

CITY OF ANNA, TEXAS

ORDINANCE NO 840-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS REPEALING ARTICLE 5.05 (SOLICITORS) OF CHAPTER 5 (BUSINESS REGULATIONS) OF THE ANNA CITY CODE OF ORDINANCES AND REPLACING SAID ARTICLE WITH A NEW ARTICLE 5.05 ADOPTING REVISED REGULATIONS OF SOLICITATION IN THE CITY; AMENDING SECTION A4.004 (SOLICITATION PERMIT AND IDENTIFICATION CARDS) OF ARTICLE A4.000 (MISCELLANEOUS FEES) OF THE ANNA CITY CODE OF ORDINANCES; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED \$500; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City of Anna, Texas ("City") finds that unregulated door-to-door solicitation is a nuisance and endangers not only rights of City residents to quiet use and enjoyment of their property, but also presents hazards to the health, safety, and welfare of the community; and

WHEREAS, the City Council of Anna ("City Council") has investigated and determined that this ordinance is necessary to protect the City's residents against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy, and otherwise preserve the public health, safety, and welfare by regulating and controlling solicitors and administering a process for issuance of permits for such activities; and

WHEREAS, the City Council believes that the City's residents should be protected from disturbance by uninvited individuals who solicit door-to-door or who deliver flyers, pamphlets, handouts, handbills, or advertisements to homes, and so desires to regulate such activity to the extent permitted by the Texas Constitution and United States Constitution; and

WHEREAS, the practice of pedestrians loitering in and around public rights-of-way in the City for the purpose of soliciting financial contributions from passing drivers has been found to be a nuisance, a distraction to drivers, and presents a hazard to the safe movement of motor vehicles and persons in and through the City; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the City and its citizens to amend The Anna City Code of Ordinances ("Anna Code"), by repealing the existing Article 5.05 (Solicitors) of Chapter 5 (Business Regulations), in its entirety, and replacing it with a new Article 5.05 (Solicitors) of Chapter 5 (Business Regulations), and to amend Section A4.004 (Solicitation Permit and Identification Cards) of Article A4.000 (Miscellaneous Fees) of Appendix A of the Anna Code by revising the amounts charged for such permits;

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

Section 1. Recitals Incorporated.

The recitals above are incorporated herein as if set forth in full for all purposes.

Section 2. Repealing Article 5.05 (Solicitors) of Chapter 5 (Business Regulations) of the Anna Code

Article 5.05 (Solicitors) of Chapter 5 (Business Regulations) of the Anna Code is hereby repealed in its entirety.

Section 3. Adding a New Article 5.05 (Solicitors) to Chapter 5 (Business Regulations) to the Anna Code.

This section amends Chapter 5 (Business Regulations) of the Anna Code, by adding a new Article 5.05 (Solicitors), as set forth below:

ARTICLE 5.05 SOLICITORS

Sec. 5.05.001 Purpose

This article is and shall be deemed an exercise of the police powers of the state and of the city for the good government, peace, order, public safety, comfort, convenience, and protection of the city and the citizens thereof, and all of the provisions of this article shall be constructed for the accomplishment of that purpose.

Sec. 5.05.002 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Anna, Texas.

Consumer means an individual who acquires real or personal property, services, money, or credit for personal, family or household purposes.

Parkway means the area between the edge of the designated street and the adjacent owner's property line.

Public property means: (a) any property open or devoted to public use or owned by the city; and (b) any area, inclusive of area owned in fee simple or held as rights of way or easements, whether prescriptive or dedicated, to the public use

for sidewalk, street, highway, roadway or other transportation purposes, including, but not limited to, any curb, median, parkway, shoulder, sidewalk, alley, drive, or public right-of-way.

Religious organization means an organization that is dedicated to the support of a church, religious society, or any other religious sect, group, or order.

Roadway means the portion of a highway, other than the berm or shoulder, that is improved, designed, or ordinarily used for vehicular travel. If a highway includes at least two separate roadways, the term applies to each roadway separately.

Sidewalk means any surface provided for the use of pedestrians which excludes motor vehicles.

