

## ORDINANCE NO. 2015-03

**A NEW ORDINANCE CONCERNING PROVIDING FOR THE REQUIREMENT AND ISSUANCE OF PERMITS TO VENDORS AND SOLICITORS; DEFINING TERMS; REGULATING THE SALE OF GOODS, WARES, MERCHANDISE AND/OR SERVICES IN THE CITY OF WELLS; PROVIDING FOR EXEMPTIONS; PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND REPEALING ALL ORDINANCES INCONSISTENT HERewith.**

### **SECTION 1**            **TITLE**

This article shall be known as the City of Wells Vendor and Solicitor Ordinance of 2015.

### **SECTION II**            **FINDINGS AND INTENT**

**WHEREAS**, there is a need to protect the health, safety and welfare of the citizens of the City of Wells, Texas; and

**WHEREAS**, the current provisions in the City of Wells Code of Ordinances regarding vendors and solicitors are outdated and no longer meet the needs of the community;

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

That following ordinance is inserted in its place.

### **SECTION III**            **DEFINITIONS**

- 3.1    **Agent:** any person employed by or contracting with a vendor/solicitor.
- 3.2    **Aggressive Manner:** making physical contact without consent; continuing to solicit after person has declined or made a negative response, entering premises without consent, remaining on premises after being requested to leave, and/or the use of threatening or obscene language.
- 3.3    **Distribution:** to hand or attempt to hand commercially printed matter to an owner or occupant on a residential or commercial premises; to place, deposit, or distribute matter on a residential or commercial premises.
- 3.4    **Interstate Commerce:** the purchase, sale or exchange of commodities, transportation of people, money or goods, and navigation of waters between different states as authorized under Article I of the U.S. Constitution.
- 3.5    **Goods:** property of any and every kind as used in the broadest sense.
- 3.6    **Handbill:** any printed material including, but not limited to flyers, advertisements, business cards, etc., that are distributed or placed by hand.
- 3.7    **Merchandise:** property of any and every kind as used in the broadest sense.

- 3.8 **Services:** any and all work done for another person or entity for benefit or payment.
- 3.9 **Special Event:** any occasion, but not limited to fairs, shows, exhibitions, events, festivals or parades conducted by the City of Wells within a specifically defined area for a period of time not to exceed five (5) days.
- 3.10 **Solicitor:** all persons, as well as their agents or employees who enter the premises of a residence or commercial business, not having been invited by the occupant thereof, for the purpose of taking or attempting to secure the sale of goods, merchandise, and/or services. This definition also includes persons, and/ or their agents or employees who, without invitation enter the premises of a residence or commercial business to request the contribution of funds or anything of value, or sell goods or services for educational, political, charitable, religious or other non-commercial purposes.
- 3.11 **Temporary:** Any such business transacted or conducted in the City of Wells for which definite arrangements have not been made for the hire, rental or lease of the premises for at least ninety (90) days in or upon which such business is to be operated or conducted, or from which such business is to be operated or conducted.
- 3.12 **Vendor:** All persons, including their agents and employees, who engage in the business in the City of selling or offering for sale any goods, merchandise or services.

#### **SECTION IV      PERMIT REQUIRED**

- 4.1 It shall hereafter be unlawful for any vendor/solicitor to sell, offer for sale, exhibit for sale, or take orders for the sale thereof, any goods, services or merchandise in the City of Wells without first obtaining a permit as herein provided for. A permit must be obtained prior to conducting any vending or solicitation activities and only after such vendor/solicitor shall have fully complied with all provisions of this ordinance.

#### **4.2 Application**

The vendor/solicitor shall make application to the City Secretary by submitting a City issued form containing all necessary information including, but not limited to:

- (a) Name, address and phone number of the primary applicant.
- (b) Primary applicant's date of birth and driver's license number and issuing state.
- (c) Legal name of the business entity, along with permanent address and phone number.
- (d) Names of all employees/agents employed by the primary applicant.

- (e) Valid driver's license for each individual.
- (f) A description of the goods, services, merchandise to be sold or distributed; and/or reason for solicitation.
- (g) The address or area of the location where business is to be conducted.
- (h) Sales Tax Number with copy of sales tax permit or 501(c)(3) documentation;
- (i) Vendors must provide signed written permission from the private property owner to utilize the property as proposed.
- (j) Vendors engaging in the sale of food and/or beverages must provide proof of compliance with the Cherokee County and Cities Health District.
- (k) If a motor vehicle is to be used in conducting the business of vending; a description of the vehicle(s), license plate number and current proof of liability insurance must be submitted.
- (l) A bond in the sum of not less than One Thousand Dollars (\$1,000.00) and it shall be executed by the vendor/solicitor as principal, which bond shall be payable to the City of Wells for the use and benefit of any person or persons entitled thereto and conditioned that the principal and surety will pay all damages to person or persons caused by or arising from or growing out of the wrongful, fraudulent, or illegal conduct of the vendor/solicitor while conducting the sale or exhibit in the City of Wells. The bond shall remain in full force and effect for the entire duration of the license permit as provided herein.

