

ORDINANCE NO. 1592

AN ORDINANCE AMENDING CHAPTER 66 OF *THE CODE OF ORDINANCES OF THE CITY OF HARTSELLE, ALABAMA* SO AS TO DELETE ITS PRESENT CONTENT; PROVIDING REGULATIONS AND PROCEDURES PERTAINING TO PEDDLERS AND SOLICITORS WITHIN THE MUNICIPAL LIMITS OF THE CITY; PROVIDING FOR VIOLATIONS; AND PROVIDING FOR PUNISHMENT OF VIOLATIONS

WHEREAS, the City Council of the City of Hartselle, Alabama has been advised by legal counsel that Chapter 66 of the *Code of Ordinances of the City of Hartselle, Alabama* is archaic and in need of significant revision; and

WHEREAS, the Council acknowledges the need for revisions, but finds that it is in the best interest of its citizens to regulate home solicitation so as to safeguard those citizens.

NOW, THEREFORE, be it **ORDAINED** by the City Council of the City of Hartselle, Alabama, as follows, to-wit:

SECTION 1. **Code Amended.** Chapter 66 of the *Code of Ordinances of the City of Hartselle, Alabama* (hereafter referred to as "the *Code*," or "this *Code*"), shall remain entitled "Chapter 66 - Peddlers and Solicitors," but is amended so that the entire verbiage of said Chapter 66 is deleted, and thereby repealed, and the following is substituted for said deleted and repealed verbiage, so that hereafter, said Chapter 66 shall read, in its entirety, as follows:

"ARTICLE I

RESIDENTIAL SOLICITATION

Section 66-1. Findings, Purpose and Scope.

(a) *Purpose.* The City Council finds that its citizens have the right to be secure from unwanted intrusion into their privacy and from criminal or fraudulent conduct or activity. The City Council further finds that solicitation at a residence directly implicates the security and domestic privacy of citizens of this City and City officials have received and are aware of citizen complaints about certain practices or conduct associated with solicitation in this City and other cities, including fraud. The City Council further finds that early morning and night time solicitation, when not prearranged, is unduly intrusive into the privacy and family time of residents. The City Council is also aware of criminal activity occurring in this City as well as other cities as a result of solicitors gaining access to residences under the guise of soliciting. The City Council is aware of home invasion in this City and others, including one in this City that resulted in murder. The City Council recognizes that there are constitutional guarantees associated with the practice of soliciting which are to be respected and safeguarded. Therefore, the purpose of this article is to adopt police power regulations which are designed to protect the security of citizens in their lives, their homes, and their property, and which do not offend constitutional guarantees.

(b) *Scope.* This article shall have full force and effect throughout the corporate limits of the City and is intended to regulate all forms of solicitation that physically occur at a residence, whether commonly known as soliciting, peddling, hawking, canvassing, or other similar terms.

(c) *Placing of handbills.* Where the occupant of a residence has posted a notice or listed his or her residence on the "No Solicitation Registry," in accordance with section 66-3 of this article prohibiting solicitation, then no solicitor shall leave any literature concerning the solicitation at the residence and doing so shall be a violation of this Article.

Sec. 66-2. Definitions.

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

Commercial solicitor means:

- (1) A person who engages or attempts to engage in residential selling of goods or services; or
- (2) A person who engages or attempts to engage in solicitation on behalf of another person or entity, whether as an employee, agent, independent contractor, or otherwise, except that a bona fide officer or employee of an organization for which residential advocacy or residential fundraising is being conducted shall not be included in the definition of a commercial solicitor.

Competent individual means a person claiming or reasonably appearing to be at least 19 years of age, or who claims to be an emancipated minor, and who reasonably appears to be of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct, or to otherwise have the capacity to contract.

Disqualifying factors means:

(1) A person has ever been criminally convicted (which includes any disposition of a criminal case resulting in the imposition of a fine, probation, incarceration, or other adverse sentence of a punitive nature) or is currently under a deferred prosecution program, whether or not the person has been formally adjudicated guilty, unless the conviction has been set aside on appeal or pursuant to any post-conviction proceedings, or has criminal charges currently pending against them for:

- a. Criminal Homicide of any type, class, or degree;
- b. Physically abusing, sexually abusing, or exploiting a minor, a person 65 years of age or older, or any incompetent, incapacitated or invalid person;
- c. The sale or distribution of controlled substances;
- d. Sexual assault of any type, class, or degree;
- e. Theft, robbery, burglary, or assault, of any type class, or degree;
- f. Domestic violence of any type, class or degree; or
- g. A firearm offense under local, state or federal law.

(2) A person has been criminally convicted, (which includes any disposition of a criminal case resulting in the imposition of a fine, probation, incarceration, or other adverse sentence of a punitive nature) or is currently under a deferred prosecution program whether or not the person has been formally adjudicated guilty, unless the conviction has been set aside on appeal or pursuant to any post-conviction proceedings, for any felony in the last ten years.

(3) A person has been confined or imprisoned in a federal or state prison within the last ten years.

(4) A person has been criminally convicted (which includes any disposition of a criminal case resulting in the imposition of a fine, probation, incarceration, or other adverse sentence of a punitive nature, whether or not the person has been formally adjudicated guilty) or is currently under a deferred prosecution program, unless the conviction has been set aside on appeal or pursuant to any post-conviction proceedings, of a misdemeanor involving moral turpitude according to the laws of this state, or violent or aggravated conduct involving persons or property within the past five years.

(5) A person has a final, nonappealable civil judgment entered against them within the last five years involving fraud or intentional misrepresentation;

(6) A person is currently on pretrial release, parole or probation to any court, penal institution, or governmental entity, which includes being under house arrest or subject to a tracking device;

(7) A person has an outstanding warrant from any jurisdiction; or

(8) A person is currently subject to a protective order, based on physical or sexual abuse, or domestic violence, issued by a court of competent jurisdiction.

Goods means tangible items of any kind, including, but not limited to, merchandise, wares, goods, produce, foodstuffs, perishables, publications, subscriptions, supplies, materials, and manufactured or compounded products.

Manager means a person that manages, supervises, or oversees a commercial solicitor, whether or not the manager actually solicits.

Principal permit means the principal permit issued in accordance with Article II of this Chapter.

Principal solicitor means a person that employs, hires, engages, or otherwise uses a commercial solicitor for soliciting. A principal solicitor who is an individual must be at least 19 years of age.

Non-commercial solicitor means a person that engages in residential advocacy or residential fundraising and who is not a commercial solicitor.

Residence means and includes every separate living unit occupied for residential purposes by one or more persons, which includes those contained within any type of building or structure, single family or multi-family.

Residential advocacy means, while upon residential premises, engaging or attempting to engage an occupant of the residence in conversation, without an appointment or that person's prior invitation or consent, for the purpose of promoting or facilitating the receipt of information regarding a cause, practice, or belief, which includes, but is not limited to charitable, political, religious, eleemosynary, social, philanthropic, benevolent, humanitarian, ideological, environmental, health-related, patriotic, civic, or educational causes, practices, or beliefs.

Residential fundraising means, while upon residential premises, obtaining or attempting to obtain from an occupant of the residence, without an appointment or that person's prior invitation or consent, any form of gift, donation, or contribution of money, clothing, or any other thing of value, for the sole benefit of an educational, charitable, civic, religious, or other nonprofit organization, purpose, or project or for the benefit of the solicitor. The providing of something of value, whether tangible or intangible, in exchange for the gift, donation, or contribution shall not constitute residential selling unless a business license is required under the Code in connection with the exchange.

Residential premises mean the residence, its accessory structures, and the lot, tract, or parcel on which the residence is located and which lot, tract or parcel is under the control of the owner, tenant, or occupant of the residence. The term does not include common areas or public areas adjacent to the residential premises.

Residential selling means, while upon residential premises, obtaining or attempting to obtain from an occupant of the residence, without an appointment or that person's prior invitation or consent, a prospective customer or a sale of or order for goods or services, regardless of the timing or method of payment, remuneration, or consideration, and regardless of the time of delivery of the goods or performance of the service.