Street solicitation means gaining or attempting to gain—from the roadway or public property adjacent to the roadway—the attention of occupants of vehicles, either orally or in writing, in order to: (1) ask for a ride, employment, work, goods, services, financial aid, monetary gifts, or any article or thing representing monetary value, for any purpose; (2) offer to sell something; (3) register or take application for registration for memberships in a group or organization; (4) give away goods, services or publications; or (5) ask for signatures on a petition; or (6) ask for answers/opinions on a survey or other purposes.

Solicitation means conduct within the city's corporate limits whereby a solicitor attempts to engage in or engages in the following activities:

- (1) Either orally or in writing, asks for a ride, employment, property, financial aid, money, or any article or thing representing monetary value, for any purpose;
- (2) Whether orally or in writing, peddles, sells or offers to sell goods, services, publications, or subscriptions;
- (3) Whether orally or in writing, takes orders for any goods or services for future delivery;
- (4) Distributes without remuneration goods, services, publications, or subscriptions;
- (5) Requests signatures on a petition or canvasses for opinions for a survey; or
- (6) Delivery of handbills or circulars door-to-door for the solicitation of money, products, services or other items of pecuniary value.

“Street solicitation” has a different meaning than “solicitation” and is defined separately in this section.

Solicitor means any individual, firm, company, partnership, corporation, association, trust, society, religious organization, league, or other legal entity

(including any trustee, receiver, assignee, agent, member or similar representative) attempting to engage in or engaging in any act of solicitation or street solicitation as those terms are defined in this article. "Solicitor" also includes beggars and panhandlers.

Street means the portion of the street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public street purposes, which includes parkways, alleys, public easements, and sidewalks.

Vehicle means a device that can be used to transport or draw persons or property on a roadway.

Sec. 5.05.003 Permit required; conditions

(a) It shall be unlawful for any person to attempt or to engage in solicitation without having first applied for and obtained a permit from the city in accordance with this article.

(b) Such permit shall be personal to the individual solicitor and shall not be reproduced nor assigned nor transferred to any other solicitor. Any such attempted transfer or reproduction is unlawful and shall render the permit void.

(c) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this article, and such permit shall indicate the daily hours when solicitation within the city is permitted in accordance with the provisions of this article. Solicitation in the city while displaying an expired permit is unlawful. Solicitation outside of the hours specified in a permit is unlawful.

(d) It shall be unlawful for any person who shall conduct solicitation in the city to represent in connection with such solicitation of funds that the issuance of a permit or identification card by the city constitutes an endorsement thereof.

(e) It shall be unlawful for any person engage in solicitation for a purpose other than that set out in the registration statement or application upon which the permit was issued.

(f) A permit shall not be issued to any person under 13 years of age.

(g) Solicitation shall be deemed completed when made, regardless of whether the person making the solicitation receives any contribution or makes any sale.

Sec. 5.05.004 Prohibited location, activities, and conduct

(a) It shall be unlawful for any person to engage in solicitation, with or without a

permit issued in accordance with this article, in the following places in the city:

- (1) Within 25 feet of the following facilities:
 - a. ATM machines;
 - b. Entrances and exits of banks, credit unions, or other financial institutions;
 - c. Exterior public pay telephones;
 - d. Self-service car washes;
 - e. Self-service fuel pumps;
 - f. Public transportation stops; or
 - g. An outdoor dining area of a fixed food establishment; or
- (2) Any residence or place of business which shall exhibit in a conspicuous place upon or near the main entrance to the residence containing the words "NO SOLICITORS" or "NO SOLICITATION." The letters shall be not less than two-thirds of an inch in height and should be displayed on a weatherproof card not less than three inches by four inches in size.

(b) It shall be unlawful to conduct any manner of street solicitation anywhere in the city. An offense occurs when the street solicitation is made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money, goods, or services or other exchange takes place.

(c) It shall be unlawful for a person engaged in solicitation to:

- (1) Misrepresent the purpose of the solicitation;
- (2) Misrepresent the affiliation of those engaged in the solicitation;
- (3) Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or purchase or accept anything from that solicitor;
- (4) Represent the issuance of any permit or registration under this article as an endorsement or recommendation of the solicitation;
- (5) Remove, deface, or render illegible a card placed by the occupant of a residence or place of business pursuant to Sec. 5.05.004(a)(2);
- (6) Conduct solicitation on property upon which the owner of the property or the person controlling the property has posted signs prohibiting solicitation; or
- (7) Remain on property after the property owner, or the property owner's designee, representative or agent, has instructed the solicitor to leave.

