

ORDINANCE NO. 2016-12

AN ORDINANCE AMENDING CHAPTER 14, AS IT RELATES TO THE SOLICITOR LICENSING

The City Council of the City of Bloomington hereby ordains: That Chapter 14, Division R, of the City Code is hereby amended by deleting those words that are in ~~[strike through]~~ font and adding those words that are underlined, to read as follows:

Division R. Solicitors

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SEC. 14.354. DEFINITIONS.

The following words and terms when used in this Division shall have the following meaning, unless the context clearly indicates otherwise:

Canvasser -- an individual who goes from place-to-place, including private property and private residences, without an invitation from the owner or occupant, for the purpose of asking for votes, opinions, signatures, membership, etc. or distributing or dispersing information, data, opinions, messages, etc. Canvassers also include persons who seek to obtain funds, contributions or donations as a secondary purpose to their canvassing.

Dwelling Unit -- one (1) or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

Exempt Organizations -- Tax-exempt, nonprofit, charitable, religious and educational organizations pursuant to Section 501(c) of the Internal Revenue Code or tax-exempt political organizations under Section 527 of the Internal Revenue Code and registered pursuant to Minn. Stat. Sec. 10A.14. Exempt political solicitors also include candidates for public office, members of a candidate's election committee, or persons working on behalf of a candidate or any political issue, including without limitation, initiative, referendum, recall, levy or special ballot question. "Charitable organizations", "Religious organizations" and "Educational organizations" must also fall within the definitions therefore of Minn. R. 8130.6200. subs. 2, 3 and 4.

Exempt Organization Identification -- Identification card, business card or other documentation, including printed information on the order sheet, sales receipt, invoice, or on the goods being offered for sale, that identifies the exempt organization on whose behalf the hawking, peddling or transient merchant sales are being conducted with sufficient specificity to enable follow-up verification by the Issuing Authority of the organization's tax exempt status.

Issuing Authority -- the City of Bloomington License Section.

Regulated Activity -- Going from place-to-place (1) advertising or selling any product, service, or procuring orders for the sale of merchandise or personal services for future delivery or future performance; or, (2) seeking donations of money or property on behalf of any person, organization or cause~~[-]~~ ; and, (3) including the door-to-door activity of canvassers and exempt organizations.

Solicitor -- an individual who goes from place-to-place, including private property and private residences, without an invitation from the owner or occupant, for the purpose of: (1) advertising, promoting, selling, leasing, installing or explaining any product, service, organization or cause; (2) seeking donations of money or property on behalf of any nonprofit, political or educational organization or for the purpose of procuring orders for the sale of merchandise or personal services for future delivery or future performance, whether or not the individual has a sample of the merchandise or is collecting advance payments for the orders. "Solicitor" shall also include the activity which has as its ultimate purpose the obtaining of orders.

Within the City -- a physical presence within the corporate limits of the City of Bloomington.

SEC. 14.355. LICENSE REQUIRED.

No individual, except as set forth in Section 14.356 of this Division, shall engage in the regulated activity within the City without first being duly licensed in accordance with this Division.

SEC. 14.356. EXCEPTIONS.

- (a) Individuals engaging in canvassing ~~[soliciting money, donations, or financial assistance of any kind or taking orders for goods sold by an exempt organization, or selling or distributing literature or merchandise for which a fee is charged or solicited on behalf of such an organization]~~ shall not be required to be licensed pursuant to this Division but must have on them at all times while canvassing ~~[soliciting]~~ some form of exempt organization identification as defined in this Division. ~~[The burden of proving the solicitor's exemption for licensing shall be on its claimant. This exception does not include individuals who are paid to engage in regulated activity.]~~
- (b) Individuals holding a valid license pursuant to Minnesota Statutes, Chapter 326, by the terms of which the City is preempted from separate license.

SEC. 14.357. LICENSE APPLICATION.