Services mean intangible items or benefits of any kind, which include, but are not limited to construction, maintenance, repairs, improvements, professional services, insurance coverage, housekeeping, landscaping or yard care, real estate products or services, pest control, internet services, investment opportunities, technical services, computer services, and communications services.

Soliciting, solicit or solicitation means residential advocacy, residential fundraising, or residential selling.

Solicitor means any person engaged in soliciting.

Solicitor's permit means the solicitor's permit and accompanying photo identification tag issued in accordance with division 2 of this article.

(b) Where not otherwise defined in subsection (a) of this section, the words, terms, and phrases, when used in this article, shall have the meanings and rules of construction ascribed to them in Section 1-2 of this Code, except where the context clearly indicates a different meaning.

Sec. 66-3. Notice regulating residential soliciting.

(a) *Form of notice.* Any occupant of a residence may give notice of a desire to refuse or prohibit soliciting by posting a reasonably visible and legible sign upon or near the main entrance door or main entrance gate to the residence, or on or near the property line adjacent to the street adjacent to, or the sidewalk leading to the residence. Where the notice states "No Solicitation," "No Solicitors," or "No Trespassing," or words of similar import, then all forms of solicitation are prohibited at such residence. The main entrance door shall be the door which, when viewed from the direction of the street or any common or public area on approach to the structure, would appear to a person of normal and reasonable perception and experience to be the main entry of the structure.

(b) *Effect of notice.* Any such sign so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence that there is to be no soliciting at such residence.

(c) *Duty to abide by notice.* It shall be the duty of every solicitor upon going onto any residential premises in the City to first check for the notice provided for in this section and, if one is found to exist, it shall be a violation of this article to fail to abide by the notice by immediately and peacefully departing from the premises without making any effort to conduct or engage in solicitation, which includes, in any manner, attempting to attract the attention of or secure an audience with any occupant of the residence in an effort to solicit.

(d) *No Solicitation Registry.* The Mayor, or his or her designee, is hereby authorized to establish a registry to be known as the "No Solicitation Registry" ("Registry"), which shall be accessible to residents who desire to refuse or prohibit solicitation and which shall allow residents to elect to be included on the Registry. The Registry shall only include the addresses of the residents who have elected to be included on it, and not their names. Residents shall have the option to submit written requests to be listed on the Registry to the Office of the City Clerk/Controller, or other office or official designated by the Mayor, or to register on-line through the City's official website. Registrants shall be adult or legally emancipated minor members of the household at the registered address.

(1) The inclusion of an address on the Registry shall constitute sufficient notice to any solicitor of the determination of the occupant of the residence that there is to be no soliciting at such residence.

(2) It shall be the duty of every solicitor before going onto any residential premises in the City to first examine the Registry on-line or at the Municipal Building to determine whether the residential premises is listed on the Registry. It shall be a violation of this Article to solicit at any residence or residential premises listed on the Registry. The Registry shall include the date that the residence or residential premises is listed on it so that there can be no defense to violations that the solicitor was not aware of the listing. All solicitors are conclusively presumed to have knowledge of all residences and residential premises included in the Registry on a current daily basis at all times.

(3) The occupant of a residence or residential premises which is listed on the Registry shall not be required to post the notice described in subsection (a) above and it shall be no defense to a violation of this Article that no such notice existed at the time of solicitation if the residence or residential premises in question was listed on the Registry on the date the solicitation or attempted solicitation takes place.

(e) *Removal, obscuring, etc. notices.* It shall be unlawful and a violation of this Article for any person not authorized by a lawful adult or emancipated minor occupant of the residence or residential premises in question to remove, obscure, damage, destroy or conceal any notice posted pursuant to subsection (a) above or to cause the removal of a residence or residential premises from the Registry.

Sec. 66-4. Duty of solicitors.

