

ORDINANCE NO. 2202

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS,
AMENDING CHAPTER 5, BUSINESS REGULATIONS, SECTION
6.1. - PEDDLERS, SOLICITORS, AND VENDORS WITH THE
ADDITION OF SUBSECTION Q; CHARITABLE
SOLICITATIONS, CODE OF ORDINANCES OF THE CITY OF
TERRELL, TEXAS; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

SECTION I.

THAT Chapter 5, Business Regulations, Section 6.1. Peddlers, Solicitors and Vendors of the Code of Ordinances of the City of Terrell, Texas, be amended by the addition of Subsection Q, Charitable Solicitations as follows:

Q. CHARITABLE SOLICITATIONS

Sec. Q-1. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. Charitable purpose means philanthropic, religious or other non-profit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution.
2. Individual means only a natural person.
3. Person means and includes any natural person, firm partnership, corporation or association.
4. Solicit funds or Solicitation of funds means 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 of any property, real or personal, tangible or in-tangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied that the proceeds of such sale will be used for a charitable purpose as such terms is herein defined. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds covered by this definition are limited to a solicitation communicated in the physical presence of any individual on public property within the corporate limits of the city.

Sec. Q-2 Unlawful Solicitation on Public Property

- (a) It shall be unlawful for any person, directly or through an agent or employee, to solicit funds for charitable purposes within the corporate limits of the city unless such person shall have first obtained a certificate of registration from the City Secretary as hereinafter provided.
- (b) It shall be unlawful for any individual, as the agent or employee of another, to solicit funds for charitable purposes in the city unless his principal or employer has received a certificate of registration as hereinafter provided.
- (c) It shall be unlawful for any individual, as the agent or employee of another, to solicit funds for charitable purposes in the City without a

facsimile copy of the certificate of registration in his or her possession. Such facsimile copy of the certificate of registration shall be shown upon request to all persons solicited and to any police officer of the city.

- (d) It shall be unlawful to solicit for charitable purposes between the hours of 8:00 p.m. and 8:00 a.m. in the city.
- (e) It shall be unlawful for any person, directly or through an agent or employee, to solicit funds for charitable purposes within the corporate limits of the city after the expiration of any certificate of registration issued as hereinafter provided.
- (f) It shall be unlawful for the person registering or the agents or employees thereof to solicit funds in the city for a charitable purpose other than that set out in the registration statement upon which the certificate of registration was issued.
- (g) It shall be unlawful for any person who shall solicit funds for charitable purposes in the city to represent, in connection with such solicitation of funds, that the issuance of a certificate of registration by the city constitutes an endorsement or approval of the purposes of such solicitation of funds by the city or any department, officer or employee thereof.
- (h) It shall be unlawful for any person issued a certificate of registration hereunder to fail to file any financial statement that this article requires to be filed with the City Secretary.

Sec.Q-3 Registration - Statement

All persons desiring to solicit funds for charitable purposes in the city shall file with the City Secretary a registration statement, on forms provided by the City Secretary, containing the following:

- (1) The name of the person registering and desiring to solicit funds for charitable purposes.
- (2) Whether the person registering is an individual, partnership, corporation or association, and:
 - a. If an individual, his or her business or residence address and telephone number.
 - b. If a partnership, the names of all partners and the principal business address and telephone number of the partnership.
 - c. If a corporation, whether it is organized under the law of Texas or is a foreign corporation, its mailing address, business location, and telephone number and names of the officers and directors of the corporation.
 - d. If an association, the association's principal business address and telephone number, along with the names of the association's officers and directors or trustees. If the association is part of a multi-state organization or association, the mailing address and business location of its principal headquarters shall also be given.
- (3) A brief description of the charitable purpose for which the funds are to be solicited, and an explanation of the intended use of the funds toward that purpose.
- (4) The names of all individuals authorized to incur expenses related to the solicitation or to disburse any proceeds of the solicitations.

