

HEWITT TEXAS

CITY COUNCIL MEETING AGENDA

July 6, 2020

Regular Meeting – 7:00 PM

**Hewitt Public Safety Facility, 100 PATRIOT COURT
HEWITT, TX 76643**

MAYOR AND CITY COUNCIL

Charlie Turner – Mayor, Ward 1

Wilbert Wachtendorf – Mayor Pro Tem, Ward 1

Bill Fuller – Council Member, Ward 2

Vacant – Council Member, Ward 2

Steve Fortenberry – Council Member, Ward 3

Erica Bruce – Council Member, Ward 3

Michael S. Bancale – Council Member, At-Large

CITY STAFF

Bo Thomas, City Manager
Michael W. Dixon, City Attorney
Miles Whitney, City Engineer

Lydia Lopez, City Secretary	Jim Devlin, Police Chief
Lee Garcia, Finance Director	Lance Bracco, Fire Chief
Waynette Ditto, Library Director	Tracy Lankford, Community Dev. Director
Kevin Reinke, Utilities Director	Scott Coleman, General Services Director
Tuck Saunders, Assistant Police Chief	Jessica Higgins, HR Generalist

HEWITT TEXAS

NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Regular** meeting of the governing body of the City of Hewitt will be held on the **6th day of July, 2020, at 7:00 PM** in **Hewitt Public Safety Facility, Training Room, 100 Patriot Court**, Hewitt, Texas, at which time the following subjects will be discussed and upon which action may be taken:

In accordance with social distancing guidelines, the City Council meeting will not be open to the public. Some council members may attend, while others may call in to participate. The meeting will be streamed live on the City of Hewitt Facebook page.

There will be an opportunity for the public to submit written comments on items listed on the agenda or under the hear visitors. Complete a [Public Comment form](#) available online and submit via email to the City Secretary at citysecretary@cityofhewitt.com. Comments must be received no later than **noon** on the date of the meeting.

1. Call meeting to order.
2. Pledge of Allegiance to the U.S. Flag
3. Hear visitors on matters pertaining to city business. *Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda.*
4. Consider approval of minutes of the City Council Regular Meeting of June 15, 2020, and the Special Called Meeting of June 26, 2020.
5. Briefing and discussion concerning FY 2020-2021 Proposed Budget.
6. Consideration and action on member funding assessments for the Waco-McLennan County Public Health District.
7. Discussion and briefing concerning the Coronavirus (COVID-19) and any actions necessary thereto.
8. Consideration and action on **Ordinance No. 2020-12**; amending, replacing, updating and clarifying Chapter 50 – Peddlers and Solicitors, Article 1, of the Code of Ordinances of the City of Hewitt, TX.
9. Adjourn.

I, the undersigned authority, do hereby certify that the above notice of meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 3:30 AM/PM on July 1, 2020.

CITY OF HEWITT

Lydia Lopez

Lydia Lopez, TRMC/CMC
City Secretary

In compliance with the American with Disabilities Act, the City of Hewitt will provide reasonable accommodations for persons attending and/or participating in this Council Meeting. To better serve you, request must be made at least 24 hours prior to the meeting. Contact the City Secretary at 254.666.6171 or by fax at 254.666.6014. The building is wheelchair accessible, with handicap parking available at the front of the building.



AGENDA ITEM #3 – HEARING OF VISITORS

PROCEDURES FOR CITIZEN PARTICIPATION AT MEETINGS

Due to social distancing guidelines, the upcoming City Council Meeting on Monday, July 6, 2020, at 7:00 PM will be held streamed live on the City of Hewitt Facebook page.

In order to address the Council on any item including this hearing of visitors, you must complete and submit the [Public Comment Form](#) via email to the [City Secretary](#) or in person at Hewitt City Hall, 200 Patriot Court by **NOON** on the day of the meeting. Your comments will be read during the meeting at that time.

Council may not comment publicly on issues raised during citizen comments that are not listed on the Agenda but may direct the City Manager to resolve or request the matter to be placed on a future agenda. Such public comments shall not include any “deliberation” as defined by Chapter 551 of the Government Code, as now or hereafter amended.



COUNCIL AGENDA ITEM FORM

MEETING DATE: July 6, 2020

AGENDA ITEM #: 4

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider approval of minutes of the City Council Regular Meeting of June 15, 2020, and Special Called Meeting of June 26, 2020.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a draft copy of the meeting minutes. Please review and advise if any corrections are needed.

FISCAL IMPACT:

Amount Budgeted – N/A
Line Item in Budget – N/A

SUGGESTED MOTION:

I move approval of the minutes as presented but to allow for corrections.

ATTACHMENTS:

Draft minutes

HEWITT TEXAS

**MINUTES OF A CITY COUNCIL
REGULAR MEETING
HEWITT CITY HALL – 200 PATRIOT COURT
June 15, 2020 – 7:00 PM**

Attendee Name	Title	Absent	Present	Arrived
Charles D. Turner (presiding)	Mayor, Ward 1	☐	☒	
Wilbert “Walky” Wachtendorf	Mayor Pro Tem, Ward 1	☐	☒	
Bill Fuller	Council Member, Ward 2	☐	☒	
Vacancy	Council Member, Ward 2	☐	☐	
Michael S. Bancale	Council Member, At-Large	☐	☒	
Steve Fortenberry	Council Member, Ward 3	☐	☒	
Erica Bruce	Council Member, Ward 3	☐	☒	

Staff present:

City Manager Bo Thomas
City Secretary Lydia Lopez
Fire Chief Lance Bracco
Library Director Waynette Ditto
Police Chief Jim Devlin

In accordance with social distancing guidelines, the City Council meeting was not opened to the public; however, the meeting was live-streamed for view by the public on the city’s website at www.cityofhewitt.com.

- 1. CALL MEETING TO ORDER.** Mayor Charlie Turner called the meeting to order at 7:00 PM. City Secretary Lydia Lopez polled the Council for attendance.
ALL PRESENT: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner

NOTE: Mayor Charlie Turner announced that the next Council meeting to be held on July 6, 2020, would be held at the Hewitt Public Safety Facility due to early voting being conducted in the Council Chambers. The Council meeting would still be closed to the public but citizens could access the link to the live stream through the city’s website.

