

**ORDINANCE NO. O-2013-1  
SOLICITING ORDINANCE**

**AN ORDINANCE OF THE CITY OF STAGECOACH, TEXAS, ESTABLISHING REGULATIONS FOR SOLICITING, SELLING OR TAKING ORDERS FOR ANY GOODS, WARES, MERCHANDISE OR SERVICES WITHIN THE CITY LIMITS OF STAGECOACH, TEXAS; ESTABLISHING REGULATIONS FOR THE SOLICITATION OF DONATIONS OR DISTRIBUTION OF HANDBILLS WITHIN THE CITY LIMITS OF STAGECOACH, TEXAS; PROVIDING FOR THE ISSUANCE AND REVOCATION OF PERMITS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION THEREOF.**

**WHEREAS**, the City Council of the City of Stagecoach, Texas has determined that in order to protect the privacy of its citizens and to prevent crime, including deceptive practices, fraud, and burglary, it is necessary to register and regulate solicitors operating within the City; and

**WHEREAS**, the City Council of the City of Stagecoach, Texas has determined there exists certain safety hazards within the City of Stagecoach, Texas, created by persons who solicit, distribute handbills, sell or take orders for any goods, wares, merchandise or services on City and State streets and rights-of-way, and that such conduct creates a potential public safety hazard to the other residents and visitors of the City of Stagecoach, Texas; and

**WHEREAS**, the City Council of the City of Stagecoach, Texas, has resolved to provide for the comfort and safety of said residents and visitors through its legislative and police powers pursuant to authority granted by the State of Texas and to provide a penalty for the violations of the provisions of same;

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

**SECTION ONE. VIOLATIONS**

**A. Door-to-Door and Place-to Place Solicitation**

**Required Permit:** It shall be unlawful for any person to act in the following manner without first having applied for and obtained a permit from the Stagecoach City Council:

1. to go from house to house, or from place to place, in the City of Stagecoach, Texas, soliciting for donations or otherwise soliciting, selling, or taking orders for, or offering to sell or take orders for, any goods or services; or

2. to place upon any private property, any advertisement or other solicitation, or to place or leave any solicitation on any vehicle located within the City.

**Exception:** The permit requirement shall not apply to:

1. persons who are engaged in solicitation activities involving fund-raising for registered: nonprofit organizations, charitable organizations, religious organizations, civic organizations; or on behalf of public or private schools and groups directly affiliated with such schools;
2. persons who are political candidates, and persons working on their behalf, or who are engaged in door-to-door advocacy of a political issue, party, or candidacy; and persons engaged in religious proselytizing; and
3. persons engaged in the distribution of mail by the U.S. Postal Service, or the distribution of newspapers, phone books, or other periodicals of general circulation.

**Restrictions:** Regardless of whether or not a person has been issued a permit under this Ordinance, it shall be unlawful for any person to act in the following manner:

1. to engage in door-to-door commercial solicitation between the hours of 7:30 p.m. and 9:00 a.m.;
2. unless requested by the owner or occupant, to solicit at any residence where a sign stating "No Solicitors" (or words of similar meaning) is displayed in a reasonably conspicuous manner on the property where such residence is located; and
3. to distribute handbills or other advertising to motorists, or to any passenger of a motor vehicle, on any public roadway within the City.

## **B. Solicitation of Donations on Public Property**

**Required Permit:** It shall be unlawful for any person to solicit donations on public property, streets, or rights-of-way without first having applied for and obtained a permit from the City Council of the City of Stagecoach. Permits may be issued by City Council restricting the times, dates, and manner of such solicitation on public property, streets, or rights-of-way.

**SIGNS REQUIRED:** A person engaged in such solicitation shall maintain a reasonably visible sign of at least 144 square inches in size at each location of solicitation, stating the name and general location of the organization or entity on whose behalf the solicitations are made.

### **C. Other Restrictions**

**Solicitation By Minors:** Minors under the age of twelve (12) years must be accompanied and directly supervised by a permitted adult at all times. Minors over the age of twelve (12) years must work under a permit issued to an adult responsible for such minor's compliance with this Ordinance.

**Emergency Restrictions:** Without revoking a permit, the Police Chief may limit solicitation activities based upon the unsafe conduct of a permit holder, or other safety concerns endangering the safety of the permit holder, or of the public.