- (5) The name, mailing address and telephone number of the individual who will have organizational responsibility for the solicitation of funds.
- (6) The time period within which the solicitation of funds is to be made, giving the date of the beginning of solicitation and its projected conclusion, not to exceed four (4) months.
- (7) A description of the methods and means by which the solicitation of funds is to be accomplished.
- (8) The total amount of funds proposed to be raised.
- (9) A projected schedule of salaries, wages, fees, commissions, expenses and costs that the person registering reasonably believes will be expended and paid in connection with the solicitation of funds or in the connection with their disbursement, and an estimated percentage of the total projected collections which the cost of solicitation will comprise. These figures shall cover the entire time period during which the solicitation is to be made.
- (10) A statement to the effect that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the city of any of its officers or employees.
- (11) The signature of an individual on behalf of the person registering.

Sec. Q-4 Fee.

- (a) Every registration statement, except as exempt as exempted herein, shall be accompanied by a registration fee of ten dollars (\$10.00) to compensate the city for the cost of administering this chapter. Such fee will be nonrefundable, irrespective of whether a certificate of registration is issued.
- (b) Any public or private school sanctioned group, religious or philanthropic group shall be exempt from the requirement to provide the ten dollar (\$10.00) registration fee.

Sec. Q-5 Certificate of registration – Issuance.

Within ten (10) working days of the receipt of the registration statement, the City Secretary shall either issue a certificate of registration, as provided in Section O-6, or notify the person registering that the registration statement does not comply with the requirements of Section O-3, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

Sec. Q-6 Form.

The City Secretary shall prescribe the form of the certificate of registration, which shall include a statement that “The issuance of the Certificate of Registration is not an endorsement by the City of Terrell or any of its departments, officers, or employees.

Sec. Q-7 Expiration; filing of financial statements within the specified time of termination of solicitation

- (a) Each certificate of registration issued by the City Secretary shall expire at the termination of the solicitation period specified in the registration statement or four (4) months from the date of issuance, whichever is less.
- (b) No later than thirty (30) days from the expiration of its certificate of registration, each person registering shall file a closing statement with the City Secretary. The closing statement shall be a financial statement that is on a form provided by the

City Secretary for this purpose and shall be signed by the appropriate individual on behalf of the person registering.

- (c) The closing statement shall indicate the total funds collected or pledged from the solicitation of funds, the purpose or purposes (with the amount of funds for each purpose) for which such funds have been or will be disbursed by the person registering, any incurred but unpaid expenses resulting from the solicitation of funds, and all other anticipated disbursement of collected or pledged funds. The monetary value represented by any fool or goods that have been collected or pledged shall be estimated to the nearest multiple of ten dollars (\$10.00) to satisfy the requirement to indicate total funds collected or pledged.

Sec. Q-8 Public disclosure.

All registration statements and closing statements filed with the City Secretary, whether or not a certificate of registration has been issued, shall be public records and shall be available for inspection by members of the public during the City Secretary's regular business hours. Copies may be obtained at the fees prescribed by law for copies of city records.

Sec. Q-9 Exceptions.

The solicitation of funds for charitable purposes by any organization or association from its members shall be exempt from the operation of Section O-1 through 8.

Sec. Q-10 Solicitation from occupant of motor vehicle

- (a) It shall be unlawful for any person or organization to solicit funds for charitable or welfare purposes from an occupant of any motor vehicle which is on a public street or on a street, roadway or parking area of any city park, whether or not the person or organization soliciting funds is or is not on a public street or other public property.
- (b) It shall be unlawful for any person to cause, aid, solicit, encourage, or direct a minor to engage in conduct prohibited by this section.

Sec. Q-11 Penalties.

Violation of any application provision of this chapter shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day that any violation continues shall constitute a separate offense. However, an offense related to any provision of this chapter which also constitutes an offense pursuant to state law shall be punishable in accordance with the applicable state law.

SECTION II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases 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 unconstitutionally 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION IV.

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

Passed and Approved on this the 7th day of October, 2003.

Passed and Adopted on this the 21st day of October, 2003.

Frances Anderson, Mayor

ATTEST:

John Rounsavall, City Secretary

APPROVED AS TO FORM:

Mary Gayle Ramsey, City Attorney