(d) No solicitor, or person working on his behalf, shall shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the city, or otherwise be in violation of the city's noise regulations.

(e) No person shall engage in solicitation through the delivery of handbills or circulars by placing said handbills or circulars on motor vehicles, public utility posts, or other location such that the same constitutes littering under Texas Health and Safety Code Chapter 365. It is presumed that the person or

business whose address or telephone number is listed in the notice, poster, paper, or device, or who is otherwise named, described, or identified in the notice, poster, paper, or device, is the person or business who committed the violation, either personally or through an agent or employee.

(f) Notwithstanding any other provision in this article, it shall be unlawful for any person to allow children 13 years of age or younger to engage in solicitation, unless such children are actively supervised by a parent, guardian or other adult person at least 18 years of age. For purposes of this section, "actively supervised" means that the adult person shall be within 100 feet of all children 13 years of age or younger for whom the adult person is responsible at all times when the children are engaged in solicitation.

(g) For purposes of the 25-foot measurement stated in subsection (a)(1) of this section, the measurement will be made in a straight line, without regard to intervening structures or objects, 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 telephone;
- (4) the nearest part of the 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; or
- (7) the nearest part of any table in an outdoor dining area or, if the outdoor dining area is contained within an enclosure, the nearest part of that enclosure.

Sec. 5.05.005 Times when soliciting prohibited

No person shall engage in solicitation in any residential district in the city after sunset on any day until 9:00 a.m., Monday through Saturday, unless the transaction is the result of a request made to such person by the occupant of such private residence. The term "sunset" means the time of day identified by the National Weather Service as the time for sunset for that day for the city. There shall be no solicitations on Sunday, New Year's Day, Fourth of July,

Memorial Day (observed), Labor Day (observed), Thanksgiving, or Christmas Day.

Sec. 5.05.006 Exemptions

(a) The following persons engaged in solicitation in the city shall first register with the police department. Said registration shall consist of filling out a form supplied by the police department and supplying proof that the registrant is engaged in one of the activities below. Upon receipt of a completed registration form and verification that the supplied proof is satisfactory, the chief of police of the city or the chief of police's designee ("chief of police") shall issue to the applicant a registration certificate which provides an exemption to the terms and conditions of this article and payment of the solicitation permit fee. The following persons are eligible to register and be exempted from this article under this section:

- (1) Employees, officials, agents, or representatives of utility companies conducting official business with existing customers associated with a franchise granted by the city or duly authorized to operate utility services in the city by a superior agency;
- (2) Commercial agents dealing with local business establishments in the usual course of business;
- (3) Insurance salesmen, real estate salesmen, and others conducting business within the ambit of a valid license issued by the State of Texas; and
- (4) Qualifying persons operating under an authorization issued under Texas Transportation Code § 552.0071.

(b) The following activities are not classified as solicitation for the purposes of this article, although persons engaging in such activities may voluntarily elect to register with the police department:

- (1) An offer of membership in any organization unless that offer of membership is contingent on a financial transaction with a specified person or entity (e.g., gym "memberships", activity clubs requiring purchase of goods or services from a specific source);
- (2) Employees, officials, agents, or representatives of governmental entities conducting official business;
- (3) Solicitations by children under the age of 13, so long as they are actively supervised by a parent, guardian or other adult person, at least 18 years of age, who is responsible for the well-being of the

child;

- (4) Religious, political, or nonprofit organizations and their representatives may distribute handbills, pamphlets, or other written materials ("literature") for the purpose of communicating issues of general interest to the public are not required to register with the police department or pay a permit fee, (acceptance of a voluntary donation from a resident during the distribution of literature does not affect this exemption);
- (5) Ordinary commercial travelers who sell, or exhibit for sale, goods, wares, or merchandise to persons selling and dealing in the same within the city; and
- (6) Persons making regular delivery of newspapers or magazines or other items which have been voluntarily subscribed to by the persons receiving them or by occupants of the premises to which they are delivered.

