

ORDINANCE 2015-15

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SEARCY, ARKANSAS; ADDING A SECTION TO BE CALLED 33-4; PROHIBITING CERTAIN DOOR-TO-DOOR SOLICITATIONS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

The City Council of the City of Searcy, Arkansas, makes the following findings of fact and enacts the following provisions:

WHEREAS, the Searcy City Council recognizes the need to maintain the citizens of Searcy secure in their homes and to maintain a tranquil place for rest and recreation, unmolested from persons seeking to gain access at times that were not requested by the homeowner; and

WHEREAS, the Searcy City Council recognizes that certain door to door solicitations are subject to rights of rescission pursuant to federal law and that the sale of these goods has been made in violation of this right of rescission; and

WHEREAS, the Searcy City Council wishes to permit the activities of not-for-profit, religious and political candidates engaging in protected speech consistent with a lively public discourse.

NOW, THEREFORE, the Searcy City Council adopts the following amendment to the Code of Ordinances:

Section 1. The Code of Ordinances of the City of Searcy, Arkansas, is hereby amended by adding a section to be numbered 33-4, which said section reads as follows:

“Sec. 33-4. Canvassers and Solicitors.

33-4-1.Purpose. The purpose of this Section is to regulate the activities of canvassers and solicitors and to promote the dependability and accountability of canvassers and solicitors. It is expressly the purpose of this Section to provide for and promote the health, safety and welfare of the public and not to create or designate any particular class of persons who will or should be specially protected by its terms.

33-4-2.Definitions.

33-4-2-1. “Canvasser” or “solicitor” means a person selling goods or services; or offering to sell goods or services to be delivered in the future; or obtaining information to be used by another in the sale or offer of sale of any goods or services; or requesting donations of money, goods or services;

and who pursues these activities in the following manner: (a) Traveling from door to door, street to street, or place to place; or (b). Temporarily hiring, leasing, or using any structure or lot, or portion thereof.

33-4-2-2. “Charitable organization” means an entity that solicits or collects contributions from the general public where the total contribution is used to support charitable activities.

33-4-2-3. “Nonprofit organization” means an entity registered as a nonprofit corporation under the laws of the State of Arkansas; or an entity exempt from federal income tax under Section 501(c) of the Federal Income Tax Code.

33-4-2-4 “Prior Relationship” mean a business or personal relationship that existed prior to the contact by any canvasser or solicitor at the residence of any resident in the City of Searcy.

33-4-2-5 “Principal of an organization engaged in canvassing or soliciting” means a person organizing, supervising, or managing canvassers or solicitors.

33-4-2-6 “Religious organization” means an entity duly organized and operating in good faith and entitled to receive a declaration of current tax exempt status for religious purposes from the United States government, and the duly organized branches or chapters of those organizations.

33-4-2-7 “Residence” means any structure used as a residence by one or more families for habitation and shall include, without limitation, detached single family dwellings, duplexes or other multiple family dwellings, and individual units of an apartment complex.

33-4-3. Exemptions. This Section shall not apply to:

33-4-3-1. Persons dealing only with merchants, businesses, or professional consumers.

33-4-3-2. Newspaper carriers, state licensed insurance and real estate agents, advertising sales persons calling on commercial enterprises, or any sale under court order.

33-4-3-3 Officers or members acting on behalf of nonprofit, charitable or religious, organizations, and who are unpaid for their services.

33-4-3-4 Candidates for elected government positions and their campaign workers.

33-4-3-5 Persons working for, or on behalf of, an organization campaigning for or against a referred measure to the electors of the City of Searcy or the State of Arkansas.

33-4-3-6 Persons under the age of 18, unless employed by another person or organization.

33-4-3-7 Persons with whom a prior relationship exists.

33-4-3-8 Any contact requested by the occupant of the residence.

33-4-4 Solicitations Prohibited.

33-4-4-1 It is unlawful for any person not subject to an exemption set forth in this Section to canvass or solicit any residence within the City of Searcy, Arkansas.

33-4-4-2 It is unlawful for any person to canvass or solicit any residence for any reason between the hours of 7:00 p.m., and 9:00 a.m., absent the consent or request of an occupant of the residence.

33-4-5 Penalty. Any person found guilty of violating the provisions of this Section shall be fined an amount not less than

one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00).”

Section 2. The provision of this ordinance are separable and, upon any finding that any provision of this ordinance is unenforceable, the remaining provision shall be enforceable according to their terms.

Section 3. All ordinances, resolution or other acts of the City in conflict with the terms hereof are repealed to the extent of any such conflict.

Emergency Clause. The Searcy City Council has determined that an emergency exists and that the immediate adoption and enforcement of this ordinance being necessary for the public peace, health, safety and welfare, the provisions hereof shall be in full force and effect from and after its passage.

Adopted this 17th day of April, 2015.

The City of Searcy, Arkansas

By: /s/ David Morris
Mayor

Attest:

/s/ Jerry Morris
Searcy City Clerk-Treasurer