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ORDINANCE NO. 1020

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REQUIRING THAT THOSE PARTIES ENGAGED IN TELEPHONE SOLICITATION, OF A COMMERCIAL NATURE, TO SECURE A PERMIT AND PROVIDING CERTAIN EXCEPTIONS THERETO; PROVIDING FOR THE NATURE OF THE APPLICATION THEREFOR; PROVIDING REGULATIONS THEREUNDER; PROVIDING FOR THE MANNER OF APPROVAL AND THE RIGHT OF APPEAL; PROVIDING FOR REVOCATION THEREOF AND THE MANNER OF SUCH REVOCATION; PROVIDING FOR THE TERM THEREOF; PROVIDING A FEE FOR SUCH PERMIT; DECLARING THE USE OF THE TELEPHONE CONTRARY TO THE REGULATIONS HEREIN TO BE A NUISANCE; DECLARING THAT THE REQUIREMENTS OF THIS ORDINANCE SHALL BECOME A PART OF ANY FRANCHISE AGREEMENT FOR USE OF CITY PROPERTY AND DECLARING USE OF SAME CONTRARY TO THIS ORDINANCE TO BE A TRESPASS; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite has a duty to promote better telephone service for its inhabitants; and

WHEREAS, the volume, magnitude and nature of commercial use of the telephone system in the City for the purpose of advertising, promoting and selling products and services to residential telephone users seriously affects the quality of service available to residential users and disturbs the peace, quiet and tranquility of the residents of the City; and

WHEREAS, there are no regulations to protect the residents from such disturbance and annoyance; and

WHEREAS, it is necessary to the health and general welfare of the residents of the City that certain regulations be enacted to control such activity;

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

SECTION 1. That the following regulations are hereby prescribed for commercial use of the telephone system in the City of Mesquite, Texas:

- A. Applicability - This ordinance shall apply to calls directed to telephone users in all residential units in the City of Mesquite for which there is no long distance charge made by the telephone company, excluding such

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calls as are made regarding a transaction already in progress, in which the purpose of such call is to initiate, promote or advertise the sale or exchange of any merchandise, product or service, including, among others, building materials and services, books and magazines, household appliances, photos and photography services, automobiles, real estate and real estate services, sports and recreation equipment, mobile homes, insurance, automobile association membership where such membership includes services or protection for a fee or consideration, and exterminator services. The enumeration of the foregoing shall not be deemed to exclude other items.

This ordinance shall not apply to medical, dental or legal services or communication between business concerns and their regular customers.

- B. Permit Required - All persons, firms, corporations, business establishments and others engaged in the making of telephone calls to which this ordinance is applicable, shall be required to obtain a telephone solicitors permit from the City of Mesquite before engaging in such activity.
- C. Application - Anyone desiring to obtain a telephone solicitors permit shall make application on a form to be furnished by the City giving such information as is required and signed by the responsible party under oath subject to the penalty of false swearing.

The application form shall be designed to obtain information as to the name, address and business location of the applicant, number of persons expected to make telephone solicitations in the City and estimated number of calls, type of customer to be solicited, type of product or service offered, type of solicitation to be made, such information as is necessary to determine that any offer made is a bona fide act of commerce.

D. Regulations:

1. Each permit shall be given a number and this permit number shall be given by the person making each telephone solicitation clearly and distinctly prior to making the offer or solicitation.

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2. Solicitations by holders of a telephone solicitation permit shall be limited to the hours of 8:00 a m., to 12:00 noon, and 4:00 p.m., to 8:00 p.m., Monday through Saturday and shall not be made on Sunday.
 3. Upon being advised by the recipient that the solicitation is unwanted, the solicitor shall forthwith terminate the solicitation.
 4. Upon written notice by a telephone user that solicitations are unwanted, the holder of a permit shall cause further telephone solicitations to such user to cease.
 5. Solicitors shall not behave in a rude, boisterous, critical or obscene manner calculated to upset, inflame or degrade the recipient.
- E. Approval of Application - Applications shall be approved or rejected, with the same rights of appeal, as application for a peddler's permit under Ordinance 289, Code of the City of Mesquite.
- F. Revocation - Blatant or continued disregard of the regulations contained herein shall be grounds for revocations of a permit issued hereunder.
- The determination to revoke a permit shall be made in the same manner, and with the same right of appeal, as the issuance thereof.
- G. Duration - A permit issued hereunder shall be for a period of one year or in case of revocation, until written notice is mailed to the address on the application.

SECTION 2. To help defray the cost of investigation and processing of the application, there shall be a fee of Ten Dollars (\$10.00), for each permit application, which shall not be prorated and shall not be returned to the applicant regardless of whether or not such application shall be approved; provided, however, such fee shall not be applicable to those engaged exclusively in interstate commerce.

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SECTION 3. The foregoing regulations and requirements are deemed to be fair and reasonable exercise of control over commercial telephone solicitations to residential users and the making of telephone solicitations contrary thereto are hereby declared a nuisance and prohibited.

SECTION 4. The regulations and requirements of this Ordinance and any amendments hereto shall be and become a part of any agreement, contract or franchise for use of City streets or City property of any nature and any person knowingly transmitting messages over telephone lines and equipment on City property shall be deemed a trespasser and the same is prohibited.

SECTION 5. Should any word, phrase, sentence, paragraph, or section of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 6. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and upon conviction in the Corporation Court shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00), for each offense.

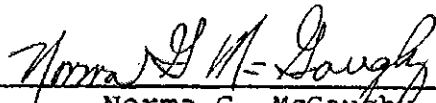
SECTION 7. The fact that there are no adequate regulations for commercial telephone solicitations in residential areas creates an urgency and an emergency for the preservation of the public health, safety and welfare of its citizens and requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance, as the law in such cases provides.


DULY PASSED by the City Council of the City of Mesquite, Texas, on the 17 day of April, A.D., 1972.


George Boyce
Mayor

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughy
City Secretary


Elland Archer
City Attorney