

BILL NO. 19-25

ORDINANCE NO. 4.475

AN ORDINANCE AMENDING CHAPTER 160 OF THE GLADSTONE CITY CODE TO UPDATE ITS REGULATIONS RELATING TO SOLICITATION WITHIN THE CITY.

WHEREAS, the City currently regulates solicitation within the City through both the Director of Public Safety and the City Clerk; and

WHEREAS, the dual involvement of the Director of Public Safety and the City Clerk has led to confusion among City Staff and applicants as to the proper official to submit information to and has led to inefficiencies in the application and regulatory process; and

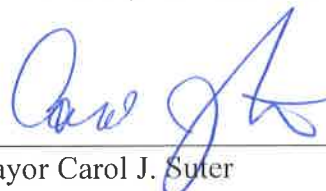
WHEREAS, the City Council desires to ensure that its regulations are straightforward and understandable for applications and citizens, and that City Staff can quickly and easily apply said regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

Section 1. Chapter 160, Solicitation, of the City Code is replaced with a new Chapter 160, Solicitation, to read in the form of Exhibit A, attached hereto and incorporated herein by reference.


Section 2. That this Ordinance shall be in full force and effect from and after its passage.

INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, ON THIS 24TH DAY OF JUNE, 2019.



Mayor Carol J. Suter

Attest:



Ruth Bocchino, City Clerk

First Reading: June 24, 2019

Second Reading: June 24, 2019



Request for Council Action

RES ☐ #

BILL ☒ # 19-25

ORD # 4.475

Date: 6/20/2019

Department: General Administration

Meeting Date Requested: 6/10/2019

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: Amending Chapter 160 of the Gladstone City Code to update regulations relating to Solicitation within the City.

Background: Currently, all solicitation applications are received by the City Clerk and Finance Department. Once the applications are reviewed by the City Clerk for accuracy, and fees remitted, the applicants are sent to the Public Safety Department for their background check. This amendment removes the City Clerk and Finance Department from the process so the applicants can apply, pay, and receive the permit through one city department. This new process streamlines the application and receipt of the Solicitation permit. The Public Safety Department is able to collect the fee, review the application, and issue accordingly. The Public Safety Department will verify with the Finance Department that the business has a current business license on file with the City of Gladstone.

Budget Discussion: Funds are budgeted in the amount of \$ 0 from the Fund. Ongoing costs are estimated to be \$ annually. Previous years' funding was \$

Public/Board/Staff Input:

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Ruth Bocchino
Department Director/Administrator

City Attorney

SW
City Manager

EXHIBIT A

CHAPTER 160. - SOLICITATION

ARTICLE 1. - IN GENERAL

Sec. 5.160.010. - Definitions.

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

Canvasser means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the primary purpose of presenting or discussing a particular religion, philosophy, political position or party or candidate, even if the canvasser accepts or requests donations, where the acceptance or request for donations is only incidental to the purpose of the canvass.

Canvassing includes all activities ordinarily performed by a canvasser as defined under the definition of "canvasser."

Charitable means and includes the word "patriotic," "philanthropic," "social," "service," "health," "welfare," "benevolent," "educational," "civic," "religious," "cultural" or "fraternal," either actual or purported.

Contributions means and includes the words "alms," "money," "subscription," "property" or any donations under the guise of a loan or money or property.

Department means the department of public safety.

Director means the director of public safety or the director's authorized representative.

Peddler means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this chapter.

Peddling includes all activities ordinarily performed by a peddler as indicated under the definition of "peddler."

Person means a natural person or any firm, corporation, association, club, society or other organization.

Solicitor means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future.

Solicitation includes all activities ordinarily performed by a solicitor as defined under the definition of "solicitor."

Sec. 5.160.020. - Permit requirements and exemptions.

- (a) It shall be unlawful for any person 18 years of age or older to engage in peddling or solicitation activities within the city without first obtaining a permit issued by the city; provided, however, that the following are exempted from the provisions of this section:
- (1) Any solicitation made upon premises owned or occupied by an organization or business upon behalf of which or with the consent of which the solicitation is made;
 - (2) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;
 - (3) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable organization;
 - (4) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary;
 - (5) Any canvassing as defined in section 5.160.010; or
 - (6) Any distribution of handbills, flyers, pamphlets, or other written materials to residences, without attempting to directly contact or speak with the resident, that advertise or promote a political, religious, charitable, or other noncommercial position, event, or service.
- (b) A person involved in canvassing or distribution of handbills, flyers, pamphlets, or other written materials may obtain a permit, without payment of a fee, if such person chooses to obtain a permit for purposes such as identification of the person or notification to the city of the person's activities.

Sec. 5.160.030. - Permit for sponsoring juvenile peddlers.

- (a) No person under the age of 18 years shall be permitted to engage in peddling except as provided in this section.
- (b) A permit shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of one or more persons under 18 years of age.
- (c) The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.
- (d) The sponsor shall provide to each individual in its sales force a badge, uniform or other easily readable form of identification which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling or soliciting.
- (e) Persons under 18 years of age shall be exempt from the requirement to obtain a permit when engaged in the solicitation of funds or sales of goods or services for the support of religious, educational, athletic, artistic, community service or similar activities where the person engaged in the solicitation is a direct participant in the activity for which the solicitation is conducted and is not being compensated for the solicitation activities, other than by participation in the activities being supported by the solicited donations.

Sec. 5.160.040. - Permit application.

Every person subject to the provisions of this chapter shall file with the ~~city clerk~~ director an application in writing, which shall provide 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 (for sponsors), or other legally recognized form of identification;
- (2) A brief description of the business or activity to be conducted;
- (3) The hours and location for which the right to peddle or solicit is desired;
- (4) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and authority of the employee or agent to act for the employer or principal, as the case may be;
- (5) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;
- (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 such law or regulation, would exempt the applicant from the licensing requirements of this chapter; and
- (7) Two photographs of the applicant which shall have been taken within 60 days immediately prior to the date of filing of the application. The photographs shall measure two inches by two inches and show the head and shoulders of the applicant in a clear and distinguishing manner. At the request of applicant, the photographs may be taken by the department of public safety.

Sec. 5.160.050. - Fees.

At the time the application is filed with the ~~city clerk~~ director, the applicant shall pay a fee to cover the cost to the city of processing the application and investigating the facts stated therein. The application fee shall be \$35.00 for each permit requested. The application fee shall not be refunded in the event the permit is denied. No fee shall be required of any person engaged in canvassing or distribution of handbills, flyers, pamphlets, or other noncommercial materials.

Sec. 5.160.060. - Bond.

All solicitors requiring cash deposits or taking orders for cash on delivery purchases (COD) or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the ~~city clerk~~ director a bond, letter of credit or other form of security approved by the city in the amount of \$5,000.00 or in the amount of anticipated revenues/sales to be generated within the city, whichever amount is greater.

Sec. 5.160.070. - Application review and permit issuance.

- (a) Upon receipt of an application, the director of public safety, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.
- (b) If the director of public safety finds the application to be satisfactory, the director shall endorse an approval on the application and shall, upon proof of payment of the prescribed fee, provide the required permit to the applicant.
- (c) The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. If the permit is issued to a sponsor of juvenile peddlers, one permit shall be issued to the sponsor only. Any solicitor or peddler who has attained the age of 18 or older shall have a separate permit. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.
- (d) A record of all permits issued shall be maintained by the department of public safety for a period of two years.

Sec. 5.160.080. - Denial of permit.

- (a) Upon the director of public safety's review of the application, the director may refuse to issue a permit to the applicant under this chapter for any of the following reasons:
 - (1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - (2) An investigation reveals that the applicant falsified information on the application;
 - (3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any acts of violence against persons or property;
 - (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five years immediately preceding the date of application;
 - (5) There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 - (6) The applicant has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the director that the reasons for such earlier denial no longer exist.
- (b) The director's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that such applicant's application is disapproved and that no permit will be issued. Notice shall be mailed by the ~~city clerk~~ director to the applicant at the address shown on the application form, or at the applicant's last known address.

Sec. 5.160.090. - Permit expiration.

All permits issued under the provisions of this chapter shall expire one year from the date of issuance, unless an earlier expiration date is noted on the permit.

Sec. 5.160.100. - Identification badges.

At the same time the permit is issued, the director shall issue to each permittee an identification card, which shall be worn or displayed by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the city.

Sec. 5.160.110. - Permit exhibition.

Every person required to obtain a permit under the provisions of this chapter shall exhibit the permit when requested to do so by any prospective customer, member of the public or department of public safety employee.

Sec. 5.160.120. - Notice of activity.

Every person required to obtain a permit under the provisions of this chapter shall provide notice to the department of public safety 48 hours prior to commencement of solicitation activities within the city. Such notice shall contain the dates solicitation activities will occur and the general areas of the city in which solicitation will be performed by the permittee.

Sec. 5.160.130. - Transfer prohibited.

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this chapter. Any change in business activity by the permittee shall require the permittee to obtain a new permit.

Sec. 5.160.140. - Entry upon signed premises unlawful.

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a peddler or solicitor, to enter upon any residential premises in the city where the owner, occupant or person legally in charge of the premises has posted at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import. Any sign posted at the entry to the premises which is a minimum of ten square inches shall be presumed to be adequate notice to a solicitor.

Sec. 5.160.150. - Hours of solicitation.

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of sunset or 5:00 p.m., whichever is earlier, and 9:00 a.m., except when invited to the residence by the owner or occupant thereof.

Sec. 5.160.160. - Permit revocation.

(a) Any permit issued under this chapter may be revoked or suspended by the director of public safety, or authorized representative, for any of the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for a permit;

- (2) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
 - (3) Conducting peddling or solicitation activities contrary to the provisions contained in the permit;
 - (4) Conducting peddling or solicitation activities contrary to the ordinances or this Code;
 - (5) Conviction for any crime involving moral turpitude; or
 - (6) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.
- (b) Notice of such revocation shall be made by hand delivering such notice to the individual whose permit is revoked or by mailing such notice to the person's address by certified mail as shown on the permit application form, or to the person's last known address.