(c) Notwithstanding any provision of this section, this section does not provide for any exemption or exception from the prohibition against street solicitation.

Sec. 5.05.007 Affirmative Defenses

A person accused of a violation of this article may present evidence relating to the following conditions as an affirmative defense against prosecution:

- (1) Solicitation (other than street solicitation as defined and prohibited under this article) consisting of being lawfully present in a public right-of-way for the purpose of selling newspapers or publications or other printed material which deal with the dissemination of information or opinion.
- (2) Activity falling within definition of solicitation or street solicitation under this article was for purpose of summoning aid or requesting assistance in an emergency situation, or by a law enforcement officer in the performance of official duties.
- (3) Solicitation was conducted under a reasonable belief that the property or occupants were at imminent risk of injury from flood, gas leak, fire, or natural disaster, or that the structure was subject to an evacuation order promulgated by a lawful authority.

Sec. 5.05.008 Application for permit

Every person or entity desiring to engage in solicitation in the city shall, unless otherwise excepted, apply for a permit from the police department. Each application for a permit required by this section shall be in writing, under oath, notarized and shall set out the following:

- (1) The name of the applicant, with his permanent residence;
- (2) Whether the person represents a partnership, corporation or association, and:
 - a. The business address and telephone number of the applicant;
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner;
 - c. If a corporation, the person applying shall state whether it is organized under the laws of the state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the city office of such corporation, and the names and addresses of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation; or
 - d. If an association, the application shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multistate organization or association, the mailing address and business locations of its local office;
- (3) The name and address of each person to solicit under the permit;
- (4) The names mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation of funds;
- (5) The kind, type and character of goods or services he proposes to offer for sale, including the name brand, manufacturer and distributor of goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale;
- (6) Names and addresses of five persons as references, excluding relatives and persons living with the applicant;
- (7) How often the applicant expects to conduct solicitation within the city during the subsequent 12-month period;

- (8) The period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion;
- (9) A description of the methods and means by which the solicitation is to be accomplished;
- (10) The names of any cities where the applicant has worked within the previous six months;
- (11) Whether the applicant, or any solicitor listed in the application, has ever been convicted of a felony or a misdemeanor involving moral turpitude;
- (12) The state driver's license number or a state approved identification card number of the applicant and each solicitor; and
- (13) The social security number of the applicant and each solicitor.

Sec. 5.05.009 Permit attachments

In addition, there shall be attached to each application for a permit, the following:

- (1) Two recent photographic likenesses of the applicant's face, and any solicitor soliciting under said permit, which photographs shall not exceed one inch squared in size;
- (2) If the application is submitted on behalf of an entity, a certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager or district or area manager of the company for which the applicant works, sells or solicits stating that the applicant and any solicitors listed in the permit application is/are employees and/or agents of such company;
- (3) A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization; and
- (4) For individuals who are not canvassing, selling or soliciting for any firm, company, or other legal entity, letters of recommendation from two citizens of the applicant's city of permanent residence shall be

submitted.

Sec. 5.05.010 Fees

The application shall be accompanied by a fee as set forth in section A4.004 of the fee schedule in appendix A of this code, for the investigation and administration of the provisions of this article. This fee shall be paid to the city permit officer. In addition, the applicant shall pay a fee as set forth in section A4.004 of the fee schedule for each identification card issued.

Sec. 5.05.011 Investigation of applicant

It shall be the duty of the chief of police to secure a background check through any lawful means on each applicant, and all other persons listed on the application before issuance of a permit, which investigation may include, but is not necessarily limited to, personal interviews with named individuals, criminal history checks, verification of references and information contained within the application.

Sec. 5.05.012 Issuance of permit; duration of permit

A permit applied for under this article shall be issued by the police department within ten days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on his application. Said ten-day time period shall not begin to run until the application is 100% complete and all fees have been paid. A permit requested under this article shall be issued for the length of time requested, not to exceed six months. An expired permit may be renewed under the same terms and conditions as the original application and subject to the same fees and an updated criminal history check.

Sec. 5.05.013 Denial of permit

An application for a solicitation permit will be denied if any of the following conditions exist:

- (1) The applicant fails to provide all missing components of the permit application within 5 (five) business days following notification from the chief of police that the application is incomplete.
- (2) Any information submitted in the permit application is determined to be false.
- (3) The lawful existence of any business entity applicant cannot be verified.
- (4) The names or addresses of any person who is to solicit under the permit

cannot be verified.