### **SECTION TWO. APPLICATION FOR PERMIT**

An application must be filed at City Hall on a form provided by the City. The application shall state the applicant's name, address, phone number, drivers license number and/or other proof of identification, and proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business; the name, address, phone number, drivers license number, proof of identification, and proof of possession of any license or permit required by federal, state or local laws in order to conduct the proposed business of all persons to be permitted to solicit or distribute advertising door-to-door; the name, address, and phone number of the organization, firm or corporation that is being represented and proof of authorization for the applicant(s) to represent said organization, firm or corporation; a description of the products or services solicited, the nature of the advertisements, or the purpose and nature of the solicited donations; the specific dates and times such applicant wishes to sell, solicit, or distribute in the City; and any conditions or restrictions the City may, in its judgment, deem necessary.

Upon request by law enforcement, a permit holder engaged in solicitation shall furnish the permit holder's approved permit for inspection to ensure compliance with the provisions of this Ordinance.

### **SECTION THREE. ISSUANCE OR DENIAL OF PERMIT**

Any two of the following persons are authorized to approve or deny applications under this Ordinance on behalf of the City: Mayor, City Secretary, Chief of Police, and Assistant Chief of Police.

The City shall issue a permit upon receipt and subsequent review of a properly completed application unless the City finds:

1. the location, time, or manner of the activity contemplated would unreasonably interfere with the public's use of streets or endanger the health, safety, or welfare of the permit holder or the public;

2. issuance of the permit would disrupt, to an unreasonable extent, the movement of traffic;
3. issuance of the permit would require a diversion of so great a number of police officers of the city it would deny reasonable police protection to the city;
4. issuance of the permit would require other city resources to the extent that it would deny reasonable use of city services to its citizens;
5. issuance of the permit would interfere with or unreasonably conflict with other permits already issued;
6. issuance of the permit would conflict with a restriction or regulation of this Ordinance;
7. any information provided in the application is found to be fraudulent or misleading;
8. the applicant or a person named on the application is found to have been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property;
9. the applicant or a person named on the application has a conviction or judgment entered against him for fraud, deceit, or misrepresentation within the preceding five years;
10. the applicant provided no proof of authority to serve as agent of the organization, firm or corporation represented;
11. the applicant provided no proof of possession of any license or permit required by federal, state or local laws in order to conduct the proposed business;
12. the applicant has been denied a permit under this ordinance within the previous 12 months, and the applicant has not shown to the Council's satisfaction that the reasons for the earlier denial no longer exist.

Any applicant who is denied a permit shall be entitled to appeal the denial in person to City Council. City Council may, at its discretion, either uphold the denial or approve the application. The applicant shall be notified by mail to the address listed on the permit application of the City's decision within three business days following the City Council meeting. The notification shall be either a statement that the application was denied or an approved permit.

Any approved permit shall be conditioned upon the applicant's written agreement to comply with the terms of the permit and shall become valid only when signed by an authorized representative of the City and by the applicant.

#### **SECTION FOUR. REVOCATION OF PERMIT**

A permit may be revoked or suspended by the Police Chief or his designee for any of the following:

1. violation of a term, restriction, or regulation of this Ordinance or the issued permit;
2. any condition for denial or a permit stipulated in Section 3, above, is found or occurs following the issuance of the permit;
3. activities are conducted other than those described in the application or permit;
4. activities are conducted in such a manner as to create a public nuisance, constitute disorderly conduct, or endanger the health, safety, or general welfare of the public.

#### **SECTION FIVE. PENALTIES**

1. A person who violates a provision of this Ordinance is guilty of a misdemeanor which is punishable by a fine not less than \$1.00 and not to exceed \$500.00.
2. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

#### **SECTION SIX. REPEAL OF CONFLICTING ORDINANCES**

All other ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed.

#### **SECTION SEVEN. SEVERABILITY**

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 unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such 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 unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION EIGHT. EFFECTIVE DATE**

This ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED this 21<sup>st</sup> day of May, 2013.

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Galen Mansee  
Mayor, City of Stagecoach

ATTEST:

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Brenda Rutt, City Secretary

(SEAL)