- 2. PLEDGE OF ALLEGIANCE TO THE U.S. FLAG.** Mayor Charlie Turner led the Pledge of Allegiance.
- 3. SPECIAL PRESENTATION OF LIFESAVING AWARD BY POLICE CHIEF JIM DEVLIN AND FIRE CHIEF LANCE BRACCO.** The Lifesaving Award was presented to the following for performing CPR and saving a life on a call for service: Firefighters Marco Lozano, Brad Lankford, Enrique Rocha, Acting Fire Captain Corey LeBourgeois, Officer Richard Neyens, and Sergeant Jason Naylor.

4. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS.** Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda. NOTE: The public was offered the opportunity to submit written comments on items listed on the agenda or under the hear visitors. **No public comment forms were submitted.**
5. **CONSIDER APPROVAL OF MINUTES OF THE CITY COUNCIL REGULAR MEETING OF JUNE 1, 2020.**
MOTION: Mayor Pro Tem Wilbert “Walky” Wachtendorf moved approval of the minutes as presented but allow for corrections.
SECOND: Council Member Bill Fuller
AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner
NAYES: None
ABSENT: None
MOTION PASSED.
6. **PRESENTATION OF REPORT FROM CITY ENGINEER MILES WHITNEY, P.E.**
 - Update on pending utility projects
 - Update on pending street projects
 - Update on pending drainage projects
7. **CONSIDER REAPPOINTMENTS TO THE PLANNING & ZONING COMMISSION.**
MOTION: Council Member Steve Fortenberry moved to approve the reappointment of Planning & Zoning Commission members Bobby Drake, Michael Lee Hix, and John Baker for a three-year term ending in June 2023.
SECOND: Council Member Bill Fuller
AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner
NAYES: None
ABSENT: None
MOTION PASSED.
8. **BRIEFING AND DISCUSSION OF PRELIMINARY WORKSHEET FOR PROPERTY TAX RATE CALCULATIONS.** City Manager Bo Thomas presented a summary of the new preliminary worksheet for property tax calculations. No action required.
9. **BRIEFING AND DISCUSSION CONCERNING FINANCIAL STATEMENTS ENDING MAY 31, 2020.** City Manager Bo Thomas advised that Finance Director Lee Garcia previously sent the May Financial Statements and asked if Council had any questions. No questions were asked.
10. **BRIEFING AND DISCUSSION CONCERNING CITY OF HEWITT CODE OF ORDINANCES CHAPTER 50 – PEDDLERS AND SOLICITORS.**

representing Aptive Environmental, LLC, regarding the unconstitutionality of the solicitation ban in the City's code regulating peddlers and solicitors. City Attorney Mike Dixon recommended Council direct staff to advise the law firm that the City would not be enforcing this prohibition at this time. Staff to bring back the ordinance for discussion with the appropriate amendments. **No action was required.**

11. **CONSIDER AWARD OF BID FOR SLURRY SEAL AND CRACK SEALING SERVICES TO VIKING CONSTRUCTION, INC., IN AN AMOUNT OF \$225,050.40.** City Manager Bo Thomas presented a summary of the bids submitted and recommended that the bid be awarded to the low bidder.

MOTION: Council Member Steve Fortenberry moved to award the bid for slurry and crack sealing services to Viking Construction, Inc. in the amount of \$225,050.40.

SECOND: Mayor Pro Tem Wilbert "Walky" Wachtendorf

AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner

NAYES: None

ABSENT: None

MOTION PASSED.

12. **AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH LEWIS CONCRETE RESTORATION FOR RESTORING AND COATING OF SANITARY SEWER MANHOLES IN AN AMOUNT NOT TO EXCEED \$45,000.00.** City Manager presented proposals and recommended awarding to Lewis Concrete Restoration.

MOTION: Mayor Pro Tem Wilbert "Walky" Wachtendorf moved to authorize the City Manager to negotiate and execute an agreement with Lewis Concrete Restoration for restoring and coating of sanitary sewer manholes in an amount not to exceed \$45,000.

SECOND: Council Member Michael Bancale

AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner

NAYES: None

ABSENT: None

MOTION PASSED.

13. **CONSIDERATION AND ACTION ON ADOPTION OF AN INTERLOCAL AGREEMENT WITH MCLENNAN COUNTY FOR PURPOSES OF READJUSTING MAINTENANCE RESPONSIBILITIES FOR PORTIONS OF EAST PANTHER WAY AND RITCHIE ROAD.** City Manager Bo Thomas presented.

MOTION: Council Member Steve Fortenberry moved to authorize the City Manager to execute the Interlocal Cooperation agreement between McLennan County and the City of Hewitt to readjust the maintenance responsibilities of East Panther Way and Ritchie Road.

SECOND: Council Member Michael Bancale

AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner

NAYES: None

ABSENT: None

MOTION PASSED.

14. **DISCUSSION AND BRIEFING CONCERNING THE CORONAVIRUS (COVID-19) AND ANY ACTIONS NECESSARY THERETO.** City Manager Bo Thomas presented a brief update and advised that no action was needed currently. **No action taken.**
15. **CONSIDERATION AND ACTION ON RESOLUTION NO. 2020-06; GRANTING A SALARY ADJUSTMENT TO THE CITY MANAGER AND APPROVING AN ADDENDUM TO THE CITY MANAGER’S AGREEMENT TO REFLECT THE SALARY ADJUSTMENT.** Mayor Charlie Turner presented this agenda item and stated that Mr. Thomas has done an excellent job and since his hire date, he had not received a pay raise or cost of living adjustment. Council Member Michael Bancale stated that Mr. Thomas continues to do a wonderful job with handling the COVID-19 crisis; bringing forth economic development tools to stimulate business growth in Hewitt, most recently, Atwoods; and for his leadership in utilizing PEG funds for streaming Council meetings at no cost to the citizens. Council Member Steve Fortenberry commended Mr. Thomas for dealing with difficult issues at the beginning of his employment and thanked the Mayor for bringing this item forward.
MOTION: Mayor Pro Tem Wilbert “Walky” Wachtendorf moved approval of Resolution No. 2020-06 granting a salary adjustment to the City Manager and approving the addendum to the City Manager’s agreement.
SECOND: Council Member Bill Fuller
AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner
NAYES: None
ABSENT: None
MOTION PASSED.

NOTE: Mayor Charlie Turner announced that the next Council meeting to be held on July 6, 2020, would be held at the Hewitt Public Safety Facility due to early voting being conducted in the Council Chambers. The Council meeting would still be closed to the public but citizens could access the link to the live stream through the city’s website.

16. **ADJOURN.**
MOTION: Council Member Bill Fuller moved to adjourn the Regular meeting at 7:57 PM.
SECOND: Council Member Steve Fortenberry
AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner
NAYES: None
ABSENT: None
MOTION PASSED.

Approved: _____

ATTEST:

HEWITT TEXAS

**MINUTES OF A CITY COUNCIL
SPECIAL CALLED MEETING
HEWITT CITY HALL – 200 PATRIOT COURT
June 26, 2020 – 6:30 PM**

Attendee Name	Title	Absent	Present	Arrived
Charles D. Turner (presiding)	Mayor, Ward 1	☐	☒	
Wilbert “Walky” Wachtendorf	Mayor Pro Tem, Ward 1	☒	☐	
Bill Fuller	Council Member, Ward 2	☐	☒	
Vacancy	Council Member, Ward 2	☐	☐	
Michael S. Bancale	Council Member, At-Large	☐	☒ *	
Steve Fortenberry	Council Member, Ward 3	☐	☒	
Erica Bruce	Council Member, Ward 3	☐	☒	

* Council Member Michael S. Bancale participated in the meeting via teleconference

Staff present:

City Manager Bo Thomas
City Secretary Lydia Lopez
Library Director Waynette Ditto
Police Chief Jim Devlin

In accordance with social distancing guidelines, the City Council meeting was not opened to the public; however, the meeting was live-streamed for view by the public on the city’s website at www.cityofhewitt.com.

- 1. CALL MEETING TO ORDER.** Mayor Charlie Turner called the meeting to order at 6:30 PM. City Secretary Lydia Lopez polled the Council for attendance.
ALL PRESENT: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner
- 2. CONSIDER ADOPTION, AMENDMENT, AND/OR EXTENSION OF AN ORDER ISSUED BY MAYOR CHARLES D. TURNER DATED JUNE 20, 2020.** City Manager Bo Thomas explained that the amended Order (more commonly known as the face covering/mask order) being considered would extend the current order dated June 20, 2020, through July 7, 2020.
MOTION: Council Member Steve Fortenberry moved to extend the current order for 11 days until the next Council meeting.
SECOND: Council Member Bill Fuller
AYES: Fuller, Bancale, Fortenberry, Bruce, and Turner
NAYES: None
ABSENT: Wachtendorf
MOTION PASSED.

3. ADJOURN.

MOTION: Council Member Bill Fuller moved to adjourn the Regular meeting at 6:35 PM.

SECOND: Council Member Erica Bruce

AYES: Fuller, Bancale, Wachtendorf, Fortenberry, Bruce, and Turner

NAYES: None

ABSENT: None

MOTION PASSED.

Approved: _____

ATTEST:

Lydia Lopez, City Secretary

Charles D. Turner, Mayor

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: July 6, 2020

AGENDA ITEM #: 5

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Briefing and discussion concerning FY 2020-2021 Proposed Budget.

STAFF RECOMMENDATION/ITEM SUMMARY:

The FY '20-'21 Proposed Budget copies were delivered last week. **Please bring your copy to the meeting.**

FISCAL IMPACT:

Amount Budgeted – \$0

Line Item in Budget – FY '20-'21 budget.

SUGGESTED MOTION:

No action needed

ATTACHMENTS:

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: July 6, 2020

AGENDA ITEM #: 6

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consideration and action on member funding assessments for the Waco-McLennan County Public Health District.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt along with McLennan County, the City of Waco, and 18 other local municipalities jointly participate and fund the Waco-McLennan County Public Health District. The District provides a multitude of services specifically related to improving the overall health and wellness of McLennan County residents. Most residents are aware of the health inspections and permits for food establishments and restaurants. Many residents, however, are not aware of the Epidemiological Services, Public Health Nursing Services, immunizations, and HIV/STD services rendered annually to Hewitt residents.

The cooperative agreement was amended and approved by Council on June 4, 2018. This amended agreement included annual gradual increases in funding per member cities. The current contribution of \$2.10 per person will increase to \$2.40 per person. The funding assessments are based Hewitt's population which is estimated at 14,253. This translates to \$34,207.20 for the current Fiscal Budget Year 2020-2021. This amount is included in the proposed budget. The attached Funding Choice Form needs to be completed by August 14, 2020.

FISCAL IMPACT:

Amount Budgeted – \$35,552.00
Line Item in Budget – 10-50409-61-00

SUGGESTED MOTION:

I move to funding assessments for the Waco McLennan County Public Health District for FY 2020-2021.

ATTACHMENTS:

Funding Letter from Health District

City of Bellmead

June 15, 2020

City of Beverly Hills

Mayor Charles Turner

City of Bruceville-Eddy

City of Hewitt

City of Crawford

200 Patriot Court

Hewitt, TX 76643

City of Gholson

Dear Mayor Turner:

City of Golinda

The Waco-McLennan County Public Health District (Health District) is the entity created by the Waco-McLennan County Public Health District Cooperative Agreement, executed by McLennan County and municipalities located in McLennan County to perform public health functions. The Health District performs public health functions through the provision of child/adult immunizations, epidemiology and communicable disease investigations and treatment, health education, public health emergency preparedness and other services.

City of Hallsburg

City of Hewitt

Health District staff endeavors to provide high quality preventive health services in order that McLennan County residents have an opportunity to live in a community where all people can live, work, play and thrive. While continuing to play a vital role in the education and support of healthier lifestyle choices for citizens, we are advancing Public Health 3.0. with the lens of health equity through: 1) Bridging the gap between public health and primary care, 2) Building a culture of health both internally & community-wide, and 3) Being a voice to champion health equity. This will be accomplished through the provision of public health services and partner collaborations being under girded by four key strategic priorities: 1) Effective Communication, 2) Meaningful Engagement, 3) Strong Leadership and 4) Intentional Synergy.