An application for a license pursuant to this Division shall request the following information and be submitted to the Issuing Authority at least seven (7) working days before the regulated activity is to commence within the City:

- (a) Name and physical description of the applicant;
- (b) Complete home and business address of the applicant;
- (c) A brief description of the proposed solicitation and the merchandise or service to be solicited;
- (d) The dates and hours of the day during which the solicitation will be conducted;
- (e) Name and permanent address of the firm or business on whose behalf the orders are solicited, together with credentials establishing the applicant's relationship to the firm or business;
- (f) Whether or not the applicant has been convicted of any crime other than petty traffic violations; the nature, time and location of each such offense and the punishment or penalty imposed;
- (g) The last cities or other localities, not exceeding five (5), where the applicant conducted the solicitation immediately preceding the date of the application and where within those areas the activity took place;
- (h) Make, model, year, color, and state license number of each motor vehicle to be used in connection with the proposed solicitation;
- (i) Date of birth, and, if the applicant is of sufficient age, a state driver's license or identification card number of the applicant;
- (j) Passport information and visa status if the applicant is not a United States citizen;
- (k) The name and location of the nearest supervisor or manager overseeing the solicitation in the City;
- (l) Whether the applicant or the firm employing the applicant has been the subject of an investigation by a consumer protection agency or state attorney general office, and the dates and outcome of such an investigation;
- (m) A recent photograph of the applicant taken by the Issuing Authority at the time the license is being processed depicting the head and shoulders of the person in a clear and distinguishable manner;
- (n) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the applicant's officers, partners, employees, agents and subcontractors;
- (o) Whether the applicant or any officer, partner, or subcontractor of the applicant has previously had a business license or registration denied, revoked or suspended by any governmental unit, identifying that governmental unit;
- (p) Whether the applicant or any of its agents, employees, or subcontractors has applied for a license pursuant to Minnesota Statutes Chapter 326;
- (q) The names, addresses, and telephone numbers of any installer or subcontractor involved in the installation, monitoring or operation of the merchandise to be sold, leased or installed by the applicant; and
- ~~[(r) Such other information as the City Council or Issuing authority shall require.]~~

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SEC. 14.362. PERSONS INELIGIBLE FOR A LICENSE.

No license shall be granted if the applicant:

- (1) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
- ~~[(2) Is not of good moral character and repute;]~~
- ~~[(2)]~~[(3)] Is not legally allowed to work under federal or state child labor laws;
- ~~[(3)]~~[(4)] Is not the real party in interest in the business or occupation to be licensed;
- ~~[(4)]~~[(5)] Has been convicted of a crime that directly relates to the occupation herein licensed, as defined by Minnesota Statutes, Section 364.03, Subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation to which this license applies, as defined by Minnesota Statutes, Section 364.03, Subdivision 3;
- ~~[(5)]~~[(6)] Has been the subject of an investigation by a consumer protection agency or state attorney general office and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business;
- ~~[(6)]~~[(7)] Has had a registration, license and/or identification card for solicitation revoked by the City or any other governmental body within three (3) years before the application date;
- ~~[(7)]~~[(8)] Has been denied a registration or license for solicitation by the City or any other governmental body because of circumstances which occurred within three (3) years before the application date;

- ~~(8)~~~~(9)~~ Has violated, or is currently affiliated with a firm that has violated any provision of this Division within three (3) years before the application date, or has violated any provision of this Division during the application period pending issuance of the license;
- ~~(9)~~~~(40)~~ Has knowingly falsified or misrepresented information on the license application; or
- ~~(10)~~~~(44)~~ Owes taxes or assessments to the State, County, School District, or City that are due and delinquent.

SEC. 14.363. RESTRICTIONS ON SOLICITATION.

