

ORDINANCE NO. 17829-10-2007

AN ORDINANCE AMENDING CHAPTER 23, "OFFENSES AND MISCELLANEOUS PROVISIONS" OF THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, BY AMENDING SECTION 23-14, "POSTING OF HANDBILLS AND SIGNS IN CERTAIN PLACES-PROHIBITED" TO PROHIBIT THE PLACING OF HANDBILLS AND SIGNS ON PRIVATE PROPERTY IN CERTAIN CIRCUMSTANCES; AND BY AMENDING SECTION 23-15 "SAME -- PRIMA FACIE EVIDENCE OF VIOLATION"; AND PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Fort Worth finds that the unregulated distribution of handbills can disturb the quiet enjoyment of the City's residential neighborhoods and generate unwanted litter; and

WHEREAS, the City Council further finds that the accumulation of handbills may be an indication that a premises is vacant and may encourage criminal activity at the premises; and

WHEREAS, the City Council further finds that the unregulated distribution and accumulation of handbills can affect the aesthetic value of a neighborhood and home through the accumulation of visual clutter; and

WHEREAS, while the U.S. Constitution guarantees the right to distribute handbills, the City has the right to reasonably regulate the time, place and manner of these activities; and

WHEREAS, it is advisable to amend Section 23-14 to "Posting of handbills, signs, posters, or advertisements in certain places – Prohibited" to prohibit the placement of handbills, signs, posters, or advertisements for solicitation on private property when a "No Handbills", "No Soliciting" or "No Trespassing" sign is posted, or when the property owner, during the time of placement, orally instructs that no such material be placed on the private property; and

WHEREAS, it is advisable to amend Section 23-15 to provide for additional clarification of what constitutes a violation of Section 23-14;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

Chapter 23, of the City Code of the City of Fort Worth, "Offenses and Miscellaneous Provisions", Section 23-14 "Posting of handbills and Signs in Certain Places- Prohibited", is amended by changing the title and by deleting the requirement that requires the express permission of the private property owner to place handbills, signs, posters, or advertisements on private property, and replacing with new language prohibiting placement of handbills, signs, posters, or advertisements on private property in certain circumstances, to read as follows:

Sec. 23-14. Posting of handbills, signs, posters, or advertisements in certain places-- Prohibited.

A. It shall be unlawful for any person, firm, or corporation, other than the owner of the property to post, fasten, erect, or display, or cause to be posted, fastened, erected or displayed:

1. any type of handbill, sign, poster, or advertisement on or upon any structure, tree, pole, curb or elsewhere within the right-of-way of any public street, or upon any public property within the City of Fort Worth, without the express permission of the City Council of the City of Fort Worth;

2. any handbill, sign, poster, or advertisement on or upon any private property, real, personal or mixed, within the City of Fort Worth if

(a) said property has a "No Soliciting", "No Handbills" or "No Trespassing" sign posted that is clearly visible from the street, or

(b) the property owner, during the time of placement, orally instructs that no such material be placed on the property.

B. This section shall not apply to a federal, state or local government employee or public utility employee in the performance of their duties for their employer.

SECTION 2.

Section 23-15 "Posting of handbills, signs, posters, or advertisements in certain places – Prima facie evidence of violation" of Chapter 23, of the City Code, shall be amended to read as follows:

- (1) When any handbill, sign, poster, or advertisement for solicitation shall be found posted, fastened, erected or displayed in violation of section 23-14 of this code, same shall be prima facie evidence that such unlawful posting, fastening, erecting or displaying was caused by the person, firm, or corporation advertised thereby only if,
 - (a) a "No Soliciting", "No Handbills" or "No Trespassing" sign was posted on the property, or
 - (b) the property owner, during the time of placement, orally instructed that no such material be placed on the property.
- (2) Each day that such handbill, sign, poster, or advertisement shall remain so posted, fastened, erected, or displayed shall constitute a separate violation of this code.

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4.

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 unconstitutionality 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 in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinance No. 3011, Ordinance No. 13896 or any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

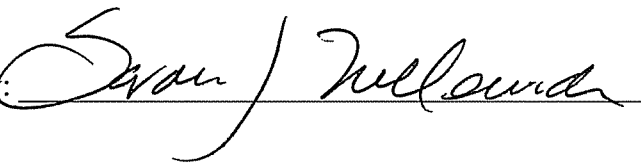
That the City Secretary of the City of Fort Worth, Texas is hereby directed to publish this

ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY

By: 

ADOPTED: October 9, 2007

EFFECTIVE: October 22, 2007

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 10/9/2007 - Ordinance No. 17829-10-2007

DATE: Tuesday, October 09, 2007
LOG NAME: 12HANDBILLS07

REFERENCE NO.: G-15918

SUBJECT:

Adopt an Ordinance Amending Section 23-14 "Posting of Handbills, Signs in Certain Places Prohibited" and Section 23-15 "Same—Prima Facie Evidence of Violation" of the City Code to Prohibit the Placement of Handbills, Signs, Posters, or Advertisements on Private Property in Certain Circumstances

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Sections 23-14 and 23-15 of the City Code to:

1. Provide regulations regarding the placement of handbills, signs, posters or advertisements on private property when a "No Soliciting", "No Trespassing" or "No Handbills" sign has been posted on the property or when a property owner, during the time of placement, has orally instructed that no such handbill, poster, sign or advertisement be placed on his/her property; and
2. Establish prima facie evidence of a violation if a handbill, sign, poster or other advertisement is posted on the property when a "No Solicitation", "No Trespassing" or "No Handbills" sign has been posted on the property or when the property owner, during the time of placement, has orally instructed that no handbill, sign, poster or advertisement shall be placed on his/her property.

DISCUSSION:

Section 23-14, of Chapter 23 of the City Code of Fort Worth entitled "Posting of handbills and signs in certain places-prohibited" was first adopted in 1986 and requires the express permission of private property owners to place handbills, signs, posters or advertisements on private property. Section 23-15, of Chapter 23 of the City Code requires the owner to notify the person, firm or corporation that an advertisement is in violation of the City Code. In combination, these two sections have been difficult to enforce and have proven frustrating to owners of private property.

The proposed ordinance change for section 23-14 amends the title to "Posting of handbills, signs, posters, or advertisements in certain places - prohibited." It also deletes the requirement that requires the express permission of the property owner to place handbills, signs, posters, or advertisements on private property. It maintains the provision regarding city property and it prohibits the placement of such materials on private property in certain circumstances based on whether the property owner has posted a "No Soliciting", "No Trespassing" or "No Handbill" sign on the property; or the property owner, during the time of placement, orally instructs that no such material be placed on his/her private property.

The proposed ordinance change for section 23-15 would establish the prima facie evidence of a violation if a handbill, poster, or other advertisement is placed on the property when a "No Soliciting" or "No Trespassing" sign was posted on the property or the property owner, during the time of placement, orally instructed that no such material should be placed on his/her private property.

The proposed changes would allow private property owners, such as homeowners, to bar unwanted solicitors/visitors from their property while also providing notice to individuals attempting to distribute handbills, signs, posters, or advertisements for solicitation or information that the private property owner does not want such material to be placed on his/her property. The posting of a "No soliciting", "No trespassing" or "No Handbill" sign and the additional ability of a private property owner to speak against the placement during the time the property owner is present when someone is trying to place such material on the private property would apply as restrictions to both commercial and non-commercial material.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

Karen Montgomery (6222)

Originating Department Head:

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Additional Information Contact:

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