City of Lacy-Lakeview

City of Leroy

City of Lorena

City of Mart

City of McGregor

City of Moody

City of Riesel

City of Robinson

City of Ross

City of Waco

City of West

City of Woodway

McLennan County

Section 7.4 of the current Cooperative Agreement states that no later than May 1st of each year, the Director shall send to the Board and the governing body of each Member, a copy of the proposed budget and notice of the proposed contribution by each Government Member, based on the contribution formula outlined under subsection 7.5. Section 7.5.1 of the Cooperative Agreement, which was amended and approved for Fiscal Year 18-19, states that contributions for persons residing within Government Member cities shall begin at One Dollar and Eighty Cents (\$1.80) per person for persons residing within the corporate limits of the Member city. Each year, this pro capita contribution will increase by thirty cents (\$0.30), so that during the fifth year of this five-year agreement (or between October 1, 2022 and September 30, 2023), each Government Member city will contribute Three Dollars (\$3.00) per person residing within the corporate limits of the Member city.

Fiscal Year 20-21 will be year 3, of the tiered funding contribution level. The current contribution of \$2.10 per person will increase to \$2.40 per person. If the City of Hewitt chooses to participate as a Funding Member, the annual contribution will be \$34,207.20 based on a population of 14,253 at \$2.40 per person. The funding assessment is based on the latest population figures available from the 2017 Estimates at Census.gov. Please complete the Funding Choice Form and return to April Snyder at the address on this letterhead by August 14, 2020. You may also email the completed form to Aprils@wacotx.gov or fax it to 254-750-5452. The proposed budget will be provided later.

I am appreciative of your support for preventive health services as a proven, cost effective means to improve the health status for our citizens. I would be happy to visit with you or any of the council members to discuss any questions or concerns you may have prior to July 31, 2020.

Sincerely,

A handwritten signature in black ink that reads "Brenda C. Gray". The signature is fluid and cursive, with the first name "Brenda" being more prominent than the last name "Gray".

Brenda C. Gray, PhD, MPH
Director of Public Health

cc: Lydia Lopez, City Secretary, City of Hewitt
Bo Thomas, City Manager, City of Hewitt



City of Bellmead

City of Beverly Hills

City of Bruceville-
Eddy

City of Crawford

City of Gholson

City of Golinda

City of Hallsburg

City of Hewitt

City of Lacy-
Lakeview

City of Leroy

City of Lorena

City of Mart

City of McGregor

City of Moody

City of Riesel

City of Robinson

City of Ross

City of Waco

City of West

City of Woodway

McLennan County

FUNDING FOR FY 2020-2021

City of Hewitt with a population of 14,253

Is interested in being a:

___ Non-Funding Member

___ Funding Member

___ at \$2.40 per person

Signed by: _____ Date: _____

Print Name & Title: _____

Please return to the Health District by either fax
(254)750-5452 or by mail to:

Brenda C. Gray, Director
Waco-McLennan County Public Health District
225 W. Waco Drive
Waco, TX 76707



COUNCIL AGENDA ITEM FORM

MEETING DATE: July 6, 2020

AGENDA ITEM #: 7

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Discussion and briefing concerning the Coronavirus (COVID-19) and any actions necessary thereto.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is an order extending the previous order dated June 26, 2020, by the Council on the Coronavirus (COVID-19). This Order extends the order requiring commercial entities to create health and safety policies, including the wearing of face coverings through July 28, 2020.

FISCAL IMPACT:

Amount Budgeted – NA
Line Item in Budget – NA

SUGGESTED MOTION:

I move to approve the Order dated July 7, 2020.

ATTACHMENTS:

Order dated July 7, 2020

ORDER OF THE CITY COUNCIL, OF THE CITY OF HEWITT, TEXAS
DATE ORDER ISSUED: July 7, 2020

WHEREAS, in December 2019, a novel coronavirus, now designated Coronavirus disease 2019 (COVID-19), was detected in Wuhan City, Hubei Province, China; and

WHEREAS, on March 13, 2020, Governor Greg Abbott declared a state of disaster due to COVID-19; and

WHEREAS, on March 18, 2020, Mayor Charles D. Turner, of the City of Hewitt, TX declared a local state of disaster and public health emergency after determining that extraordinary and immediate measures had to be taken to respond quickly to prevent and slow down community spread of COVID-19; and

WHEREAS, on June 3, 2020, Governor Abbott issued GA-26 to allow additional openings in the state of Texas; and

WHEREAS, on June 30, 2020, there are 159,986 persons confirmed to have COVID-19 in Texas, with 957 of those residing in McLennan County; with nine deaths in McLennan County; and

WHEREAS, this Order is issued based on evidence of increasing occurrence of COVID-19 within the City and throughout the Central Texas area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the City places it at risk for serious health complications, including death, from COVID-19; and

WHEREAS, on June 20, 2020 the Mayor issued an order requiring commercial entities to create health and safety policies, including the wearing of face coverings; and

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease; and the City Council of the City of Hewitt, Texas has adopted the McLennan County Commissioners Court declaration of a state of disaster which has been extended through July 28, 2020; and

NOW, THEREFORE, BE IT PROCLAIMED AND ORDERED BY THE CITY COUNCIL, OF THE CITY OF HEWITT, TEXAS, UNDER THE AUTHORITY OF TEXAS GOVERNMENT CODE SECTION 418.108:

1. A state of disaster and public health emergency is hereby declared for and in the City of Hewitt, Texas in accordance with McLennan County's Order that extends the state of disaster and public health emergency through July 28, 2020.

2. That pursuant to §418.108(b) of the Texas Government Code, this Order shall continue for a period of not more than fourteen days from July 7, 2020, unless continued or renewed by the City Council of the City of Hewitt.

3. **Health and Safety Policy – Commercial Entities.**

- a. From the date of this Order, every commercial entity in the City of Hewitt providing goods or services directly to the public must develop and implement a health and safety policy (**“Health and Safety Policy”**).
- b. The Health and Safety Policy must require, at a minimum, that every employee or visitor to the commercial entity’s business premises or other facilities wear face covering when in an undivided room or area with coworkers or the public or while performing an activity which necessarily involves or is reasonably likely to involve close proximity to coworkers or the public such that six feet of separation is not feasible.
- c. The Health and Safety Policy required to be developed and implemented by the Order may also include the implementation of other mitigating measures designed to control and reduce the transmission of COVID-19 such as temperature checks or health screenings.
- d. The commercial entity must post the Health and Safety Policy required by this Order in a conspicuous location sufficient to provide notice to employees and visitors of its Health and Safety Policy.
- e. Failure to develop, conspicuously place, and implement the Health and Safety Policy required by this Order on or before 12:01 a.m. on June 25, 2020 may result in a fine not to exceed \$1,000.00. Each day on or after June 25, 2020 for which a Health and Safety Policy is not developed, conspicuously placed, and implemented shall be a separate offense.
- f. It is a defense to prosecution that the commercial entity operated a restaurant or bar and did not require a patron to wear a face covering while eating or drinking when the patron was at least six feet away from persons not in his or her party.

“Commercial entity” as used herein does not include: outdoor operations where social distancing is generally followed; offices of other governmental entities; churches; or health providers that already have policies in place that have been medically vetted.

“Face Covering” as used herein means a cloth or paper mask, or a bandana or scarf, that covers the mouth and nose and fits tightly to the face (and does not merely hang over the mouth and nose).

Consistent with Executive Order GA-26 issued by Governor Greg Abbott, no civil or criminal penalty will be imposed on individuals for failure to wear a face covering.

4. That all provisions of this Order should be interpreted to effectuate this intent. To the greatest extent possible, this Order shall be interpreted as consistent with and supplemental to any executive order issued by the Texas Governor. All provisions of the executive orders of the Texas Governor either existing or subsequently issued, and which are made applicable to all jurisdictions by law, shall be automatically incorporated into and constitute terms of this Order, and shall be enforceable as if set forth herein without the necessity for the issuance of any further orders.
5. In accordance with the limitations contained in the executive orders of the Texas Governor, that any peace officer, code enforcement officer, health official, or other person with lawful authority is hereby authorized to enforce the provisions of this Order in accordance with the authority granted under the Texas Disaster Act of 1975.
6. That this Order shall become effective at 12:01 a.m. on June 27, 2020.
7. That failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
8. That any violation of this Order can be enjoined by a suit filed in the name of the City of Hewitt in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Order or in the Code of Ordinances, City of Hewitt, Texas.
9. That nothing in this Order shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any prior act, ordinance, order, declaration, or resolution of the City Council of the City of Hewitt; nor shall any legal right or remedy of any character be lost, impaired, or affected by this Order.
10. That the City of Hewitt must promptly provide copies of this Order by posting it on the City of Hewitt website.
11. That if any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or application of this Order.

ORDERED this the 7th day of July, 2020

Charles D. Turner, Mayor

Attest:

Lydia Lopez, City Secretary

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: July 6, 2020

AGENDA ITEM #: 8

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Consideration and action on **Ordinance No. 2020-12**; amending, replacing, updating and clarifying Chapter 50 – Peddlers and Solicitors, Article 1, of the Code of Ordinances of the City of Hewitt, TX.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City Attorney was placed on notice by the law firm of Lynn, Pinker, Hurst and Schwegmann that Hewitt's Ordinance covering Commercial door to door solicitation was an alleged violation of the First and Fourteenth Amendments of the United States Constitution. After reviewing the Ordinance, the City Attorney recommends the changes to the Ordinance to meet legal compliance with the Constitution.

The amendments to the Ordinance establish a procedure for application, required information for permit, criminal background check and an appeals process.

FISCAL IMPACT:

Amount Budgeted – \$0
Line Item in Budget – FY '20-'21 budget.

SUGGESTED MOTION:

I move to approve Ordinance No. 2020-12; amending, replacing, updating, and clarifying Chapter 50 – Peddlers and Solicitors.

ATTACHMENTS:

Ordinance

ORDINANCE NO. 2020-12

AN ORDINANCE OF THE CITY OF HEWITT, TEXAS AMENDING BY REPLACING AND REPEALING IN ITS ENTIRETY CHAPTER 50 OF THE CODE OF ORDINANCES OF THE CITY OF HEWITT, TEXAS "PEDDLERS AND SOLICITORS;" ESTABLISHING A PERMIT REQUIREMENT AND AN APPLICATION PROCESS; ESTABLISHING FEES; ESTABLISHING IDENTIFICATION CARD REQUIREMENT; ESTABLISHING REGULATIONS FOR COMMERCIAL AND/OR NON-COMMERCIAL SOLICITATION WITHIN THE CITY OF HEWITT AND MAKING CERTAIN PRACTICES OR CONDUCT OF SOLICITATION A VIOLATION; PROVIDING FOR AN EXEMPTION; PROVIDING FOR DENIAL OR REVOCATION OF A PERMIT; PROVIDING FOR AN APPEAL; PROVIDING FOR A VIOLATION OF THE REGULATIONS TO BE AN OFFENSE PUNISHABLE BY A FINE NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS; MAKING EACH VIOLATION OR EACH DAY OF A CONTINUING VIOLATION A SEPARATE OFFENSE; ESTABLISHING AN EFFECTIVE DATE; ADOPTING A SEVERABILITY CLAUSE; AND DIRECTING THE CITY SECRETARY TO PUBLISH THE CAPTION OF THIS ORDINANCE IN THE CITY'S OFFICIAL PUBLIC NEWSPAPER

WHEREAS, the current Chapter 50 of the City of Hewitt Code of Ordinances completely bars commercial solicitation within the City of Hewitt; and

WHEREAS, such an absolute bar has been held to be unconstitutional; and

WHEREAS, the remainder of the Chapter is due for updating; and

WHEREAS, the Hewitt City Council finds that it is in the best interest of the citizens of the City of Hewitt to create enforceable, detailed and clear regulations regarding solicitation within the City of Hewitt, Texas.

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

1. The foregoing recitals are adopted and made findings of fact.

2. Chapter 50 of the Code of Ordinances of the City of Hewitt, Texas "PEDDLERS AND SOLICITORS" is hereby amended by replacement and is repealed in full, including each Article, Division or Section thereof, and a new Chapter 50 of the Code of Ordinances of the City of Hewitt, Texas is ADOPTED which reads as follows:

Chapter 50 - PEDDLERS AND SOLICITORS

ARTICLE 1. - SOLICITORS

Sec. 50-1. - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings ascribed by this section:

Applicant means the person that applies for an identification card;

Master Permit means a permit issued to a person who will be soliciting in the City through employees, contractors, agents, or volunteers. This grants the employees, contractors, agents, or volunteers no individual permit or right to solicit; rather, their permission to solicit is completely dependent on the Master Permit and ends on the expiration or revocation of the Master Permit.

Commercial solicitation means for-profit solicitation that is for private gain as opposed to being for charitable, philanthropic, fraternal, civic, political, educational, religious or benevolent purposes;

City means the City of Hewitt, Texas;

Disqualifying Offense means-

- criminal homicide (Chapter 19 Texas Penal Code)
- kidnapping (Chapter 20 Texas Penal Code)
- a sexual offense (Chapter 21 Texas Penal Code)
- an assault offense (Chapter 22 Texas Penal Code)
- Robbery (Chapter 29 Texas Penal Code)
- Burglary (Chapter 20 Texas Penal Code)
- Theft (Chapter 31 Texas Penal Code) committed against a person with whom the applicant came in contact while engaged in a home solicitation business
- Fraud (Chapter 32 Texas Penal Code) committed against a person with whom the applicant came in contact while engaged in a home solicitation business
- Weapons violations (Chapter 46 Texas Penal Code) punishable as a felony
- Criminal Attempt to commit any of the offenses listed above

Identification Card are cards issued by the City identifying the Applicant and/or the solicitor's contractors, agents, employees, and volunteers which represents that they are allowed to solicit within the City;

Individual Permit means a permit issued to an Applicant who is the sole person proposing to solicit within the City;

Non-commercial solicitation means not-for-profit solicitation that is for charitable, philanthropic, fraternal, civic, political, educational, religious or benevolent purposes;

Permit means either a Master Permit or Individual Permit unless otherwise stated.

Permitee means the person issued the Master or Individual Permit by the City.

Person means any individual, corporation, business trust, estate trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity;

Public property or public place means any property open or devoted to public use or owned by the city and any area dedicated to the public use for sidewalk, street, highway, or other transportation purposes including any curb, median parkway, shoulder, sidewalk, alley, drive, or public right-of-way;

Private premises means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes whether occupied or vacant and shall include any yard, grounds, walls, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling; house, building, or other structure;

Roadway means the paved portion of a public street;

Solicitation or soliciting means the act of asking, bartering, or communicating in any other such manner, whether orally, in writing, hand signing, or any other method, either directly or by implication, for the purpose of receiving or obtaining money, alms, gifts, or items of value, or taking orders for any goods, merchandise, or services, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money, goods, or services actually takes place.

Sec. 50-2. Permit required to engage in solicitation.

(a) It shall be unlawful for any Person to engage in Solicitation within the City without a valid, unexpired Permit issued by the City, whether an Individual Permit or Master Permit as applicable;

(b) It shall be unlawful for any person operating as an employee, contractor, agent, or volunteer of another person to engage in Solicitation within the City without the person for whom they are soliciting having a valid, unexpired Master Permit issued by the City.

Sect. 50-3. Identification Card Required for Commercial Solicitors or Non-Commercial Solicitors who are paid to Solicit.

Every Person engaging in Commercial Solicitation, or in Non-Commercial Solicitation where the solicitors are paid to solicit, within the City must have a City-issued Identification Card. It shall be unlawful for any person required to have an Identification Card to solicit without visibly displaying the City-issued identification card. It shall be unlawful for a person to represent, in connection with a solicitation, that the issuance of the identification card by the city constitutes an endorsement or approval of the purposes, means, methods, services, or merchandise by the city or any of its officers or employees.

Once a Master Permit is granted each person covered by the Master Permit will be issued an Identification Card as set forth below. Each person to receive an Identification Card under a granted Permit must come to the police department to be photographed and have their Identification Card made; a picture identification must be provided to verify the person being photographed is the person to whom the Identification Card is being issued. A fee of \$5.00 per Identification Card shall be added to the total Permit Fee.

Sec. 50-4. - Application for Permit—Commercial solicitation.

(a) A person seeking a Permit for the purpose of conducting commercial solicitation shall file an application with the chief of police on the application form provided by the chief of police. Such application shall contain at a minimum the following information:

- (1) The full name and address of the Applicant.
- (2) Whether the person applying is a natural person, partnership, corporation, or association and:
 - a. The business or residence address, telephone number, and e-mail address and facsimile number, if applicable, of the Applicant;
 - b. If a partnership, the name of all partners and the principal business address, telephone number, and e-mail address and facsimile number, if applicable, of each partner;
 - c. If a corporation or any other entity required to be registered with the Texas Secretary of State, the person applying shall state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, address of the registered agent, business location, telephone number, name of the individual in charge of such corporation and the individual's e-mail address and facsimile number, if applicable, and, if a foreign corporation, the place of incorporation; and
 - d. If an association, the application shall show the association's principal business address and telephone number and shall show names and principal business or residence addresses, telephone numbers, and e-mail addresses and facsimile numbers of the officers and directors or trustees of the association. If the association is a part of a multi-state organization or association, the applicant also shall include the mailing address and business location of its central office, in addition to the mailing address and business location of its local office.
- (3) The full name, mailing and physical address, telephone number, and e-mail address and date of birth of all individuals who will be in direct charge or control of the solicitation, including an individual Applicant [plus other identifiers required for a criminal history check to be conducted].
- (4) The full name, mailing and physical address, telephone number, and e-mail address and date of birth of each individual who will be soliciting for the Applicant under a Master Permit [plus other identifiers required for a criminal history check to be conducted].
- (5) The application must contain a certification by the Applicant that the Applicant and the Applicant's solicitors have not been convicted of any Disqualifying Offense.