- (a) In no event shall any solicitor enter inside or follow a person into a residence without the express invitation or permission of the occupant, who must be a competent individual. Any solicitor who has gained entrance into any residence, whether invited or not, shall immediately and peacefully, and without argument, depart from the premises when requested to do so by the occupant. To act contrary to this subsection shall be unlawful and a violation of this Article.
- (b) It is a violation of this Article for any solicitor through ruse, deception, or fraudulent concealment of a purpose, to solicit or to take action calculated to secure an audience with an occupant of a residence.
- (c) It shall be unlawful and a violation of this Article for a solicitor while soliciting to intentionally or recklessly make any physical contact with, or touch another person without the person's consent, or to damage any property within the residence or on the premises.
- (d) It shall be unlawful and a violation of this Article for a solicitor to continue soliciting or to immediately and peacefully; without argument, leave the premises after the occupant of the residence has expressly declined the solicitation, or requested that the solicitor leave the premises.
- (e) It shall be unlawful and a violation of this Article for a solicitor to engage in abusive, rude, cajoling, overbearing, threatening, harassing, intimidating, or coercive conduct toward the occupant of a residence, or to persist in soliciting when requested to cease doing so.

Sec. 66-5. Time limit on soliciting.

It is unlawful for any person, whether or not issued a solicitor's permit, to go upon any residential premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound, or act in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with any occupant thereof and engage in, or attempt to engage in, soliciting on any day prior to 8:30 a.m. or after 7:30 p.m., unless the solicitor has an appointment with, or the previously obtained express invitation or permission of, an occupant who is a competent individual. During the months of November, December, January and February the latter time shall be 7:00 p.m.

Sec. 66-6. Age limitations for solicitors.

Any person under the age of 17 who is engaged as a solicitor shall be under the direct supervision of a person at least 21 years of age. Direct supervision means the supervising person shall at all time have the minor in sight and shall in no event be more than 100 feet away from the minor. No person under the age of 17 who is so supervised shall be required to acquire or carry a solicitor's permit.

Sec. 66-7. Restrictions on methods of solicitation.

- (a) A solicitor shall not falsely represent, directly or by implication, that the solicitor is acting on behalf of, or affiliated with a governmental organization, a charitable organization, or any person other than the person for whom the solicitor is actually acting.
- (b) A solicitor shall not intentionally make any materially false, misleading or fraudulent statement in the course of soliciting.
- (c) A solicitor shall use their real name and shall not use a fictitious name, an alias, or any name other than their correct name.
- (d) Action contrary to the provisions of subsection (a) through (c) above shall be a violation of this Article.

ARTICLE II

SOLICITATION PERMITTING

Sec. 66-8. Permit required; exemption.

- (a) *Solicitor's permit.* The City Clerk/Controller and/or Mayor are authorized to establish procedures and administrative rules and regulations to administer the provisions of this Article. A commercial solicitor shall be

required to obtain a solicitor's permit prior to soliciting and failure to do so shall constitute a violation of this Article. At all times while soliciting, the solicitor shall be required to carry the permit, together with a copy of the City business license, both of which the solicitor shall present for inspection upon the request of the person being solicited or a law enforcement officer, code official, license official or other authorized representative of the City, and to conspicuously display upon his or her person the photo identification tag hereinafter provided for. These same provisions shall be applicable to solicitors engaged solely in residential advocacy or residential fund raising, except that they shall not be required to carry or produce a City business license.

(b) *Principal permit.* A principal solicitor may make application for a solicitor's permit for each of the solicitors that will be soliciting on the principal solicitor's behalf by applying for a principal permit as hereinafter provided.

Sec. 66-9. Permit application; notice.

(a) *Form, etc.* Applications for permitting under this Article shall be made on forms developed and provided by the City Clerk/Controller or his or her, or the Mayor's, designee, for such purpose and shall be signed and verified by oath or affirmation by the applicant if a natural person or, in the case of an association, partnership, or limited liability company, by an authorized member or partner, or in the case of a corporation, by an executive officer, or any person specifically authorized by the corporation to sign the application to which shall be attached written evidence of such authority. Prior to or after the issuance of a permit, applications shall be immediately updated by the application or permit holder should there be a change in any of the information provided, or additional information to be added. It shall be the duty of the principal solicitor to update its application for a principal permit, which includes adding or removing its commercial solicitors, as appropriate. Failure to comply with this provision shall be a violation of this Article.

