

ORDINANCE NO. 150526F

AN ORDINANCE OF THE CITY OF HEATH, TEXAS, REPEALING ORDINANCE NO. 890316C AND AMENDING TITLE XI (BUSINESS REGULATIONS) CHAPTER 110 (SOLICITATION) OF THE CODE OF ORDINANCES OF THE CITY OF HEATH, TEXAS; REGULATING SOLICITATION AND HANDBILL DISTRIBUTION; ESTABLISHING DEFINITIONS; PROTECTING CHILD SOLICITORS; ESTABLISHING PERMIT REQUIREMENTS; PROVIDING FOR DENIAL, SUSPENSION AND REVOCATION OF PERMITS AND APPEALS THEREFROM; REGULATING THE USE OF CITY RIGHT-OF-WAY; PROVIDING DEFENSES TO VIOLATIONS; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS/REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE PUBLICATION OF THIS CAPTION AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council of the City of Heath, Texas (“City Council”) finds that it would be advantageous and beneficial to the citizens of the City of Heath, Texas (“City” or “Heath”) to protect the health, safety and general welfare of its citizens by amending regulations on solicitation and handbill distribution at homes and within public right-of-ways;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to prevent potential traffic hazards resulting from unauthorized use of the public right-of-way and city property;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to keep the right-of-way clear from unauthorized activity in order to prevent citizens from feeling threatened or becoming distracted by persons located outside their vehicle while driving in an effort to prevent crime and traffic accidents;

WHEREAS, the City Council has determined that it is dangerous and hazardous to distract the driver of a motor vehicle from focusing on safely controlling the motor vehicle and that such dangers and hazards are dramatically increased if a solicitation occurs while a motor vehicle is stopped in compliance with a traffic control device and the driver is forced to proceed with driving when a light turns green, etc., and the driver has received change back from the solicitor which needs to be returned to a wallet or pocket and the driver has not had the opportunity to return his or her wallet to a handbag or pocket, etc. and that similar situations are also dangerous;

WHEREAS, the City Council has determined that it is dangerous, hazardous and life-threatening for a person to solicit funds or distribute handbills within any public street, street right-of-way, median, traffic island, parkway, or other public right-of-way within the City of Heath when the person is focused on attracting the attention of another person in a motor vehicle and thus distracted from paying attention to the total circumstances around the person and the movement of other vehicles and that the public sidewalks designed for pedestrian use are available for such activities in accordance with this Ordinance;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to avoid unwanted solicitation on private property to prevent citizens from feeling threatened while on private property and as an effort to prevent crime;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to deter and prevent littering by requiring unattended printed materials to be securely affixed to an object to prevent the wind from blowing it loose;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to avoid certain obstruction in the right-of-way that may interfere with emergency services;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to insure a noncommercial atmosphere in residential areas;

WHEREAS, the City supports the rights of individuals to engage in free speech in accordance with the law; and

WHEREAS, there are many areas throughout Heath that are zoned for commercial activity or are a public forum for expression;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to create appropriate and orderly commercial and residential atmospheres;

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of Heath to have the option to preserve the privacy of the home and limit what an occupant must be unwillingly exposed to relative to the enjoyment of the investment made in the home;

WHEREAS, Heath has complied with all notices and public hearing as required by law;

and

WHEREAS, the City Council has investigated and determined that it is in the best interests of the citizens of Heath to repeal Ordinance No. 890316C in its entirety and adopt this ordinance.

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

Section 1. Findings Incorporated.

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Repeal Ordinance No. 890316C.

Ordinance No. 890316C is hereby repealed in its entirety.

Section 3. Amendment to Chapter 110 of the Code of Ordinances of the City of Heath.

Chapter 110 (Solicitation) of the Code of Ordinances of the City of Heath is amended in its entirety and shall read as follows:

“CHAPTER 110: SOLICITATION

Sect. 110.01 GENERALLY.