- (5) Any person listed as a reference on the application fails to respond to the city's contact attempts within 72 hours.
- (6) The applicant, the entity on whose behalf the applicant submits the application, or any person to engage in solicitation under the permit is determined to have a prior conviction for, or is under ongoing investigation or prosecution for, any offense involving violence (including but not limited to domestic violence or sexual assault), unlawful entry onto property, willful or reckless destruction of property, theft, robbery, burglary, fraud, or any crime of moral turpitude. If the offense which would be disqualifying under this subsection is the subject of a governmental pardon issued by the appropriate authority, it shall not form the basis of denial of a permit.
- (7) The applicant, the entity on whose behalf the applicant submits the application, or any person to engage in solicitation under the permit is determined to have engaged in conduct constituting a violation of solicitation regulations promulgated by any other governmental entity, including but not limited to another municipality, unless such violations have been conclusively abrogated by judicial determination of a court of competent jurisdiction.
- (8) The applicant, the entity on whose behalf the applicant submits the application, or any person to engage in solicitation under the permit is determined to be delinquent in the payment of any fines, fees, or taxes owed to the city, including but not limited to sales taxes arising from business transactions conducted within city territory.

Sec. 5.05.014 Form of permit

Each permit shall be printed in black, except that the following shall be printed prominently thereon in red text: "The issuance of the permit is not an endorsement by the City of Anna or any of its officers or employees." Each permit shall bear a permit number, which is the same as the file containing the application filed by the applicant.

Sec. 5.05.015 Permit to be displayed

It shall be unlawful for any person to engage in solicitation in the city without carrying the identification card and displaying the permit required by this article on the solicitor's person, in plain view, while engaged in solicitation.

Sec. 5.05.016 Exhibiting permit

Every solicitor or peddler or seller shall identify as a solicitor upon approaching a person in a public place or at a private dwelling and explain the purpose of the solicitation, whether it be direct sales, solicitation or orders of the demonstration of goods or merchandise, or any combination of purposes thereof, and shall produce for inspection, upon request by any person, the solicitor's permit issued by the city.

Sec. 5.05.017 Solicitors' identification cards

Each identification card issued by the police department shall bear the name of the applicant, the application number, the name of the solicitor, or agent, and the expiration date of the permit, and it shall have printed prominently thereon in red text: "This identification card is not an endorsement of the solicitation by the City of Anna or any of its officers or employees. It is your duty to verify all information given to you by this solicitor." The applicant shall provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued.

Sec. 5.05.018 Responsibility for acts of solicitors

The recipient of a permit or named applicant shall be responsible for the acts of his authorized representatives or solicitors listed in permit application in connection with solicitation activities. In this regard, the recipient of the permit shall actively supervise all persons listed in the permit application, which supervision shall include, but not be limited to, remaining within the corporate city limits during all solicitation activity and responding promptly (within ten minutes) to calls by city representatives relative to the solicitation activity which may include responding to an on-site complaint from a citizen.

Sec. 5.05.019 Revocation of permit

(a) If, after the permit required by this article has been issued, the chief of police finds that the permit was obtained by false representation in the application, or the permit has been reproduced or transferred or assigned to another person or the applicant has led someone to believe the permit is an endorsement of the applicant's product or service by the city, or in the event of fraud or misrepresentation by the permit holder, or in the event of conviction of the permit holder of a felony or a misdemeanor involving moral turpitude, or in the event the permit holder has failed to furnish the items required by this article, such permit may be revoked by the chief of police.

(b) If the chief of police or a police officer has probable cause to believe that a solicitor has engaged in prohibited conduct as defined by this article, the officer may revoke the permit of the permit holder.

(c) If more than one complaint of misconduct by a solicitor or group of solicitors

working for the same company is received, the permit may be immediately revoked by the city.