(b) *Principal permit application.* A principal solicitor may make application for a principal permit to include solicitor's permits for each of the solicitors who will be conducting soliciting on the principal solicitor's behalf. Each solicitor affiliated with the principal solicitor shall also comply with subsection (c) below. Each solicitor's permit issued under a principal permit shall be conditioned upon the continued validity of the principal permit and subject to all actions taken against the principal permit. In addition to the information required under subsection (c) of this section, the principal solicitor shall furnish each of the following:

(1) The principal solicitor's true and correct name (which includes any former names or aliases used during the last ten years) and complete then-current contact information which includes a telephone number and permanent and, if applicable, local business address (not a post office box);

(2) Proof of the principal solicitor's tax exemption status, if applicable;

(3) The principal solicitor's social security number or federal identification number;

(4) Proof of possession of any license or permit which is required by the City in order to conduct the proposed solicitation;

(5) The nature of the business or other relationship of the solicitor to the principal solicitor, which includes an employee, agent, or independent contractor; and

(6) The certification required in subsection (e) of this section.

(c) *Solicitor's permit application.* The application for a solicitor's permit shall contain the following information for each person who will be conducting solicitation activities as a commercial solicitor:

(1) The proposed solicitor's true and correct name (which includes any former names or aliases used during the last ten years), date of birth, social security number, and then-current contact information which includes a telephone number and permanent home and, if applicable, local address (not a post office box);

(2) The proposed solicitor's valid state driver's license, a state-approved identification card with a photograph, or other form of government issued photo identification acceptable to the City Clerk/Controller (The City Clerk/Controller will make a photocopy and attach to the application);

(3) If a vehicle is used, a description of the same, together with the state where licensed, license plate number, and the vehicle identification number;

(4) Two photographs suitable for reproduction, measuring at least 1.5 inch x 1.5 inch and showing the head and shoulders of the proposed solicitor in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;

(5) Proof of possession of any license or permit which is required by the City in order to conduct the proposed solicitation;

(6) If the proposed solicitor is soliciting on behalf of a principal solicitor, the solicitor shall furnish the information concerning the principal solicitor that is required in subsection (b) of this section together with appropriate written credentials that authorize the solicitor to solicit on the principal solicitor's behalf;

(7) The nature of solicitation activity;

(8) The approximate time period when the soliciting will be conducted, to include the projected start date and completion date, and the proposed days of the week and times of day of solicitation;

(9) In the case of residential selling, the method of payment for the goods or services;

(10) The certification required in subsection (e) of this section; and

(11) If the proposed solicitor has a manager that is or will be present in the City during all or any portion of the solicitation, the applicant shall provide the name, permanent and, if applicable, local business address (not a post office box), and complete contact information of the manager.

(d) *Notice.* Each applicant shall provide an address and email address where all notices required to be issued under this article are to be sent and if there is a local address, then such address shall be that address. Where the City Clerk/Controller is required to provide written notice under this division to an applicant or permit holder or appellant such notice shall be accomplished by personal delivery or by first class or certified mail to the address on the application. If emailed, notice shall be deemed to have been received upon emailing or, if mailed, then three days after mailing.

(e) *Certification; investigation.*

(1) *Certification.* Each principal solicitor shall be required to provide a written certification, on forms provided by the City Clerk/Controller, that no disqualifying factors exist for each solicitor soliciting on its behalf or for the principal solicitor, which, in the case of an entity, includes its controlling officers, directors, partners, or members, as the case may be. Such certification shall be signed and verified by oath or affirmation in the same manner as the application. Where the solicitation will not be conducted on behalf of a principal solicitor, then the applicant for a solicitor's permit shall be required to provide written certification that he or she has no disqualifying factor.

(2) *Investigation.* The Mayor, Chief of Police and City Clerk/Controller, or their respective designees, are hereby authorized to conduct any investigation they deem appropriate into the matters contained in the application. The applicant's submission of the application authorizes the City to verify information submitted with the application. No such investigation shall be required if the applicant has been so investigated by the City pursuant to a prior permit application within the past six (6) months at the time of the present application date.