- (6) The time period within which the solicitation is to be conducted, giving the date of the beginning of solicitation and its projected conclusion, how often the applicant expects to engage in solicitation during the specified time period, and during what times of day that the applicant will engage in solicitation;
 - (7) A description of the methods and means by which the solicitation is to be accomplished;
 - (8) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished;
 - (9) Whether such Applicant, upon any such order so obtained, will demand, accept, or receive payment or deposit of money in advance of final delivery; and
 - (10) Identification of any other cities where Applicant has solicited during the 12 months prior to the application.
- (b) The Applicant shall not provide a post office box as its address on the application for a permit.
 - (c) The application must be signed by the Applicant, if the person applying is an individual; if the person applying is a partnership, by a partner; if the person applying is a corporation or an association, by its authorized representative. The individual signing the application shall sign the application and swear before an officer authorized to administer oaths that he has carefully read the application and that all the information contained therein is true and correct.
 - (d) Information provided by Applicant is subject to verification by the police department. By submitting the Application, the Applicant and any solicitors covered by its Permit consent to the City's Police Department conducting a criminal background check.
 - (e) Such application shall also show satisfactory written proof of the signatory's authority to represent the company.
 - (f) The application must be accompanied by a copy of a valid state sales tax certificate, if applicable.
 - (g) A nonrefundable fee of \$30.00, per Application is due and is to be paid. For an individual Applicant an additional fee of \$25.00 is to be paid to cover the cost of a Texas Department of Public Safety criminal history check. For an Applicant for a Master Permit an additional fee of \$25.00 for each individual listed on the application who shall be engaging in solicitation for the Applicant is to be paid to cover the cost of a Texas Department of Public Safety criminal history check (whether paid by the Master Permit Applicant or individual solicitors—there is only one Permit). No Permit provided for by this chapter shall be issued until such fees have been paid. Individuals who file a verified statement indicating their indigent status (with supporting information) which is found true by the finance director are exempt from paying this fee.
 - (h) No person who is required to register as a sex offender or has been convicted of a Disqualifying Offense may solicit in the City and no Permit of Identification Card shall issue to such a person.
 - (i) If a vehicle is to be used in the Solicitation, the year, make, model and color of the vehicle, along with its license plate number and proof of current registration and required liability insurance.

Sec. 50-5. - Application for Permit—Non-commercial solicitation.

- (a) A person seeking a Permit for the purpose of conducting non-commercial solicitation shall file an application with the chief of police on the application form provided by the chief of police. Such application shall contain at a minimum the following information:
 - (1) The name, address, telephone number, and contact person for the soliciting organization;
 - (2) Information showing the not-for-profit nature of the soliciting organization and its charitable, philanthropic, fraternal, civic, political, educational, religious or benevolent purpose;
 - (3) The time period within which the solicitation is to be conducted, giving the date of the beginning of solicitation and its projected conclusion, how often the applicant expects to engage in

solicitation during the specified time period, and during what times of day that the applicant will engage in solicitation;

- (4) A description of the methods and means by which the solicitation is to be accomplished;
 - (5) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished;
 - (6) Whether such applicant, upon any such order so obtained, will demand, accept, or receive payment or deposit of money in advance of final delivery;
 - (7) A statement that the Applicant has verified that none of the persons to be involved in Solicitation are required to register as a sex offender or a conviction for a Disqualifying Offense.
 - (8) If the solicitors *are paid* to solicit, the Permit fee shall include an additional \$25.00 for each solicitor to cover the cost of Texas Department of Public Safety criminal history checks will be added to the Application Fee and must be paid.
 - (9) No person who is required to register as a sex offender or who has been convicted of a Disqualifying Offense may solicit within the City, and no Permit or Identification Card shall be issued to such persons.
- (b) An application fee of \$25 is required for a permit for non-commercial solicitation. If the solicitation is for a school or youth organization no application fee will be due. If solicitors are paid to solicit, they must have an Identification Card as set forth in Section 50-3 above and the \$5.00 per Identification Card fee must be paid. In addition, if solicitors are paid to solicit, the additional \$25 fee per solicitor set forth in Section 50-5 (a)(8) above must be paid.
- (c) Non-Commercial Solicitors are subject to the same restrictions on the conduct of solicitations as Commercial Solicitors.

Sec. 50-6. - Exemption from Permit requirement.

A solicitor that is not offering goods or services or soliciting donations, but, rather is merely distributing information, conducting a poll, enlisting support for a measure or candidate, informing or inquiring about religious or political views, or similar activities is not required to obtain a Permit.

Sec. 50-7. - Issuance, duration, and form of Permit and Identification Cards.

- (a) A Permit applied for under this chapter shall be issued or denied by the chief of police after review of the application to determine compliance with this chapter, payment of the required fee, and within Ten (10) business days of receipt of the application. If the chief of police does not deny the issuance of the Permit within ten (10) business days of receipt of the application, the Permit shall be issued.
- (b) The Permit shall reflect the time period for which the solicitation has been permitted. The Permit expires at the end of that time period.
- (c) The duration of a Permit requested under this chapter for the purpose of private premises solicitation shall not to exceed one calendar year from the date of issuance.
- (d) The chief of police shall prescribe the form of the Permit and Identification Cards.

Sec. 50-8. - Transfer of Permit or Identification Card prohibited.

A Permit or Identification Card shall not be transferred or assigned to another person. Any attempt to transfer or assign a Permit or Identification Card is a cause for revocation.

Sec. 50-9. - Denial or revocation of Permit.