- (a) **Valid License Required.** Except for those individuals specified in Section 14.356 of this City Code, no person shall engage in the regulated activity within the City unless the person is carrying a valid City solicitation license and identification card identifying the person.
- (b) **Transfer of License Prohibited.** A licensed solicitor shall not transfer his or her license and identification card to another individual.
- (c) **Use of License.** A licensed solicitor shall not use a license and identification card issued to someone other than that individual.
- (d) **Purpose of License.** The license and identification card shall be displayed only while engaging in the regulated activity within the City and shall be used for no other purpose and in no other location. A licensed solicitor must display the City-issued license and identification card upon the request of any person solicited.
- (e) **Effect of No Trespassing Signs.** No solicitor or canvasser shall go onto private property for the purpose of engaging in the regulated activity when there are signs prominently posted indicating that trespassing is prohibited or when there are placards prohibiting solicitors in compliance with this Division.
- (f) **Solicitation of Persons in Motor Vehicles.** No solicitor or canvasser shall be on a street, highway, or adjacent boulevard and solicit the occupants of any motor vehicle in transit.
- (g) **Health or Safety Hazards.** No solicitor or canvasser shall engage in the regulated activity in a manner that creates a health or safety hazard.
- (h) **Untruthful Statements Prohibited.** No solicitor or canvasser shall make untrue statements to the people contacted regarding the purpose of the contact or the goods and services offered.
- (i) **Effect of Registration Card.** A licensed solicitor or canvasser shall not make statements to individuals he or she contacts indicating or implying that the City license and identification card constitutes an endorsement of their activities or products by the City.
- (j) **Hours of Solicitation.** No solicitor shall engage in the regulated activity at any residential dwelling unit between the hours of 8:00 p.m. and 9:00 a.m.
- (k) **Compliance With State and Federal Laws.** All solicitors or canvasser and their affiliated firms or organizations shall obey all state and federal laws and regulations, including without limitation child labor laws and Minnesota Statutes Chapter 325G.
- (l) **Aggressive Sales Techniques.** No solicitor or canvasser shall enter any individual residential dwelling unit without the express permission of its owner or occupant. All solicitors must refrain from aggressive sales tactics and must immediately cease solicitation and depart the private property of another upon demand of the owner, occupant or any agent thereof and not return to the premises for a period of thirty (30) days unless expressly invited back by the owner or occupant. A solicitor or canvasser must conduct the regulated activity in a reasonably courteous manner at all times, and must not engage in offensive, obscene or abusive language.
- (m) **Panhandling.** No solicitor or canvasser shall solicit contributions of money or property other than in exchange for merchandise or personal services or on behalf of a nonprofit, religious, political or charitable organization.
- (n) **Buyer's Right to Cancel.** All licensees must honor the buyer's right to cancel a home solicitation sale or lease until midnight of the third business day after the day on which the home solicitation sale or lease occurs. Cancellation is evidenced by the buyer giving written notice of cancellation to the seller at the address stated in the agreement or offer to purchase or lease. Notice of cancellation, if given by mail is effective upon deposit in a mailbox, properly addressed to the seller and postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the buyer not to be bound by the home solicitation sale or lease.
- (o) **Installation or Alteration.** No licensee, or person acting under their direction or control, may install or alter any goods, merchandise or wares sold or leased through home solicitation during the period in which the buyer has a right to cancel, as set forth in this subdivision. However, upon proper application, the Issuing Authority may waive this restriction in writing based upon the Issuing Authority's finding that emergency installation is necessary for the health, welfare or safety of the buyer and with the buyer's written, informed consent.

SEC. 14.366. PLACARD PROHIBITING SOLICITORS.

Any individual who wishes to exclude solicitors or canvassers from a dwelling unit occupied by the individual may prominently place upon or near the entrance to such dwelling unit a printed placard or sign bearing a notice indicating that solicitors are prohibited. No solicitor shall enter upon any premises, ring any doorbell, or knock on any door where a placard or sign is posted, unless the solicitor has been previously invited by the individual occupying the dwelling unit.

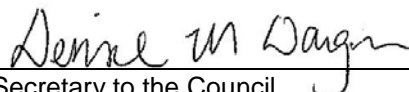
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Passed and adopted this 6th day of June, 2016.



Mayor

ATTEST:



Secretary to the Council

APPROVED:



City Attorney