sustain the action or issue an order reinstating the License within five business days.

(d) Stay during appeal. In the event of the filing of an appeal from a revocation issued under the provisions of this article, until such appeal has been determined by the city manager, such revocation order shall be stayed.

Section 22-41. Hearing on Appeal. If the applicant requests a hearing under section 22-40, the hearing shall be held in accordance with the Administrative Procedure Act of the State of Texas, and review from the decision (on the record of the hearing) shall be in the county court in which the city is located. The hearing shall also be subject to the Texas Open Meetings and Records Law.

Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

Government Code. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

Emergency Provision. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, health, safety and welfare in that it is necessary to amend the provisions of the Code Of Ordinances regulating Solicitors within the City of Deer Park in order to Protect the Citizens of the City, thereby creating an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

Effective Date: This ordinance shall be in full force and effect from and after _____.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ____ day of _____, 2018 **by a vote of** _____ **“Ayes” and** _____ **“Noes”.**

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney