

ORDINANCE O-003-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 4, ARTICLE 4.06, PEDDLERS AND SOLICITORS, REGULATING PEDDLERS, SOLICITORS, ITENERANT MERCHANTS, AND CANVASSERS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF

WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved; and,

WHEREAS, the City of Borger (the “City”) is a home rule municipality possessing the full power of local self government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, and the City’s Home Rule Charter; and,

WHEREAS, the City Council hereby finds that there has been and continues to be an ever increasing amount of commercial solicitations within the City; and,

WHEREAS, many citizens of this community have voiced their opinion that they expect their local government to assist them in preserving their privacy and avoiding petty annoyances that disrupt their quiet enjoyment of their homes; and,

WHEREAS, other persons often desire to interrupt the quiet enjoyment of one’s home to solicit donations for causes believed to be worthy of support; to canvas for support for particular religious, ideological, or political causes; or for reasons of prompting commerce; and,

WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas that may be unpopular, and to engage other in debate without government interference; and,

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of our

citizens; and,

WHEREAS, based upon fundamental Constitutional protections afforded under the First Amendment, the City acknowledges it is limited in its ability to regulate solicitation by religious, political, and charitable institutions and groups; and,

WHEREAS, it is the sole intent, purpose, and policy of the City of Borger to promote the protection of the public health, safety, and welfare of our citizens by the regulation of itinerant vendors, peddlers, and solicitors in this Ordinance, while fully respecting protected First Amendment rights.

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

SECTION 1.

THAT, the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

THAT, the Code of Ordinances of the City of Borger, Texas is hereby amended by repealing in its entirety, Chapter 4, Business Regulations, Article 4.06, Peddlers and Solicitors, and replacing said Article with the following Article relating to the regulation of peddlers, solicitors, itinerant vendors, and canvassers, which shall read:

ARTICLE 4.06 PEDDLERS AND SOLICITORS

Sec. 4.06.001 Definitions

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Agent. A person who undertakes to transact some business or manage some affair for another person by the authority and on the account of the latter.

Canvasser. A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such

purpose the canvasser accepts the donation of money for or against such cause; a person distributing a handbill or flyer advertising a non-commercial event or service.

Charitable purpose. A philanthropic or other nonprofit objective, including the benefit of poor, needy, sick, or handicapped persons; the benefit of patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization; or the benefit of any educational institution.

Consumer. An individual who seeks or acquires real property, service, money or credit for personal, family, or household purposes.

Consumer transaction. A sales transaction in which one or more of the parties is a consumer.

Fixed Business Location. A location within the city which complies with the Zoning Ordinance and Building Codes and which is occupied by the same business for thirty (30) consecutive days or more.

Home solicitation. The engaging or the attempt to engage personal contact with a person at his or her residence without prior specific invitation or appointment from the resident for any of the purposes listed under "Peddlers, Solicitors, and Canvassers."

Home solicitation transaction. A consumer transaction for the purpose of the sale or rental of goods, services, or realty, payable either in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or a sale made pursuant to prior negotiations by phone where the consumer initiates the transaction and requests home delivery of the goods, or a sale of realty in which the transaction is being negotiated by a licensed real estate broker.

Ice cream truck. Any motor vehicle in which ice cream, ice milk, sherbet, yogurt, water ices, snow cones, frozen confectionery products, or other frozen dairy or non-dairy products of any kind are carried for the purpose of retail sale on the streets and/or public rights-of-way of the City of Borger.

Ice cream truck vendor. A roving peddler offering for retail sale: ice cream, ice milk, sherbet, yogurt, water ices, snow cones, frozen confectionery products, or other frozen dairy or non-dairy products of any kind with the sale being consummated on a public right-of-way. For the purpose of permitting pursuant to this Article, a person operating

an ice cream truck is considered to be a “Peddler.”

Itinerant vendor or hawker. All persons, as well as their agents and employees, who engage in a transient retail business in the City, by selling or offering for sale any goods, merchandise, services, including food products, or taking orders for any of the afore mentioned, who set up and operate a transient retail business, whether it is from a stand, vehicle, or is free standing, on privately owned property, whether the property is improved or unimproved.

Local retail business. A fixed business located and operated within the boundaries of Hutchinson County.

Merchant. A party to a consumer transaction, other than the consumer.

Occupant. A person who resides in a residence permanently, or for an extended period of time.

Peddler. A person who attempts to make personal contact with a person at his or her residence without prior specific invitation or appointment from the person, for the primary purpose of attempting to sell a good or service. A “peddler” does not include one who distributes handbills or flyers for a commercial purpose, such as advertising an event, activity, good or service that is offered for purchase at a location away from the residence or at a time different from the time of visit. Such person is a “solicitor.”

Person. An individual, corporation, trust, partnership, association, or other legal entity.

Police department. The Police Department of the City.

Political purpose. Any form of communication related to a political issue, a particular candidate to a position or nonpartisan office, a political committee as defined by State law, or to a political party.

Religious purpose. Any form of communication related to a church, religious society, or other religious sect, group, or order.

Residence. Any separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Resident. Shall have the same meaning as “occupant.”

Solicitation. The engaging or the attempt to engage in personal contact with a consumer including, but not limited to the purposes listed under “itinerant vendor or hawker.”

Solicitor. One who attempts to make personal contact with a person at the person's residence without prior specific invitation or appointment from the resident, for the primary purpose of obtaining a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose, if there is a sale of some good or service, or a person distributing a handbill or flyer advertising a commercial event or service.

Special Event. Any occasion including, but not limited to, fairs, shows, exhibitions, city wide celebrations, farmers markets, festivals, market days, etc., within a specifically defined area of the City for a period established and/or approved by the City Council (or its duly authorized representatives) and/or the appropriate organizing body.

Sunset. The time of day identified by the National Weather Service as the time of sunset on that day in the City.

Transient Retail Business. A business that sells or offers for sale any goods, wares, services or merchandise, including food products, to the general public without utilizing a fixed business location.

Sec. 4.06.002 Exceptions

The provisions of this Article shall not apply to the following:

- (1) Newspaper carriers.
- (2) Any federal, state, or local government employee.
- (3) Special events as from time to time authorized by the City Council.

Division 1. Generally

Sec. 4.06.003 Home Solicitation Sales Act

A peddler or solicitor shall comply with the requirements of the Home Solicitation Sales Act provided for in Chapter 601 of the Texas Business and Commerce Code. In addition to any other rights or remedies available, a consumer may cancel a consumer transaction not later than midnight of the third business day after the date the consumer signs an agreement or offer to purchase. A solicitor must provide a consumer notice and a complete cancellation form, as provided for in Sections 601.052 and 601.053 of the Texas Business and Commerce Code, at the time a consumer signs an agreement.

Sec. 4.06.004 Issuance of Receipts

A transient retail business shall, if requested by the customer, issue the customer a receipt in the name of such business, as shown on the permit application, and it must include the address and current phone number of said business.

Sec. 4.06.005 Prohibited Conduct and Misrepresentation

It shall be unlawful for any person to:

- (1) Peddle or solicit goods, wares, merchandise, food, or services within the City without first having obtained a peddler or solicitor's permit and paid all fees that are applicable in obtaining said permit.
- (2) Make physical contact with a potential customer unless that customer's permission is obtained, or unless that customer's permission is reasonably implied under the circumstances.
- (3) Misrepresent the purpose of the solicitation
- (4) Misrepresent the affiliation of those engaged in the activity of a peddler or solicitor.
- (5) Continue efforts to peddle or solicit from any individual once that individual informs the peddler or solicitor that he or she does not wish to give anything to or to buy anything from that peddler or solicitor.
- (6) Represent the issuance of any permit under this article as an endorsement or recommendation.
- (7) Make false or fraudulent statements concerning the quality or nature of his or her goods, services, wares, merchandise, or food for the purpose of inducing another to purchase the same.

Sec. 4.06.006 – 4.06.010 Reserved

Division 1. Peddlers, Solicitors and Canvassers

Sec. 4.06.011 Exceptions

The provisions of this division (unless specifically prohibited by citation within a specific

section) shall not apply to the following:

- (1) Ordinary commercial travelers who sell or exhibit for sale goods, wares, merchandise, services, and food to persons engaged in the business of buying, selling, and dealing in the same within the City.
- (2) Any federal, state, or local government employee or an employee of a public utility company operating under a franchise granted by the State or the City, in the performance of his or her official duties.
- (3) Noncommercial solicitations, sales, or distributions for purposes of fundraising or generating profits by religious, non-profit, charitable, political, business, or educational organizations which have their principal place of activity within Hutchinson County.

Sec. 4.06.012 Posting of signs refusing peddlers, solicitors, and canvassers

It shall be lawful for the owner or occupant of any property desiring that no peddlers, solicitors, canvassers, or other persons engage in a home solicitation at his or her residence, to exhibit in a conspicuous place upon or near the main entrance to the residence, a weatherproof sign, not less than three (3) inches by four (4) inches in size, containing the words, "NO SOLICITORS." The letters shall not be less than two-thirds ($\frac{2}{3}$) of an inch in height.

Sec 4.06.013 Restricted entrance to premises

(a) Every peddler, solicitor, or canvasser, upon going onto the premises upon which a residence is located, shall first examine the residence to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence. If notice prohibiting soliciting is exhibited, the peddler, solicitor, or canvasser shall immediately depart from the premises without disturbing the occupant, unless the visit is the result of a request made by the occupant.

(b) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a home solicitation transaction, if a sign as described in subsection (a) of this section is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is the result of a request made by the occupant.

(c) No peddler, solicitor or canvasser shall use or attempt to use an entrance other than the front or main entrance to the residence, or step from the sidewalk or other indicated

walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the residence.

(d) No person, other than the occupant of the residence, shall remove, deface, or render illegible, a sign placed by the occupant pursuant to subsection (a) of this section.

(e) Any peddler, solicitor, or canvasser who has gained entrance to a residence, or audience with the occupant of a residence, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.

Sec 4.06.014 Identification required

Every peddler, solicitor, or canvasser shall identify himself or herself upon initiating uninvited contact with a person at a residence, and explain his or her purpose in initiating said contact with the resident.

Sec 4.06.014 Hours of Operation

(a) It shall be unlawful for any peddler, solicitor, or canvasser to engage in any business of peddling, soliciting, or canvassing within the City prior to 8:30 a.m. or after 7:30 p.m., on Sunday through Thursday, or prior to 8:30 a.m. or after 8:30 p.m. on Friday and Saturday, or after sunset on any day, whichever is earlier.

(b) No peddling, soliciting, or canvassing shall be permitted between sunset and 8:30 a.m. the following day. This prohibition applies to every person, including those associated with institutions, groups or organizations with a principal place of activity in Hutchinson County.

(c) Peddlers, solicitors, and canvassers shall not engage in solicitation activities at any time on New Year's Day, July 4th, Memorial Day, Labor Day, Thanksgiving Day, Christmas Eve or Christmas Day.

(d) Subsections (b) and (c) of this section shall not apply to a specific appointment with, or invitation by a resident or occupant of a residence.

Sec. 4.06.015 Solicitation by Minors

No person under thirteen (13) years of age shall peddle or solicit, even if the minor is exempt from this article, unless such minor is actively supervised by an adult individual of at least eighteen (18) years of age. The supervising adult shall be within one hundred (100) yards of the minor peddler or solicitor at all times. This section also applies to persons associated with those institutions, groups or organizations which have their

principal place of activity within Hutchinson County.

Sec. 4.06.016 Distribution of Handbills or Flyers

In addition to other regulations contained herein, a peddler, solicitor, or canvasser that distributes handbills, flyers, or other printed literature shall observe the following regulations:

- (1) No handbill or flyer shall be left at, or attached to any sign, utility pole, or other structure within the public right-of-way. Law and code enforcement personnel are authorized to remove any handbill or flyer found within the right-of-way.
- (2) No handbill or flyer shall be left at, or attached to any privately owned property in a manner that causes damage to such privately owned property.
- (3) Any person observed distributing handbills, flyers or other printed literature shall be required to identify himself or herself to law or code enforcement personnel, either by producing a municipally issued license or other Federal or State issued form of identification. This identification is required for the purpose of documentation of the identity of those responsible for damage caused, in the event that the City receives a complaint of damage to private property during the distribution of handbills, flyers, or other printed literature.
- (4) This section also applies to persons associated with those institutions, groups or organizations which have their principal place of activity within Hutchinson County.

Sec. 4.06.017 – 4.06.030 Reserved

Division 2. Itinerant Vendors

Sec. 4.06.031 Exceptions

The provisions of this division (unless specifically prohibited by citation within a specific section) shall not apply to the following:

- (1) Solicitation of charitable contributions in a roadway by employees or agents of the City, which are permitted by the Texas Transportation Code, Chapter 552.0071(a).
- (2) The sale of frozen dairy or non-dairy products from ice cream trucks by a

properly permitted ice cream truck vendor on the streets and rights-of-way of residential areas and public parking lots adjacent to city parks.

Sec. 4.06.032 Solicitation on Streets and Rights-of-Way

(a) For the purpose of solicitation under this section, a “roadway” is defined to include the roadbed, shoulder, median, curbs, gutters, safety zones, sidewalks, and utility easements located adjacent to or near the roadway.

(b) It shall be unlawful for any person to peddle, hawk, sell, solicit, or distribute, or in any manner sell, barter or exchange, or offer to sell, barter or exchange, any goods, wares, services, food items, patent medicines, or nostrums of any character upon any roadway, public rights-of-way, or any other public property.

(c) No person may stand in a roadway or other public right-of-way to solicit a contribution, employment or business from an occupant of a vehicle. This section also prohibits the solicitation of a charitable contribution in a roadway or other public right-of-way from an occupant of a vehicle.

(d) It shall be lawful to stop or park trucks or other vehicles in the streets or alleys of the City for the purposes of delivering produce, products, or merchandise to the occupants of any business, residence, or other structure not specifically prohibited by some other ordinance or statute.

Sec 4.06.033 Solicitation on Vacant Lots or Tracts

It shall be unlawful for any person to solicit business from a lot or tract of land within the City that is vacant, without having previously obtained written permission for the solicitation from the owner or person in control of said lot or tract; and without having applied and met all requirements under this article to obtain a peddlers permit that must be carried at all times while engaging in such solicitation.

Sec. 4.06.034 – 4.06.040 Reserved

Division 3. Permits

Sec. 4.06.041 Permit Required for Peddlers, Solicitors, Itinerant Vendors, and Hawkers; available for Canvassers

(a) No person shall act as a peddler, solicitor, hawker or operate a transient retail business in the city without having been issued a permit from the City. A canvasser is

not required to have a permit; however, any canvasser wanting a permit for the purpose of reassuring city residents of the canvasser's purpose for conducting a canvas, shall be issued a permit upon request.

(b) Each person acting as in or attempting to act as peddler, solicitor, hawker or operate a transient retail business in the city must have a permit issued under the terms of this section. Such permit shall be personal to the applicant and shall not be reproduced, assigned, or transferred to any other person. Any such attempt to reproduce, assign, or transfer shall render the permit void.

Sec. 4.06.042 Permit Application

(a) There are two types of permits, a master's permit and an individual permit. A master's permit is required in every instance to act as a peddler, solicitor, hawker or operate a transient retail business. In addition, for partnerships, corporations, associations, etc. in which multiple persons will be acting as a peddler, solicitor, hawker or operate a transient retail business, individual permits must be issued for each individual engaging in said conduct.

(b) Applications for a master's or individual permit under this article must be filed in writing on the forms prescribed and furnished by the city. A separate application for a master permit must be completed for each location requested and shall include the following information:

- (1) Whether the applicant applying for a permit is an individual, partnership, corporation, association, or other legal entity.
 - a. If an individual, the individual's business or residence address and telephone number;
 - b. If a partnership, the name of all partners, the principal business address, and telephone number of each partner;
 - c. If a corporation, the person registering must state whether the corporation is organized under the laws of this state or is a foreign corporation, the mailing address, business location, telephone number, names of all officers, directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and registered agent for this state.
- (2) The driver's license number and state of issuance, date of birth, or similar information obtained from another form of government-issued picture identification.

- (3) If required by law, a copy of the person's Texas Sales and Use Tax permit and any health permits or licenses required to conduct business by the State of Texas.
- (4) A physical description of the applicant including height, weight, color of hair, and color of eyes.
- (5) The applicant's principal place of business including address and phone number.
- (6) The kinds of goods, wares, merchandise, food, or services that the applicant wishes to sell, barter, or trade within the city.
- (7) Description of each motor vehicle including current registration and current insurance that is to be used by the peddler or solicitor in the course of the peddling or soliciting activity.
- (8) Names of other communities in Texas in which the applicant has applied for and received a permit to act as a peddler, solicitor, hawker or to operate a transient retail business.
- (9) Whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in the past five (5) years.
- (10) In the case of a transient retail business, the location and dates for which business is to be conducted; and the name, address, and contact phone number of the property owner. The applicant must also show that he or she has the expressed written consent from the property owner upon which the transient retail business will be located.
- (11) If a person applying for a master permit intends to contract with, employ, or otherwise retain individuals which will act as a peddler, solicitor, hawker or operate a transient retail business, the applicant must identify and furnish sufficient information to process an application for an individual permit on each individual.

Sec. 4.06.043 Applicable Fees

There shall be no permit fees for a canvasser's master or individual permit. For all other permits granted under the provisions of this article, the applicant shall pay a non-refundable application fee for the type and validity period of the permit desired. This fee shall not be prorated, shall be paid at the time the application is made, and shall not be returned to the applicant regardless of whether a permit is issued.

Permit Type	Validity Period			
	7 Days	14 Days	30 Days	90 Days
Peddlers Master	\$50	\$75	\$100	\$150
Peddlers Individual	\$25	\$25	\$25	\$25
Solicitors/Hawkers Master	\$50	\$75	\$100	\$150
Solicitors Hawkens Individual	\$25	\$25	\$25	\$25
Transient Retail Master	\$100	\$150	\$200	\$300
Transient Retail Individual	\$25	\$25	\$25	\$25

Sec. 4.06.044 Validity Period

Canvasser’s permits are valid from the date of issuance through sunset on December 31 of any given year. All other permits expire the earlier of the seventh (7th), fourteenth (14th), thirtieth (30th), or ninetieth (90th) day, or at sunset on December 31st of any given year.

Sec. 4.06.045 Properly Zoned Location

Before a transient retail permit may be issued to an applicant under the provisions in this article, the city must certify that the location is properly zoned for commercial use and that the location has adequate parking for customers and agents exclusive of any public right of way. Any property owner, tenant, or lessee who allows a transient retail business to utilize their private property shall be responsible, along with the transient retail business, for compliance with any zoning ordinances pertaining to such property.

Sec. 4.06.046 Permit Displayed

Every transient retail business having a permit issued under the provisions of this article and doing business within the city, shall display the valid permit in full view at all times while engaged in said business. In addition, the transient retail business must also display in full view his or her current Texas Sales Tax and Use permit, and if selling or distributing food or other items requiring a state or federal permit, all of those permits as well.