This Ordinance regulates the time, place and manner for the solicitation of funds and the distribution of handbills. The provisions of this Ordinance, however, shall not apply to:

- (A) the regular delivery of newspapers, magazines, or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered;
- (B) the interruption of service notices by utility companies;
- (C) the distribution of mail by the United States government;
- (D) the service of any lien foreclosure; or

(E) governmental notices of any character distributed by the City or any other governmental entity.

Sect. 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All terminology used in this Ordinance and not specifically defined below, shall retain its meaning in conformance with the latest volume of Webster's Collegiate Dictionary.

CHARITABLE PURPOSE. A philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civil organization, or the benefit of any educational institution. "Charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation. "Charitable purpose" shall not be construed to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.

DEPARTMENT OF PUBLIC SAFETY. The Heath Department of Public Safety.

DEPOSIT OR DEPOSITING A HANDBILL. To place, distribute, handout, or circulate any type of handbill.

DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY. The person, or his/her designee, appointed as the Director of the Department of Public Safety by the Heath City Council.

HANDBILL, COMMERCIAL. Means and includes any printed or written matter or material, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies of any matter or literature, which:

- a. Advertises for sale any merchandise, product, commodity, service, or thing;
- b. Directs attention to any business, mercantile, commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof;
- c. Directs attention or advertises any meeting, theatrical performance, exhibition, group, fundraiser, or other event whether the purpose of directing attention and advertising is for private gain or for raising funds for a charitable purpose; or
- d. Contains information that is of a noncommercial nature, but remains predominantly and essentially an advertisement, and is distributed or circulated

for advertisement purposes, for private gain, or for raising funds for a charitable purpose.

NONCOMMERCIAL. Means and includes any printed or written matter, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies of any matter or literature, or any consumer transaction or request for funds, pertaining to any speech not included in the definition of commercial handbill or solicit funds or solicitation of funds or soliciting or solicitation as those terms are defined in this article. Noncommercial handbills include, but are not limited to, handbills containing exclusively political and religious speech.

HANDBILL DISTRIBUTOR. Means and includes any person engaging or engaged in the business for hire or gain of distributing commercial handbills, and any person receiving compensation directly or indirectly for the distribution of such commercial handbills.

HOME SOLICITATION TRANSACTION. Means: (i) a consumer transaction for the purchase of goods, services, or realty, payable in installments or in cash, in which the merchant engages in personal solicitation of the sale to the consumer at a residence in person and the consumer's agreement of offer to purchase is given at the residence to the merchant; or (ii) any request for funds made by a person soliciting to the occupant of a residence at a place of residence and the solicitor is unknown to the occupant or owner of the residence at which the request for funds is made. A home solicitation transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiation between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale where the consumer initiated a request for an appointment for the merchant to send a representative to his or her residence; or a sale of realty in which transaction the purchase is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

INDIVIDUAL OR PERSON. Shall mean an individual, a person, a group of two (2) or more individuals, a proprietorship, a partnership, a corporation, a limited liability company, an association, or other legal entity.

ITINERANT VENDOR. A person who sets up and operates a temporary business on privately owned property in the city or within a public right of way, for soliciting, selling, or taking orders for or offering to sell or take orders for any goods or services. A temporary business is one that continues for thirty (30) days or less, and exists whether solicitation is from a stand, vehicle, or freestanding.

MERCHANT. Any person who is a party to a consumer transaction other than a consumer.

PEDDLER. Any person who engages in commercial activities within city limits by carrying goods or merchandise and selling or offering for sale for immediate

delivery such goods or merchandise from door-to-door, business-to-business, or upon public property.

SOLICITOR. Any person, firm, corporation or any other legal entity who goes from house to house or loiters at or travels to/from any location within the corporate city limits, without prior invitation if on private property, for the purpose of soliciting, selling or taking orders for any services, goods, wares or merchandise of any nature or kind whatsoever.

SOLICIT FUNDS OR SOLICITATION OF FUNDS OR SOLICITING OR SOLICITATION. Any home solicitation transaction; any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale or the purchasing or offering to purchase any property, real or personal, tangible or intangible, whether of value or not, including but not limited to goods, books, pamphlets, tickets, publications or subscriptions to publications, or taking or attempting to take orders for the future delivery of goods, merchandise, wares, services, or personal property. A solicitation of funds is complete when the solicitation is communicated to any individual then located within the corporate limit of the City. Solicitation does not include any offers of membership in any organization.

Sect. 110.03 PERMIT REQUIRED FOR SOLICITATION AND/OR COMMERCIAL HANDBILL DISTRIBUTION.

(A) Except as otherwise provided, a permit is required for an itinerant vender, peddler, solicitor, handbill distributor, or any individual to personally, or through an agent or employee:

- (1) Solicit funds; or
- (2) Deposit any commercial handbill in or upon another's property.

(B) A permit shall not be required for:

- (1) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large;
- (2) The solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises, when previously invited to the premises for the solicitation;
or

(3) The deposit of commercial or noncommercial handbills directly to another individual on a public sidewalk designed for pedestrian use.

(4) Organizations whose membership consists primarily of persons under eighteen (18) years of age, such as school organizations, youth sports organizations, Girl Scouts, Boy Scouts, and religious and charitable youth organizations.

Sect. 110.04 APPLICATION & FEE FOR PERMIT.

(A) Application for a permit required by Section 110.03 above, shall be made upon forms furnished by the Director of the Department of Public Safety and shall contain information deemed necessary by the Director of the Department of Public Safety to properly identify the applicant, the nature of his or her business, and the business entity by which he or she is employed. The information shall include, but not be limited to, the following:

- (1) The name of the person applying, their date of birth, residence and business addresses, and residence and business telephone numbers.
- (2) If different from the person applying, the name of the handbill sponsor if the permit is for the purpose of distributing commercial handbills and the name of the merchant if the permit is for the purpose of solicitation.
- (3) Supervisor's name, address, and phone number.
- (4) Each applicant shall appear in person and provide proof of identification through a valid driver's license or other valid, official government issued identification.
- (5) Whether the applicant or any agent of the applicant has been convicted of a felony within the last five (5) years.
- (6) The full legal name, telephone number and address of commercial organization.
- (7) Full and complete list of goods sought to be sold and services to be delivered.
- (8) The time period within which the solicitation of funds or distribution of handbills is to occur; specifically including the beginning and ending date of the solicitation of funds or distribution of handbills.
- (9) A description of the methods and means by which the solicitation of funds or distribution of commercial handbills is to be accomplished.
- (10) Whether the applicant, if an order is obtained, will demand, accept or receive payment or deposit of money in advance of final delivery.
- (11) A statement that if the permit is granted, then said permit shall not be used or represented as endorsed or approved by the City or any of its officers or employees.

- (12) The specific location, if any, in which the vendor/peddler intends to conduct business.
- (13) If the applicant is peddling or soliciting funds from private property, a written statement from the property owner consenting to applicant's use of his/her property for the sales activities indicated in the permit application.
- (14) In regards to a handbill sponsor and/or merchant, the following shall apply:
 - a. If a natural person, the business and residence addresses and telephone numbers.
 - b. If a partnership: (i) the names of all partners; (ii) the name, principal business address; (iii) telephone number of the partnership and the agent for service of process; and (iv) the state of formation.
 - c. If a corporation or limited liability company, the person applying must state: (i) the mailing address and telephone number of the principal place of business and the registered agent; (ii) the mailing address, business location, telephone number and name of the individual in charge of the local office of such entity, if any; (iii) the names of all officers and directors or trustees of such corporation, or of all members (if member managed), managers and officers of such limited liability company; and (iv) the state of incorporation or formation.
 - d. If an association or any other entity, the person applying must state: (i) the mailing address and telephone number of the principal place of business and the agent for service of process; (ii) the names of all members/owners of the association unless they exceed ten (10) in number, in which case the application shall so state and the person registering may in the alternative list the names and business addresses and telephone numbers of the officers and directors or trustees of the association; and (iii) if the association is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.
- (15) Satisfactory proof of the individual's authority to represent the partnership, corporation association or business entity.
- (16) Application must be accompanied by a copy of a valid state sales tax certificate, if applicable.
- (17) Information provided by applicant will be subject to verification by the Department of Public Safety and/or other databases.

(B) Every application shall be accompanied by a non-refundable, non-transferable application fee as set forth in the Fee Resolution. The permit to be

issued by the Director of the Department of Public Safety shall be issued for a period of one (1) year from the date of approval and shall be renewed only upon the same terms and conditions as provided herein, and as amended.

- (1) A different fee amount may be set forth in the Fee Resolution for the noncommercial door-to-door solicitors, including but not limited to, persons selling goods or merchandise on behalf of any education, religious, or civic institution or other non-profit organization.

(C) Every permittee shall be issued a card which shall be wallet size and contain the following information: Name of permittee, license number, date of expiration, signature of the City Secretary and City Seal. The card shall be carried on the person at all times and exhibited to any peace officer or resident upon request.

(D) If the application is for a child or children under fourteen (14) years of age or younger subject to Section 51 of the Texas Labor Code, the following information must also be attached to the application:

- (1) a copy of the parental consent form required by Section 51.0145 of the Texas Labor Code, as it exists or as may be amended;
- (2) documentation showing that the Texas Employment Commission has granted a hardship exemption if required under Chapter 51 of the Texas Labor Code; and
- (3) the name, address, and telephone number of all persons who will be responsible for supervising the child pursuant to Section 51.0145 of the Texas Labor Code, as it exists or as it may be amended.

(E) All applications, whether or not a permit is issued, shall be considered public record in accordance with the Texas Public Information Act, as amended.

Sect. 110.05 PERMIT ISSUANCE, DENIAL, DURATION AND FORM

(A) When an application is filed, the Director of the Department of Public Safety shall review the application.

(B) The Director of the Department of Public Safety shall approve the application and issue the permit unless any of the following apply, in which case the permit shall be denied:

- (1) the application fails to comply with a provision of this Ordinance;
- (2) a previous permit issued under this Ordinance was revoked within the past twelve (12) months;

- (3) the Director of the Department of the Public Safety determines that the applicant has been convicted of a felony within the last 5 years;
- (4) the Director of the Department of Public Safety determines that the applicant has furnished false information or identification;
- (5) the applicant has a warrant out for their arrest; or
- (6) a court of law has issued an emergency protective order against the applicant.

(C) The Department of Public Safety shall notify the applicant of their decision to approve or deny a permit application within ten (10) business days of the receipt of the application. Notification of the decision shall be given in writing and either sent via U.S. mail to the application address as listed on the permit application or delivered to the applicant in person.

(D) If the application was turned in as incomplete, the Department of Public Safety shall not grant or deny the application but shall return the application with an explanation of what additional information/documentation is needed to process the application. The incomplete application and explanation shall be sent within ten (10) business days of the receipt of the application to the applicant's address as listed on the permit application or it shall be delivered to the applicant in person.

(E) The City shall prescribe the form of the permit. The permit may contain a photo of the applicant. The following shall be printed prominently on each permit: "The issuance of this permit is not an endorsement by the City of Heath or any of its officers or employee." Each permit shall bear a permit number that corresponds with the City's files containing the application filed by the applicant.

Sect. 110.06 REVOCATION AND/OR SUSPENSION OF PERMIT

(A) If a permit holder fails to comply with this article, the Department of Public Safety will take the following action:

- (1) For a first offense under this article, any permit issued hereunder to the offender shall be suspended for a period not to exceed thirty (30) days. The Director of the Department of Public Safety, or his/her designee, shall determine the number of days of the suspension.
- (2) For a second offense under this article within a twelve (12) month period, any permit issued hereunder to the offender shall be revoked, and such offender shall not be eligible to apply for another permit for a period of twelve (12) months from the date of revocation.

If a permit holder is arrested and charged with a felony, the permit shall be suspended until final disposition of the criminal charges.

- (1) Upon conviction or acceptance of deferred adjudication by the court, the permit shall be revoked.
- (2) If the permit holder is found innocent or the charges are dismissed, the suspension of the permit shall be lifted.