(f) *Solicitation by minors.* A minor who conducts commercial solicitation shall operate under the authority of a principal solicitor who will be responsible for controlling the conduct of the minor (see also Sec. 66-6).

(g) *Application fee.* At the time of submission of an application, each applicant shall pay a non-refundable fee, in an amount to be determined by City Clerk/Controller or the Mayor, subject to Council disapproval by action upon its minutes, which is sufficient to defray the costs incurred by the City for processing the application and issuing the photo identification tag. The City Clerk/Controller or the Mayor may adjust such fees in the event of increased costs of processing and issuance. The fee for permits obtained on or after July 1 of any year shall be one-half of the fee for those obtained in that year prior to July 1.

Sec. 66-10. Permit issuance.

(a) Upon receipt of a completed application and completion of any investigation, then the City Clerk/Controller shall issue a solicitor's permit or principal permit, as appropriate, unless he or she finds any one of the following reasons for denial exists:

- (1) The application for permitting is not complete;
- (2) False or misleading statements are found to be included in the application for a permit;
- (3) The applicant or the applicant's principal solicitor has a disqualifying factor or does not otherwise meet the requirements of this article;
- (4) Within the 12 months preceding the date of the application, the applicant or the applicant's principal solicitor has had a prior permit issued pursuant to this article revoked or denied;
- (5) Within the 12 months preceding the date of the application, the applicant or applicant's principal solicitor has been convicted of, or has charges pending for a violation of this article;
- (6) The applicant has failed to pay the application fee; or
- (7) The applicant or applicant's principal solicitor has not obtained proper business licensing or the business license has been denied, revoked, suspended, or not renewed.

(b) If an application is denied, the City Clerk/Controller shall provide the applicant with written notice of the denial along with the reason for the denial.

(c) Each solicitor's permit shall be issued accompanied by the photo identification tag which shall be worn constantly by the permittee in a conspicuous place on his or her person while conducting solicitation activities in the City. A person commits a violation of this Article if the person wears or displays a photo identification tag issued to another person, alters a photo identification issued hereunder, uses a phony or counterfeit identification tag or fails at all times while soliciting to wear the photo identification as provided hereby. Any solicitor who by affidavit notifies the City clerk-treasurer that his or her tag has been lost or stolen shall be issued a replacement tag upon payment of the fee for the tag.

(d) Permits are hereby expressly issued upon the condition that the holder thereof shall abide by the provisions of this article, and operate in conformance with the statements or representations contained in the permit application, which includes the nature of the solicitation activity and the timing of solicitation. All permits issued pursuant to this article are not transferrable.

(e) In no event shall the holder of a permit issued under this article represent or imply that the issuance of the permit or display of the photo identification tag means that the City in any way endorses, approves or promotes the purpose or method of the solicitation, or that the holder is in any way affiliated with the City.

(f) Unless revoked sooner, permits issued pursuant to this division shall be valid for the dates and times specified on the application, provided, however, no permit issued hereunder shall be valid beyond January 31 of the year following the year in which it is issued. Upon expiration of a permit or where not renewed, it shall be unlawful to continue to solicit or to display the expired permit or photo identification tag for the purpose of soliciting.

(g) Permits shall only be renewed in the same manner as the original issuance.

Sec. 66-11. Revocation or suspension of permit.

(a) A principal permit or solicitor's permit may be revoked or suspended by the City Clerk/Controller for any of the following reasons:

- (1) The City Clerk/Controller finds that any fact or event which would constitute a basis for denial of the permit is true or has become true since the application was completed; or

(2) The solicitor conducts solicitation activities in violation of any provision of this article.

(3) Three or more complaints from residents about the solicitor's conduct are filed with the City Clerk/Controller within any thirty (30) day period.

(b) Action against principal.