Sec. 4.06.047 Maximum number of annual permits

A maximum of two (2) permits may be granted under this article in any period from January 1 through December 31 of any given year, provided that the applicant is in full compliance with the provisions in this article, the applicant has not violated this article in a previous issuance, and the applicant pays all fees required to obtain each permit.

Sec. 4.06.048 Issuance of Permit

The applicant shall be notified of the decision on the issuance or denial of the permit no later than ten (10) business days after the filing of a completed application for a permit under this article.

Sec. 4.06.049 Denial, Suspension, and Revocation of Permit

(a) Any application for permit may be denied, and any permit issued under this article may be suspended, or revoked for any of the following reasons:

- (1) Fraud or misrepresentation in the application for the permit
- (2) Fraud or misrepresentation in the course of conducting business as outlined in this article
- (3) Conducting business in any way contrary to the provisions of this article
- (4) Conducting business in such a manner as to create a public nuisance or constitute a danger to public health, safety, or welfare
- (5) Suspension or cancellation of health department authorization for food and beverage peddlers.

(b) An applicant is not qualified to receive a permit if the applicant:

- (1) Is currently, or has been within ten (10) years preceding date of application on parole, probation, or deferred adjudication for sexual assault, armed robbery, kidnapping, burglary, assault, weapons violations, or felony theft (each as defined in the Texas Penal Code and includes offenses of a different name in another state but with similar elements and penalties), unless the applicant has had no subsequent conviction or deferred adjudication for a period of ten (10) years (excluding Class C offenses) following the applicant's release from prison or completion of probation, community supervision, or parole, whichever is later.
- (2) Is currently a registered sex offender or a person subject to registration
- (3) Has affiliation, membership, or associates with a known street gang or criminal enterprise
- (4) Has been convicted of violating this ordinance within one (1) year prior to the date of the application or has two (2) or more charges of violating this ordinance then pending in court as of the date of application

Sec. 4.06.050 Appeals

Any person who is denied a permit under this article, or whose permit has been suspended or revoked, may appeal the decision by filing a written notice of appeal to the Borger City Council. All appeals must be filed with the City Secretary within ten (10) days after a notice of denial, suspension, or revocation of a permit. The appeal shall be heard by the Borger City Council within thirty (30) days after receipt. At least five (5) days' notice of the date of the hearing shall be given to the applicant or permit holder. Based on the hearing of the appeal and the facts relative thereto, the Borger City Council will either sustain or reverse the decision to deny, suspend, or revoke the permit. The decision of the Borger City Council shall be final.

Sec. 4.06.051 Penalties

Any person, partnership, corporation, association or legal entity found to have violated any provision of this ordinance or to have failed to comply with any provision of this ordinance shall, upon conviction, be fined in accordance with Section 1.01.009 of this Code. The imposition of a fine shall be in addition to all other remedies provided in this ordinance. Each day that a violation exists shall constitute a separate offense. A culpable mental state is not required, and need not be proved, for an offense under this article.

Sec. 4.06.052 Exceptions

Notwithstanding anything to the contrary in this division, a single master's permit is required for noncommercial solicitations, sales, or distributions for purposes of fundraising or generating profits by religious, non-profit, charitable, political, business, or educational organizations which have their principal place of activity within Hutchinson County, and may be issued at no charge.

SECTION 2.

That, all provisions of any ordinance in conflict with this Ordinance are hereby repealed; but, such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 3.

That, should any section, subsection, sentence, clause or phrase of this Ordinance

be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION 4.

That, this Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

INTRODUCED, on this the 5th day of March 2013, at a regular meeting of the City Council of the City of Borger, Texas, which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

PASSED, APPROVED, AND ADOPTED, on this the 19th day of March 2013, at a regular meeting of the City Council of the City of Borger, Texas, which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

Jeff Brain, Mayor

ATTEST:

Stella Sauls, City Secretary

APPROVED AS TO FORM:

/s/ Angelique S. Weaver
Angelique S. Weaver, City Attorney