Upon suspension or revocation the permit holder shall tender the permit to the Department of Public Safety until completion of the suspension or successful appeal of the suspension or revocation.

(B) The Director of the Department of Public Safety or his designee may revoke a permit and the permittee may be prohibited from reapplying for the period covered by the original application, or an application to solicit may be denied, for any of the following reasons:

- (1) The required application information is incomplete, incorrect, or contains false or misleading information;
- (2) A solicitor, while soliciting, is charged and subsequently convicted of theft or fraud or a violation of any city, state, or federal law, in connection with the said solicitation;
- (3) The applicant or any individual involved in the peddling or solicitation is currently wanted on a warrant for arrest for any pending criminal matter;
- (4) The applicant is a person against whom a judgment, conviction or deferred adjudication has been entered within (5) years preceding the date of application, based upon any felony, or a misdemeanor or civil suit involving fraud, deceit or misrepresentation;
- (5) The applicant provided no proof of authority to serve as agent for the principal; or
- (6) The permit fee or subsequent renewal, if applicable, has not been paid.

Sect. 110.07 APPEALS FROM DENIAL, SUSPENSION OR REVOCATION

Should an applicant be denied a permit or have a permit suspended or revoked, the applicant may appeal that action to the City Manager by submitting a letter within five (5) business days of the denial, suspension or revocation. The City Manager, or his/her designee, shall review the appeal at a staff level and make a determination within ten (10) business days of receiving the appeal request and shall have the authority to uphold or reject the action complained of and order that the permit be granted or reinstated, if necessary. The City Manager, at his discretion and after providing notice to the applicant, may schedule a hearing before the City Manager or his designee to receive additional information related to the appeal before making a decision. Such hearing shall be an administrative

hearing, and adherence to formal rules of evidence shall not be required. The decision of the City Manager shall be final.

Sect. 110.08 SOLICITATION AND DISTRIBUTION REGULATIONS.

The following regulations shall apply to each and every itinerant vendor, handbill distributor, peddler or solicitor, or any other person engaged in solicitation, as described in this article, and any violation of any such regulations shall be an offense and punishable under the terms hereof.

(A) Except as otherwise prohibited, the distribution of any handbill, including noncommercial and commercial handbills may only be distributed by:

- (1) handing the noncommercial handbill or commercial handbill directly to the owner, occupant, or any other person then present in or upon such premises; or
- (2) depositing the noncommercial handbill or commercial handbill in a secure manner to prevent such handbill from being blown or drifting about the premises, except that mailboxes may not be used when prohibited by federal law or regulations.

(B) It shall be unlawful for any itinerant vendor, peddler or solicitor to go from house to house, or business to business in the city, soliciting, selling or taking orders for such items between the hours of 7:00 pm and 9:00 a.m.

(C) Each itinerant vendor, handbill distributor, peddler, or solicitor permitted under this Chapter that is required to register with the Director of the Department of Public Safety under the provisions of this Chapter, shall wear an identification tag stating his or her name and the name of the organization he or she represents at all times while engaged in the soliciting or handbilling.

(D) It shall be unlawful for a licensee to not exhibit a card upon request of a peace officer, who has lawfully stopped him or her for the purpose of determining that he or she has a current permit to solicit.

(E) The Director of the Department of Public Safety or his designee may, upon documented complaint of a violation of this Chapter in accordance with Section 110.06, suspend and confiscate the permit issued until such time when the permit can provide adequate assurances of compliance with the regulations herein.

(F) It shall be unlawful for a person to solicit funds or distribute commercial handbills after the revocation or expiration of any permit issued or during the suspension of any permit issued.

(G) No person may distribute any commercial handbill or noncommercial handbill in or upon any premises which are temporarily or continuously uninhabited or vacant.

(H) It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown, scattered or cast any handbill upon any residential property if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than eight (8) square inches in size bearing the words "no trespassing," "no peddlers," "no advertisements," "no solicitation," "no handbills," or any similar notice indicating in any manner that the occupants of such premises do not desire to have any such solicitation or handbills left upon their premises. The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.