- (a) A Permit issued under this chapter may be revoked and the person who had the Permit may be prohibited from reapplying for the period covered by the original application, or an application for a Permit may be denied, when it has been determined that:
 - (1) An Applicant has knowingly given false or misleading information on an application;
 - (2) An Applicant (or a contractor, employee, agent or volunteer thereof) has a disqualifying criminal history;
 - (3) An Applicant has had three (3) or more final convictions for violation of city regulations in cities that it has operated in during the previous 12 months;
 - (4) An Applicant has been the subject of a fraud or deceptive business practices alert by any state office or agency during the previous 12 months;
 - (5) An Applicant has had solicitation permits revoked in two (2) or more cities during the previous 12 months and those revocations have not been reversed or are not the subject of a pending lawsuit as to the propriety of the revocation;
 - (6) An Applicant (or a contractor, agent, employee, or volunteer thereof) has been convicted of theft or fraud or a violation of any city, state, or federal law, in connection with solicitation within the City;
 - (7) An Applicant ((or a contractor, agent, employee, or volunteer thereof) has made or caused to be made, materially false statements or misrepresentations to members of the public with regard to the solicitation;
 - (8) An applicant (or a contractor, agent, employee, or volunteer thereof) violates any part of any of the provisions of this chapter, including but not limited to the requirement of no solicitation at residences where "no solicitation" signs or placards are present.
- (b) If the chief of police denies an application for a Permit, he shall notify the Applicant in writing within Ten (10) business days of receipt of the application of the denial and the basis of the denial.
- (c) Prior to revoking a Permit, the chief of police shall deliver written notice of the possible revocation, the basis of the revocation, and a statement that the Permittee has five (5) business days after delivery to comply with the notice to prevent revocation (but only if the matter can be cured) or to submit a rebuttal.
- (d) If the chief of police revokes the Permit, the chief of police shall send written notice of revocation to the Permittee within ten (10) business days which sets forth the basis of the revocation, and a statement informing the Permittee of the right to appeal a revocation.
- (e) If the chief of police denies the issuance of a Permit or revokes a Permit, the action is final unless the Applicant or Permittee files a written appeal to the city manager within 10 business days of delivery of the notice of revocation or denial. Failure to file an appeal in accordance with this section is a waiver of appeal, and the chief of police's decision shall be final.
- (f) After receipt of notice of revocation, the Permittee shall, on or before the date specified in the notice, discontinue engaging in solicitation in the City and surrender the Permit and any Identification Cards to the chief of police. If the revocation has been appealed, the revocation is stayed pending the City Manager's decision.

Sec. 50-10. - Appeal.

Should an Applicant be denied a permit or a Permittee have a permit revoked, the Applicant or Permittee may appeal the action to the city manager by submitting a letter to the city secretary within Ten (10) business days of the denial or revocation. The appeal shall set forth the reasons that the denial or revocation is in error in detail and provide a contact name and telephone number of a person to whom the City Manager may speak regarding the appeal. If a meeting can be arranged, the person may be heard by the City Manager in a face-to-face meeting. If a face-to-face meeting cannot be arranged, the person may be heard telephonically. Cooperation of the appellant is required and inability to reach the contact person will not extend the time before a decision will be made. The City Manager will make a decision within 15 days of receiving the appeal.

Sec. 50-11. - Additional requirements for solicitation on private premises.

- (a) It shall be unlawful to engage in solicitation on a private premises or to go upon the private premises and ring the doorbell, rap, or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant for the purpose of engaging in solicitation between thirty (30) minutes after sunset and 9:00 a.m. of the following day.
- (b) Subsection (a) does not apply where the solicitor is on the private premises by express, prior invitation of the owner of the property or a person residing on the premises or when the person is personally known to the occupants of the property.
- (c) It shall be unlawful for any person to solicit without visibly displaying a City-issued identification card.
- (d) It shall be unlawful for a person engaged in solicitation to remain on a private premises after the owner or occupant has requested that person to leave.
- (e) It shall be unlawful for a person to return to a private premises to solicit when the person has already attempted to solicit at the location and has been told by the owner or occupant that they are not interested.
- (f) As further set forth below, it shall be unlawful to solicit at a private premises where there is posted a sign or placard communicating that the owner or occupant does not want to be solicited, such as "No Solicitors", "No Solicitation", or which otherwise purports to indicate that solicitation is unwelcome, unless the person has been invited upon the premises by the owner or occupant of the premises.

Sec. 50-12. - Supervision of child solicitors.

It shall be unlawful for any person to use children 16 years of age or younger for solicitation of funds unless said children are actively supervised by an adult person at least 21 years of age. There will be a presumption that a child is not actively supervised if the supervising adult is more than 50 feet away from the child or if there are five or more children for each adult.

Sec. 50-13. - Handbills.

- (a) 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 manner to secure and to prevent the handbills from being blown or drifting about such premises, sidewalks, streets, or other public places, except that mailboxes may not be used when prohibited by federal postal laws or regulations for handling or transmitting such and except when a handbill is delivered directly to the owner, occupant, or any other person then present in or upon such private premises and who is willing to accept it.
- (b) 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 private premises if requested by anyone at that location not to do so, or if there is a sign on the property prohibiting it.
- (c) 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 which are uninhabited or vacant.
- (d) It shall be unlawful for any person to post or otherwise affix or attach any handbill, poster, or other device which is calculated to attract the attention of the public upon any structure, wall, or part thereof without the consent of the owner, agent, or occupant of the structure.
- (e) There shall be a rebuttable presumption that any person whose goods, services, or activities are promoted in the handbill in violation of this section is a person who distributed or caused to be distributed the handbill.
- (f) This section does not apply to a federal, state, county, or local government or public utility employee in the performance of their duties for their employer.

Sec. 50-14. - Solicitation and handbill placement forbidden if sign posted.

It shall be unlawful for any person to engage in solicitation or to place handbills at a private premises that has a posted sign indicating that the resident does not want such activities at their private premises. Examples of such a sign include, but are not limited to, "No Soliciting," "No Solicitation," "No Trespassing," or "Keep Out." This provision does not apply if the person has been invited upon the premises by the owner or occupant of the premises.

Sec. 50-15. – Violation an Offense.

A violation of a regulation or prohibition under this Chapter is an offense punishable by a fine not to exceed \$500.00. Each violation is a separate offense. Each day of a continuing violation is a separate offense.

ARTICLE II [Reserved]

3. Repeal of Conflicting Provisions. That all provisions of the ordinances of the City of Hewitt in direct conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Hewitt not in conflict with the provisions of this Ordinance shall remain in full force and effect.

4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

5. Effective Date. This Ordinance shall become effective when the caption of the Ordinance is published in the City's Official Newspaper.

6. Publication. The City Secretary is hereby ordered to publish the caption of this Ordinance in the City's Official Newspaper as soon as possible.

PASSED AND APPROVED this the ____ day of _____, 2020 at a Regular Meeting of the City Council of the City of Hewitt, Texas.

CITY OF HEWITT

BY: _____
Charles D. Turner, Mayor

ATTEST:

Lydia Lopez, City Secretary

Approved:

Mike Dixon, City Attorney