

ARTICLE 4.02 SOLICITORS

DIVISION 1 Generally

§ 4.02.001. Purpose.

The purpose of this article is to protect the citizens against crime, including deceptive practices, fraud, and burglary; to minimize the unwelcome disturbance of citizens and the disruption of citizens' privacy; and to preserve the public health, safety, and general welfare by registering and regulating solicitors.

(Ordinance A-257, sec. 1, adopted 8/1/02)

§ 4.02.002. Definitions.

In this article:

City council. The city council of the city.

City secretary. The city secretary of the city, or the city secretary's designated representative.

Minor. A person under the age of 18.

Solicitation activities. Traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building, or along any street in the city, personally contacting occupants or other persons, selling or taking orders for or offering to sell or take orders for goods or services for commercial purposes.

Solicitor. A person who engages in solicitation activities.

(Ordinance A-257, sec. 2, adopted 8/1/02)

§ 4.02.003. Penalty.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ordinance A-257, sec. 16, adopted 8/1/02)

§ 4.02.004. Regulations.

(a) Hours and place of operation. A solicitor shall not engage in solicitation activities:

- (1) Between the hours of 9:00 p.m. and 9:00 a.m.;
- (2) On public property without first procuring authorization from the city secretary, which will be withheld only when failure to do so would interfere with a compelling interest of the city; or
- (3) At a residence or business that has a sign posted giving notice that solicitors are not

welcome, such as “no solicitors,” “no trespassing” or words of similar meaning.

- (b) Identification on vehicles. If a person uses a vehicle in solicitation activities, there must be a sign located in a conspicuous place on the vehicle, identifying the name of the person or the company or organization that the person represents. If the name is an individual, it must be followed by the word “solicitor.” The lettering on the sign must be at least two and one-half inches high.
- (c) Responsibility for violations by agents and employees. A person, company or organization shall not authorize or allow a person who is sponsored or employed by the person, company or organization to engage in solicitation activities in violation of this article.
(Ordinance A-257, sec. 11, adopted 8/1/02)

§ 4.02.005. through § 4.02.030. (Reserved)

DIVISION 2
Registration

§ 4.02.031. Required.

A person, other than a minor, shall not engage in solicitation activities in the city without first registering with the city and obtaining a registration certificate and identification badge from the city secretary.

(Ordinance A-257, sec. 3, adopted 8/1/02)

§ 4.02.032. Sponsorship of minors.

- (a) A minor shall not engage in solicitation activities in the city except in compliance with this section.
- (b) A minor must be sponsored or employed by a person, company or organization. A person, company, or organization that sponsors or employs one or more minors as solicitors shall apply for registration with the city. The sponsor shall pay a single annual registration fee in the amount provided in appendix A to this code. Each minor is not required to obtain an individual registration.
- (c) The sponsoring person, company, or organization shall:
 - (1) Provide to each individual minor a badge or other easily readable form of identification which identifies the name of the sponsor and the name of the minor;
 - (2) Require all minors to wear the identification so that it is clearly visible at all times when the minor is engaged in solicitation activities; and
 - (3) Be responsible for supervising and controlling the conduct of all minors engaging in solicitation activities under the sponsor's registration.

(Ordinance A-257, sec. 4, adopted 8/1/02; Ordinance adopting Code)

§ 4.02.033. Application.

Except as provided in section 4.02.032, a separate application for a solicitor's registration is required for each solicitor. The application and registration must be made in the name of the individual who will be soliciting. An application must be made under oath and must contain the following information:

- (1) Proof of age, address, and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation, or other legally recognized form of identification;
- (2) If the solicitor is employed by another, the name and physical business address (not a P.O. box) of the employer; if acting as an agent, the name, physical address (not a P.O. box), and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal;

- (3) A brief description of the goods or services to be sold or offered for sale;
- (4) The hours and location of the solicitation activities;
- (5) If the applicant has plead guilty or nolo contendere to, or has been convicted of, a felony, misdemeanor, or ordinance violation involving fraud, deceit, misrepresentation, a sex offense, or trafficking in controlled substances, or of any violent acts against persons or property, within five years preceding the date of application, a description of each such conviction or plea. The description shall include the date the offense occurred, the date of the conviction or plea, the location of the offense, the offense, and the sentence received;
- (6) Proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any law or regulation, would exempt the applicant from the registration requirements of this article;
- (7) Two photographs of the applicant, measuring at least one and one-half inches by two inches and showing the head and shoulders of the applicant in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before the filing of the application; and
- (8) Whether the sale of goods or services by the applicant is conditioned upon advance payments, cash deposits, or the execution of an agreement to finance the sale of goods or services for future delivery or performance.

(Ordinance A-257, sec. 5, adopted 8/1/02)

§ 4.02.034. Bond.

- (a) Solicitors who require cash deposits or advance payments for future delivery or who require an agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall furnish to the city a bond with the application in the amount determined in subsection (c) hereinbelow, signed by the applicant and a surety company authorized to do business in the state, conditioned:
 - (1) Upon the final delivery of goods or services in accordance with the terms of any order obtained;
 - (2) To indemnify purchasers for defects in material or workmanship that may exist in the goods sold and that are discovered within 30 days after delivery; and
 - (3) For the use and benefit of persons, firms, or corporations that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.
- (b) If the applicant is a person, firm, or corporation engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agent or employee solicitors.
- (c) The amount of the bond is determined by the number of solicitors acting as agents or employees of the same person, firm, or corporation as follows:

- (1) 1 to 3 solicitors: \$500.00.
 - (2) 4 to 6 solicitors: \$750.00.
 - (3) 7 or more solicitors: \$1,000.00.
- (Ordinance A-257, sec. 6, adopted 8/1/02)

§ 4.02.035. Fee; duration.