(I) It shall be unlawful for any person to go upon any residential premises for the purpose of solicitation and ring the doorbell, knock upon the door or create any sound for the purpose of attracting the attention of the occupants of the residence if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than eight (8) square inches in size bearing the words "no solicitation", "no peddlers", or "no trespassing". The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.

Sect. 110.09 SOLICITATION WITHIN PUBLIC RIGHT OF WAY

(A) A person may not stand, sit, or otherwise occupy a position in a roadway, median or public right-of-way to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway, median or public right-of-way to solicit a charitable contribution to the extent allowed by section 552.0071 of the Transportation Code, as it now exists or may hereafter be amended.

(B) A person may not stand, sit or otherwise occupy a position on or near a roadway, median or public right-of-way to solicit the watching or guarding of a vehicle parked or to be parked on a roadway, median, public right-of-way or private property. Except as permitted by state law, it shall be unlawful for any person located within a roadway, median or public right-of-way to peddle, sell, offer, or exhibit for sale any merchandise or service, whether for profit, for a charitable purpose or otherwise to any person in a motor vehicle, truck, motorcycle or other vehicle (collectively referred to hereafter as "Vehicle") while the Vehicle is located within the public right-of-way.

(C) A permit to stand in a roadway, median or public right-of-way in the City to solicit charitable contributions to the extent allowed by section 552.0071 of the Transportation Code, as it now exists or may hereafter be amended, shall be

granted only after an application for such purpose is filed with the City Manager no earlier than thirty (30) days, nor less than eleven (11) days, prior to the initiation of the proposed solicitation. Such application shall conform to the provisions section 552.0071 of the Transportation Code, as it now exists or may hereafter be amended.

(D) It shall be unlawful for any person to peddle, sell, offer, or exhibit for sale any merchandise or service, whether for profit, for a charitable purpose or otherwise on a public sidewalk or roadway without previous permission granted by the City Manager, or his designee.

(E) Notwithstanding any provision in this Chapter to the contrary, it shall be unlawful to stand in a roadway, median or public right-of-way to solicit charitable contributions in the city except when both the following conditions apply:

- (1) At the following crossings or intersections:
 - a. FM-740 at Henry M Chandler Drive
 - b. FM-740 at Heathland Crossing Road
 - c. FM-740 at FM 549/FM 550
 - d. FM-740 at FM 1140 (Smirl Drive)
 - e. FM-740 at FM 3097 (Horizon Drive)
- (2) Between the hours of 9:00 a.m. to 2:00 p.m.; 4:00 p.m. to 6:00 p.m.; before sunrise; after sunset. Any person within a roadway, median or public right-of-way shall be required to wear a reflective safety vest.

Sect. 110.10 SOLICITOR’S AND HANDBILL DISTRIBUTOR’S IDENTIFICATION

Each solicitor and handbill distributor shall carry with him/her and produce upon the request of any citizen, city employee or city official, the following information and identification:

- (1) The permit issued by the City of Heath pursuant to this Chapter;
- (2) A copy of the valid state sales tax certification, if applicable; and
- (3) A valid driver’s license or other valid, official photo identification.

Sect. 110.11 PENALTIES

Any person violating any provision of this article or failing to observe any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in Section 10.99 of this Code of Ordinances by a fine not exceeding five hundred dollars (\$500.00). Every day the violation continues shall be deemed as a separate offense.”

Section 4. Savings/Repealing Clause.

All provisions of any ordinance in conflict with this ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

Section 5. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid in a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6. Penalty. Any person violating any provision of this article or failing to observe any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00). Every day the violation continues shall be deemed as a separate offense.

Section 7. Effective Date.

This Ordinance shall become effective upon its passage and publication as required by the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HEATH, TEXAS on this 26th day of May 2015.



[Handwritten signature]

Ernie O. Liechty, Mayor

ATTEST:

APPROVED AS TO FORM:

[Handwritten signature: Stephanie Galanides]

Stephanie Galanides, City Secretary

[Handwritten signature: Wm. Andrew Messer]

Wm. Andrew Messer