(1) Should more than one complaint be received that a solicitor has violated any of the provisions of this article, or should complaints be received as provided in (a)(3) above, the City Clerk/Controller or Mayor may suspend or revoke all solicitor permits for such principal solicitor and notify the permit holders of such action.

(2) Should more than one complaint be received that solicitors who are soliciting under a principal permit have violated any of the provisions of this article, or should complaints be received as provided in (a)(3) above, the City Clerk/Controller or Mayor may suspend or revoke the principal permit and notify the principal solicitor, which shall have the effect of revoking all the solicitor's permits issued under the principal permit without the need of further action by the City or notification of each solicitor.

(3) Upon any action being taken to suspend or revoke a principal permit, all solicitor's permits issued under the principal permit shall be included in such action and the right to appeal the action shall be solely that of the principal solicitor.

(c) Upon revocation or suspension, the City Clerk/Controller shall immediately provide written notice to the permit holder stating the action and the reasons supporting such action. Where permits are issued under a principal permit, the notice to the holder of the principal permit shall constitute sufficient notice to all solicitors working under the principal permit.

(d) The City Clerk/Controller and Mayor, law enforcement officer or any other City designee, shall have the authority to seize any and all permits and photo identification tags possessed by persons conducting business as a solicitor while the official notification process and any appeals process is underway if the basis for the action is the existence or occurrence of a disqualifying factor or if the Chief of Police finds that there is an immediate threat to the public health or safety if the soliciting is allowed to continue. Upon seizure, or notice to the solicitor or principal solicitor of intended seizure of the permit and tag all solicitation activities conducted under the authority of that permit shall cease.

Sec. 66-12. Appeals.

(a) A person who is denied a solicitor's permit or principal permit, or whose permit is revoked or suspended by the City Clerk/Controller or Mayor may appeal the decision to the City Council by filing a written notice of appeal with the City Clerk/Controller stating the action appealed from and grounds for the appeal, within 15 days after receiving notice of the action appealed from.

(b) Within ten business days of the receipt of the notice of appeal, the City Council President shall set a time and place for a hearing on the appeal which shall be not later than 30 days from the date of receipt of the notice of appeal.

(c) At least ten days' advance written notice of the time and place of the hearing shall be provided to the appellant.

(d) The decision of the City Council on the appeal is final. No other administrative procedures are provided by the City.

Sec. 66-13. Violations.

Any person who violates any provision of Sections 66-3, 66-4, 66-5, 66-6, 66-7 or 66-8 of this Chapter, or who knowingly furnishes false or misleading information relative to the obtaining, renewal of maintenance of any permit(s), or the permitting process, or who violates any provision of this Chapter which is specifically declared therein to be unlawful or a violation of this Chapter, shall be guilty of a misdemeanor, punishable as follows:

(a) For first offenses, by a fine of not less than \$100.00, nor more than \$500.00, and/or a jail sentence not to exceed six months, plus court costs.

(b) For second convictions within a period of five (5) years following a conviction of a first offense, by a fine of not less than \$250.00, nor more than \$500.00, and a jail sentence of not less than five (5) days, nor more than six (6) months, plus court costs.

(c) For third and subsequent convictions within any five (5) year period, by a fine of \$500.00 and a jail sentence of not less than thirty (30) days, nor more than six (6) months, plus court costs.

Sec. 66-14. Savings clause.

The provisions of this Chapter are severable. If any portion of this Chapter is declared or adjudged invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect as though the invalid portion were not included in it.


ARTICLE III

RESERVED"

SECTION 2. **Effective Date.** This Ordinance shall be effective August 1, 2023, following

its adoption and publication according to law.

ADOPTED and APPROVED this 25th day of July, 2023.


Dwight Tankersley, Council President
Pro-Tempore

ATTEST:

(SEAL)


Rita S. Lee, City Clerk – Controller

APPROVED this 26th day of July, 2023.


Randy A. Garrison, Mayor

ATTEST:

(SEAL)


Rita S. Lee, City Clerk – Controller

VETOED this _____ day of _____, 2023.

Randy A. Garrison, Mayor

(Statement of objections attached and incorporated at this point by reference.)

ATTEST:

(SEAL)