#### 4.3 **Fee Required**

The primary applicant shall submit a fee of fifty dollars (\$50.00) for the issuance of the permit, along with five dollars (\$5.00) for each additional agent/employee.

Exceptions to the fee requirement are as follows:

- (a) Any local church or religious organization, public or private school organization, soliciting funds for the support of such 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.
- (c) Applicant/businesses engaged in Interstate Commerce.

#### 4.4 **Issuance**

The permit shall be issued only after applicant has fully complied with the application provisions and paid the required fee.

4.5 **Transferability**

The permit shall not be transferable nor give authority to more than one (1) primary applicant to engage in the business of vending/soliciting either by agent or clerk. Any primary applicant having obtained a valid permit may have the assistance of one (1) or more persons.

4.6 **Display**

The permit provided for herein shall be prominently displayed in a conspicuous place on the premises where such business is being conducted and shall remain so displayed so long as any goods, wares, services or merchandise are being sold or exhibited. All employees/ agents must have permit on their person while engaging in vending or soliciting activities.

In the event the holder of any permit as provided herein has no temporary place of business but conducts said business on or from any motor vehicle, then and in that event said license permit shall be prominently displayed in a conspicuous place on said vehicle where such business is being conducted, and shall remain so displayed so long as any goods, wares, services or merchandise are being sold or exhibited.

4.7 **Expiration**

The permit issued under these provisions shall expire one (1) year from the date of issuance.

4.8 **Renewal**

Upon expiration of the permit, it may be renewed provided that all application information and documentation required is current and on file with the office of the City Secretary. If the renewal is submitted within thirty (30) days of the expiration date, the renewal fee shall be twenty-five dollars (\$25.00). In the event the permit is not renewed within thirty (30) days of expiration, the permit holder must re-apply for the permit and pay the fees provided for upon in Section 2 of this Ordinance.

4.9 **Exemptions**

The following are exempt from the bond and fee requirements; however, they shall provide all application and permit documentation as provided for in this Section of the Ordinance.

(a) Any local church or religious organization, public or private school organization, soliciting funds for the support of such group;

(b) Applicant/businesses engaged in Interstate Commerce.

**SECTION V**                      **HOURS OF OPERATION**

5.1 Vendors/solicitors who offer their goods, services, merchandise and wares from a fixed temporary place of business, such as a tent, trailer, food truck or motorized vehicle may operate from 6:00 a.m. to 11:00 p.m.

5.2 Vendors/solicitors who offer their goods, services, merchandise and wares through the method of home and/or commercial business door-to-door solicitation may conduct such activities between the hours of 8:00 a.m. and 8:00 p.m.

- 53 Vendors/solicitors who offer their goods, services, merchandise and wares through the method of home and/or commercial business door-to-door solicitation may not conduct such activities on recognized City Holidays. Vendors may only conduct business Monday - Saturday.

## **SECTION VI**      **SPECIAL EVENTS**

- 6.1 Vendors/Solicitors who offer their goods, services, merchandise and wares in conjunction with a City of Wells sponsored Special Event (Parade, Festival, etc.) are exempt from obtaining a permit provided that they are in compliance with the regulations and registration requirements of said event.

## **SECTION VII**      **PROHIBITED ACTS**

- 7.1 The following acts are prohibited under this ordinance and subject to revocation and/or penalties as set forth by this Ordinance.
- (a) Fraud, misrepresentation or false statement contained in the application for permit.
  - (b) Fraud or misrepresentation in the course of conducting the business of vending or soliciting.
  - (c) Conducting the business of vending/soliciting in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.
  - (d) Conducting vending/soliciting activities in an aggressive manner.
  - (e) Conducting vending/soliciting activities prior to or without obtaining a permit.
  - (f) Failure to maintain a valid driver's license, sales tax use certificate and/or valid permit from the County Cities and Health District and its successors.
  - (g) Failure to adhere to posted signage stating "No Trespassing", "No Solicitation" or "Peddlers or Agents".
  - (h) Vending from public property including streets, sidewalks, parks, alley ways, and City owned public parking areas.
  - (i) Conducting soliciting/vending activities contrary to the provisions contained in this article.

## **SECTION VIII**      **HANDBILLS**

- 8.1 It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast or cause to be distributed, deposited, placed, thrown, scattered or cast any handbill upon any private premises except by placing or depositing the handbills in a secure manner to prevent the handbills from being blown about the premises.