- (a) An applicant for registration shall pay an annual fee in the amount provided in appendix A to this code for each solicitor. A solicitation registration is valid for one year.
 - (b) A nonprofit organization which is exempt from the payment of taxes under section 501(c) of the Internal Revenue Code is exempt from the payment of the annual registration fee.
 - (c) The city secretary may, upon application, exempt any person, company or organization from the payment of the annual registration fee if the city secretary finds that the payment of the fee would cause an undue financial hardship or would unduly infringe upon the person's, company's or organization's ability to conduct solicitation activities.
 - (d) No fee shall be required of those persons engaging in interstate commerce.
- (Ordinance A-257, sec. 7, adopted 8/1/02; Ordinance adopting Code)

§ 4.02.036. Authorization of registration.

- (a) Upon receipt of an application, the city secretary shall review the application to ensure compliance with this article.
 - (b) If the city secretary finds the application to be properly completed and that the applicant has met all the requirements of this article, the city secretary shall authorize registration.
- (Ordinance A-257, sec. 8, adopted 8/1/02)

§ 4.02.037. Certificate and identification badge.

- (a) Upon authorization of the registration and payment of the fee, the city secretary shall deliver a registration certificate and identification badge to each registered solicitor, and shall retain a copy for the city's records.
- (b) The registration certificate shall show the name, address, and photograph of the solicitor, the kind of goods or services to be sold or offered for sale, a description of any vehicle to be used in carrying on the solicitation activities, the registration number, and the dates of issuance and expiration of the certificate.
- (c) The registration certificate must be carried by the solicitor while engaging in solicitation activities.
- (d) While engaging in solicitation activities, a solicitor shall wear the identification badge so that it may be easily read by those being solicited. If a badge becomes damaged, the solicitor shall return it to the city and receive a replacement badge. An administrative fee in the amount provided in appendix A to this code shall be charged for the issuance of a replacement badge.

- (e) A registration certificate and an identification badge shall be used only by the person to whom they were issued and may not be transferred to another person.
(Ordinance A-257, sec. 9, adopted 8/1/02; Ordinance adopting Code)

§ 4.02.038. Denial.

- (a) The city secretary shall deny an application for registration if the city secretary finds any of the following to be true:
- (1) The location and time or manner of the solicitation activities would interfere with the public's use of streets or endanger the safety and welfare of the solicitors or their customers.
 - (2) An investigation reveals that the applicant falsified information on the application.
 - (3) Within five years preceding the date of application, the applicant or an employee or agent of the applicant has plead guilty or nolo contendere to, or has been convicted of, a felony, misdemeanor, or ordinance violation involving fraud, deceit, misrepresentation, a sex offense, trafficking in controlled substances, or any violent acts against persons or property.
 - (4) The applicant is a person against whom a judgment based upon fraud, deceit, or misrepresentation has been entered within five years preceding the date of application.
 - (5) The applicant provided no proof of authority to serve as agent for the principal.
 - (6) The type of solicitation activity requires a bond, and the applicant has not complied with the bond requirements.
 - (7) The applicant has been denied registration under this article within the previous 12 months, and the applicant has not shown to the satisfaction of the city secretary that the reasons for the earlier denial no longer exist.
- (b) A denial and the reasons for the denial shall be noted on the application, and the applicant shall be notified of the denial by notice mailed to the applicant at the address shown on the application or the last known address.
(Ordinance A-257, sec. 10, adopted 8/1/02)

§ 4.02.039. Suspension or revocation.

- (a) A registration certificate issued pursuant to this article may be revoked or suspended by the city secretary, after notice and hearing, for any of the following reasons:
- (1) Fraud, misrepresentation, or false statement contained in the application for registration;
 - (2) Fraud, misrepresentation, or false statement made by a solicitor in the course of conducting solicitation activities;
 - (3) Conducting solicitation activities which were not described in the application;
 - (4) Conviction for a crime described in section 4.02.038(a)(3);

- (5) A judgment against the registrant involving a matter described in section 4.02.038(a)(4);
 - (6) Violation of the regulations described in section 4.02.004; or
 - (7) Conducting solicitation activities in such a manner as to create a public nuisance, constitute disorderly conduct, or endanger the health, safety, or general welfare of the public.
- (b) A registration certificate issued pursuant to this article may be temporarily suspended by the city secretary without notice or a hearing if a violation of a law is committed by the solicitor while conducting solicitation activities and the violation is committed within the presence of a peace officer, or within the presence of a private citizen who files a sworn complaint against the solicitor.
- (c) A solicitor whose registration certificate has been temporarily suspended shall be given the opportunity for a hearing before the city secretary not later than the next business day after the suspension.
- (Ordinance A-257, sec. 12, adopted 8/1/02)

§ 4.02.040. Appeals.

- (a) A person who is denied registration or an exemption or whose registration is revoked or suspended by the city secretary may appeal the decision to the city council by filing notice of appeal with the city secretary within 15 days after the notice of the decision is mailed to the address indicated on the application or the last known address of the solicitor.
 - (b) Within 10 days of the receipt of the notice of appeal, the city secretary shall set a time and place for a hearing before the city council on the appeal, which shall be not later than 30 days from the date of receipt of the notice of appeal.
 - (c) Notice of the time and place of the hearing shall be delivered to the appellant by mail, sent to the address indicated on the application or the last known address of the appellant.
 - (d) The decision of the majority of the city council on the appeal is final. No other administrative procedures are provided by the city.
- (Ordinance A-257, sec. 13, adopted 8/1/02)