Sec. 5.05.020 Appeal from denial or revocation of permit

Should an applicant be denied a permit, or have a permit revoked, the applicant may appeal that action to the city council by submitting a letter to the chief of police within ten days to complain of that action. A hearing of the denial will then be scheduled for the next regular meeting of the city council, or a special meeting of the city council, to be held within 45 days of the appeal. The city council shall render a decision on the appeal within one day of the date of the hearing. Such hearing shall be an administrative hearing. Adherence to formal rules of evidence shall not be required. The decision of the city council shall be final and binding. No new application for a permit from that applicant will be considered for six months after denial or revocation, unless said denial or revocation is without prejudice or is conditional and the conditions have been satisfied as determined by the chief of police.

Sec. 5.05.021 Bond

Each person engaging in solicitation activities requiring cash deposits or taking orders on delivery purchases (COD) or who requires a contract of agreement to finance the sale of any goods, services or merchandise for future delivery, or for services to be performed in the future, shall furnish to the city a cash bond in the amount of \$5,000.00, naming the applicant for the permit as principal. The bond shall be in full force and effect for one year from the date of issuance of the permit, unless otherwise extended by demand of the city due to the revocation of the permit, or an anticipated delivery date beyond 12 months, in order to protect the citizens of the city from potential losses associated with such solicitations.

Sec. 5.05.022 Consumers right to cancel

- (a) The merchant, peddler, or seller shall provide to the consumer in writing the right to cancel a solicitation transaction made in person or by telephone in which the consideration exceeds \$25.00, until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a solicitation transaction. For purposes of a telephone solicitation, date of transaction means the day that the consumer receives the goods, services, or realty purchased in a solicitation transaction.
- (b) If the consumer chooses to cancel the solicitation transaction, notification by mail shall be considered given at the time mailed as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.
- (c) It shall be unlawful for a merchant, peddler, or seller to refuse to allow the

customer to cancel the solicitation transaction.
(d) Cancellations authorized, and the procedure and notice requirements set forth in Texas Business and Commerce Code Chapter 601, as it may be amended, are applicable to this section, for transactions applicable thereunder.

Sec. 5.05.023 Penalty

Any person violating any of the provisions or terms of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the sum of \$500.00 for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this article.

Sec. 5.05.024 Public disclosure

All applications, whether or not a permit is issued, shall be public records and shall be available for inspection and/or copying by members of the public in accordance with the provisions of the Texas Public Information Act (Tex. Gov't Code Chapter 552, as amended).

(Ordinance 283-2006 adopted 8/22/06; 2008 Code, pt. IV, art. 5, sec. 2; Ordinance _____, adopted _____).

Section 4. Amending Sec. A4.004 (Solicitation Permit and Identification Cards) of Article A4.000 of the Anna Code. This section amends Appendix A Fee Schedule of the Anna Code by amending Sec. A4.004 (Solicitation Permit and Identification Cards) of Article A4.000 (Miscellaneous Fees) as follows:

Sec. A4.004 Solicitation permit and identification cards

(a) Within the corporate limits of the city, it shall be unlawful for any person to engage in solicitation, as defined in section ~~5.05.001~~5.05.002, without having first obtained a permit therefor from the city.

(b) The application shall be accompanied by a \$35.00 fee for the original solicitor or applicant, plus a \$35.00 fee for each additional solicitor, for the investigation and administration of the provisions of article 5.05. This fee shall be paid to the city permit officer. In addition, the applicant shall pay a \$15.00 fee for each identification card issued.

(Ordinance 283-2006 adopted 8/22/06; 2008 Code, pt. IV, art. 5, sec. 2; Ordinance _____, adopted _____).

Section 5. Savings, Severability and Repealing Clauses.

All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict. Cross-references in other parts, articles or sections of the Anna Code which make reference to previous enactments carrying the same designation as any section amended by this ordinance shall be construed as referencing whichever currently effective provision best preserves the original intent and effect of the cross-reference. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The City 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 or invalid.

Section 6. Publication of the Caption Hereof and Effective Date.

This ordinance shall be in full force and effective from and after its passage and upon the posting and/or publication of its caption as may be required by law, and the City Secretary is hereby directed to implement such posting and/or publication.

PASSED by the City Council of the City of Anna, Texas, this 14th day of January, 2020.

ATTESTED:

Carrie L. Land
City Secretary, Carrie L. Land

APPROVED:

Nate Pike
Mayor, Nate Pike