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Copy to:
Mr. Falton
Palmer

ORDINANCE NO. 44-5

AN ORDINANCE TO REGULATE AND TO PERMIT SOLICITATIONS OF ADVERTISING AND SUBSCRIPTION CONTRACTS, SALES OR GIFTS FOR CHARITABLE, PATRIOTIC, EDUCATIONAL OR PHILANTHROPIC PURPOSES IN THE CITY OF ABILENE, TEXAS; PROVIDING FOR THE ADOPTION OF REGULATIONS TO ADMINISTER THE ORDINANCE; CREATING THE OFFICE OF CITY LICENSE OFFICER; PROVIDING FOR THE ISSUANCE OF PERMITS, FOR HEARING BEFORE THE CITY LICENSE OFFICER AND APPEALS TO THE CITY COUNCIL; PROVIDING A SAVINGS CLAUSE; A PENALTY CLAUSE AND REPEALING, CONFLICTING ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE:

SECTION 33-1. Purpose and Intent.

The purpose of this Ordinance is regulatory so as to generally require registration and identification of persons soliciting or selling on behalf of charitable, educational, patriotic or philanthropic organizations; and insofar as is reasonable possible by the method herein established, to protect the health, life, property and welfare of the citizens of the City of Abilene against unwarranted and unreasonable solicitations and sales scheme promotions designed for profit primarily to the promoters, and secondarily to any such organization which may lend its name for such purpose; to lessen the possibility of unauthorized or unscrupulous persons over-riding, over-soliciting, or over-selling by coupling such solicitations and sales with such organizations; and to establish an agency to administer this Ordinance, where members of the public may make inquiry concerning such solicitors.

SECTION 33-2. Permit Required and Exceptions.

It shall be unlawful for any person within the corporate limits of the City of Abilene, or on any street or in any office building, or by house to house canvass, or in any other public or private place, by telephone, or personal solicitation to solicit property or financial assistance of any kind for himself or on behalf of any person or organization, or to sell or offer to sell any article, tag, service, emblem, publication, ticket, advertisement, subscription or anything of value, or represented value, on the plea or the representation that such sale, or solicitation or the proceeds therefrom, is for a charitable, educational, patriotic or philanthropic purpose unless such person shall have first been issued a permit by the City Licensing Officer of the City of Abilene as provided by this Ordinance and such permit has not expired or been suspended or revoked at the time of such solicitation.

Provided, however, that the provisions of this section shall not apply to: (a) any local church or other religious group, or to ministers or agents thereof soliciting funds for the support of such religious group; (b) any established society, association, or corporation that is organized and operated exclusively for educational, philanthropic, benevolent, fraternal, or charitable purposes, not operated for pecuniary profit, where no part of the net earnings of which inures to the benefit of any person, private shareholder or individual, and where the solicitation of such organization shall be conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation, or where such solicitation may be in the form of collections or contributions at the regular exercises or services of any society, lodge, benevolent order or fraternity or similar organization, or any branch thereof.

SECTION 33-3. Regulations for Administration.

The City Licensing Officer of the City of Abilene shall require written application for permit to solicit, with disclosure of such information as is deemed necessary to carry out the intent and purpose of this ordinance, which said written application shall be sworn to by the applicant, or agent or representative thereof, and said application may be presented to the Better Business Bureau of Abilene for investigation.

SECTION 33-4. Permit Printed.

Each permit issued hereunder shall be numbered and printed in black except that the following shall be printed prominently thereon in red:

"The issuance of this License is not an endorsement
by the City of Abilene, or any of its officers or
employees, and expires _____."

SECTION 33-5. License Officer and Duties.

There is hereby created, the position of City License Officer which shall be filled by the City Secretary, whose duties shall be the administration of this Ordinance and its amendments, if any.

SECTION 33-6. Revocation of Permit.

If, upon receipt of written information or upon his own investigation, the City License Officer shall find that any agent or representative of the permittee is misrepresenting or making untrue statements with regard to the solicitations, or has made untrue statements in the application, or that in any other way the solicitation has been conducted or is being conducted in a manner inimical to the protection of the health, life, and property of the citizens of the City of Abilene, and not in conformity with the intent and purpose of this ordinance, or representing in any way that any permit granted hereunder is an endorsement of such solicitation, then it shall be the duty of the City License Officer to suspend said permit provided, however, that before any permit is suspended, the said officer shall give the permittee twenty-four (24) hours' notice in writing that a hearing is to be had, and that at said hearing the officer shall ascertain the facts, and if any reasons above set forth for revoking the permit are found to exist, the permit shall be revoked.

If the City License Officer shall find that any person, organization, society, association, or corporation, or agent, member or representative thereof, is soliciting funds in the City of Abilene without a permit or after his or its permit has been suspended or revoked, or that any person, organization, society, association, or corporation, or any agent, member or representative thereof holding a permit is soliciting funds in the City of Abilene, Texas, and making false or fraudulent representations or otherwise violating this ordinance, and shall further find that such person, organization, society, association, or corporation, or any agent, member or representative thereof is soliciting funds by means of a telephone or telephones, he shall forthwith notify the public service corporation or other persons furnishing such telephone service to cease and desist furnishing the same. Such corporation or person, so notified, shall forthwith cease furnishing the service to the person violating this ordinance until notified by the City License Officer that the violations have ceased.

The City License Officer shall have full power to investigate and enforce compliance with this ordinance. In conducting such investigations, the City License Officer shall have the authority to notify any soliciting person in the City of Abilene to appear before him and make oath to any matter pertinent to such investigation, and the failure of any person so notified to appear or fail or refuse to make oath fully respecting any matter pertinent to the investigation shall constitute a violation of this ordinance.

SECTION 33-7. Misrepresentation.

It shall be unlawful for any person, required by this ordinance to have a permit, with or without a permit, or any other person soliciting for any purpose, to make any misrepresentation concerning his authority to solicit, the manner or means to be used in disposing of the solicited property, or otherwise make any false or fraudulent representation while soliciting or otherwise, in connection therewith.

SECTION 33-8. Appeal.

An appeal from any act of the City License Officer granting, refusing, or revoking any permit may be taken to the City Council within ten (10) days.

SECTION 33-9. Penalty.

Any person, organization, society, association, or corporation, or any agent or representative thereof, who shall violate any provision of this ordinance shall be guilty of an offense, and upon conviction shall be fined in any sum not to exceed Two Hundred (\$200.00) Dollars. Each day's continuance of any violation of this ordinance shall constitute a separate offense.

SECTION 33-10. Savings Clause.

If any provision, exception, section, paragraph, sentence, clause, or phase of this ordinance or application of same to any person or set of circumstances shall, for any reason, be held invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or set of circumstances and to this end, all provisions of this ordinance are declared to be severable.

SECTION 33-11. Repealing Clause.

All ordinances in conflict herewith are hereby repealed to the extent of such conflict, but such repeal shall be only to the extent of such inconsistency, and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

PASSED ON FIRST READING this 14th day of August, A. D., 1969.
PASSED ON SECOND READING this 28th day of August, A. D., 1969.

Oruk D. Baker
MAYOR Pro Tempore

ATTEST:

APPROVED:

Sheila Jean Martin
CITY SECRETARY

Ben Nickelsen
CITY ATTORNEY