- 8.2 It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast or cause to be distributed, deposited, placed, thrown, scattered or cast any handbill upon the following:
- (a) Private premises which are vacant.
  - (b) Private premises which contain signage prohibiting the distribution of handbills.
  - (c) Private premises on which the owner has requested that no distribution of handbills be conducted.
- 8.3 It is presumed that any person/company whose goods, services, wares, activities and/or merchandise that are promoted in the handbill in violation of this section is responsible for distributing or causing to be distributed.

## **SECTION IX            REVOCATION**

- 9.1 A permit may be revoked for committing any prohibited act as defined in Section VII or violation of any provision of this ordinance. Notice of revocation shall be given verbally or in writing and specify the reason for revocation. Upon notice of revocation, the permit must be surrendered to the City Secretary. No permit will be issued to a solicitor/vendor for a period of one (1) year after revocation.

## **SECTION X            APPEALS**

- 10.1 An appeal from any act of denial or revocation of any permit shall be filed with the City Manager within five (5) business days from the date of denial or revocation.
- 10.2 Such appeal shall be taken by filing with City Secretary a written statement setting forth fully the grounds for the appeal
- 10.3 The City Secretary shall issue a decision on the denial or revocation in writing within five (5) business days upon receipt of the appeal.
- 10.4 The revocation or denial is not stayed pending the City Manager's decision.
- 10.5 The decision and order of the City Manager on such appeal shall be final.

## **SECTION XI            PENALTY**

- 11.1 Violation of any provision of this subchapter shall be deemed a Class C misdemeanor, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00). The defendant shall also, upon conviction, pay court costs and any applicable docket fees. It is the duty of the Police Department to enforce the provisions of this subchapter.

## **SECTION XII**

## **SEVERABILITY**

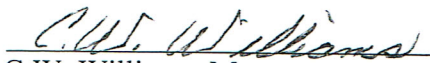
In the event any section, subsection, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect any other sections, subsections, sentences, clauses or phrases of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

## **SECTION XIII**


## **EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Wells.

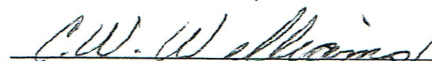
PASSED AND APPROVED on First Reading by the City Council of the City of Wells, Texas this 10<sup>th</sup> day of August, 2015.

  
C.W. Williams, Mayor


ATTEST:

  
Melanie Williamson, City Secretary

PASSED AND APPROVED on Second Reading by the City Council of the City of Wells, Texas, this 14<sup>th</sup> day of September, 2015.

  
C.W. Williams, Mayor

ATTEST:

  
Melanie Williamson, City Secretary

AMENDMENT TO ORDINANCE# 2015-03

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WELLS, TEXAS COUNTY OF CHEROKEE, TEXAS. EXERCISING THEIR DISCRETION TO AMEND ORDINANCE NO. 2015-03.

A NEW ORDINANCE CONCERNING PROVIDING FOR THE REQUIREMENT AND ISSUANCE OF PERMITS TO VENDORS AND SOLICITORS; DEFINING TERMS; REGULATING THE SALE OF GOODS, WARES, MERCHANDISE AND/OR SERVICES IN THE CITY OF WELLS; PROVIDING FOR EXEMPTIONS; PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND REPEALING ALL ORDINANCES INCONSISTENT HERewith.

BY ADDING/REPLACING THE FOLLOWING:

SECTION 3.6 ADD MONETARY VALUE PROHIBITED.

SECTION 7.1 REMOVE ANGELINA COUNTY.

SECTION 10.2 CHANGE" CITY MANAGER" TO "CITY SECRETARY".

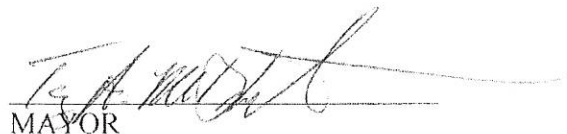
SECTION 10.3 CHANGE" CITY MANAGER" TO "CITY SECRETARY".

THE STATE OF TEXAS  
COUNTY OF CHEROKEE  
CITY OF WELLS

BE IT HEREBY ORDAINED BY THE CITY COUNCIL, IN AND FOR THE CITY WELLS, CHEROKEE COUNTY, TEXAS.

ON THIS 12<sup>TH</sup> DAY OF JUNE 2023, THE CITY COUNCIL VOTED TO AMEND  
ORDNANCE # 2015-03 BY CHANGING THE DESCRIPTION OF THE ORDINANCE AS  
LISTED ABOVE.

PASSED AND APPROVED THIS THE 12<sup>th</sup> DAY OF JUNE 2023.

  
MAYOR

ATTEST:

  
CITY SECRETARY