Sec. 5.160.170. - Appeals.

- (a) Any person aggrieved by the action or decision of the director to deny, suspend or revoke a permit applied for under the provisions of this chapter shall have the right to appeal such action or decision to the city manager within 15 days after the notice of the action or decision has been hand delivered to the person or mailed to the person's address as provided in subsection 5.160.160(b).
- (b) An appeal shall be taken by filing with the director a written statement setting forth the grounds for the appeal.
- (c) The director shall transmit the written statement to the city manager within ten days of its receipt and the city manager shall set a time and place for a hearing on the appeal.
- (d) A hearing shall be set not later than 20 days from the date of receipt of the appellant's written statement.
- (e) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- (f) The decision of the city manager of the appeal shall be final and binding on all parties concerned.

Sec. 5.160.180. - Claims of exemption.

Any person claiming to be legally exempt from the regulations set forth in this chapter, or from the payment of a permit fee, shall cite to the director the statute or other legal authority under which exemption is claimed and shall present to the director proof of qualification for such exemption.

Sec. 5.160.190. - Violations and penalty.

In addition to permit revocation set forth in this chapter, violation of any of the provisions of this chapter shall, upon conviction, be punishable by a fine not exceeding \$500.00, or by imprisonment for a period of time not exceeding 90 days, or by both such fine and imprisonment. Each day any violation of this chapter shall continue shall constitute a separate offense. In

addition, the city or any individual may pursue any available civil remedies deemed appropriate and necessary.

ARTICLE 2. - AGGRESSIVE SOLICITATION^[7]

Sec. 5.160.200. - Legislative findings.

- (a) The city council finds that the increase in aggressive solicitation throughout the metropolitan area has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.
- (b) The city council finds that aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional or unintentional blocking of pedestrian and vehicular traffic. The council further finds that the presence of individuals who solicit money from persons at or near banks automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit indications by drivers not to do so. Such activity carries with it an implicit threat to both persons and property. Persons soliciting money or services from people driving on the public streets obstruct traffic and create a dangerous situation where the threat of bodily injury to themselves or others is increased.
- (c) The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation and the risk to the motoring public accompanying certain kinds of solicitation that have become an unwelcome presence in the city and to allow for adequate means of communication of such constitutionally protected activity.

Sec. 5.160.210. - Definitions.

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:

Aggressive manner means and includes:

- (1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (2) Following the person being solicited, if that conduct is:
 - a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:

- a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a street use permit issued pursuant to this chapter, shall not constitute obstruction of pedestrian or vehicular traffic;
- (5) Intentionally or recklessly using obscene or abusive language or gestures:
- a. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or
- (6) Approaching the person being solicited in a manner that:
- a. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Automated teller machine facility means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

Bank means any financial institution or banking corporation doing business within the corporate limits of the city.

Check cashing business means any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

Public area means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing such areas.

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

Sec. 5.160.220. - Prohibited acts.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) In any public transportation vehicle, or bus or bus stop;
- (3) Within 15 feet of any entrance or exit of any bank or check cashing businesses or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
- (5) From an operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle or to any permittee holding a valid street use permit.

Sec. 5.160.230. - Street use permit.

- (a) *Street use permit allowed.* Any individual or organization shall have the right to file an application with the department of public safety to obtain a permit to utilize the public street for purposes of solicitation or the expression of other forms of constitutionally protected speech. The permit shall grant the individual and/or organization the right to utilize the public street at designated locations between the hours of sunrise and sunset for such purposes subject to the regulations contained in this article. Any person engaging in aggressive solicitation on the public street pursuant to a street use permit shall be at least 60 inches in height and shall wear an orange safety vest.
- (b) *No obstruction.* The permit issued hereunder shall not allow any individual to block the safe or free passage of the person being solicited on the street, obstruct the flow of traffic on the street or require the person or driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation. To ensure that the permittee does not unreasonably interfere with traffic, the permittee shall remain on the sidewalk (or on the adjacent unpaved right-of-way if there is no sidewalk) unless the occupant of a vehicle indicates a desire for the permittee to enter the street for the purpose of approaching the vehicle.
- (c) *Limitation on issuance of permits.* Each individual and/or organization shall be limited to one full day street use permit per calendar year. The permit shall be effective for one full day. A permit issued for five hours or less shall be considered a half day. The public safety

department shall not issue more than one full day permit per month and such permits shall be issued on a first submitted, first issued basis. An application for a permit shall not be deemed to be submitted until the applicant provides all of the information required by this article to the city.

(d) *Application.* An application for a street use permit shall be filed by the applicant with the ~~city clerk~~ Department of Public Safety. At a minimum, the application filed by the applicant with the city shall include the following information:

- (1) The name, address and a phone number at which the applicant can be reached together with proof of age, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for corporations), or other legally recognized form of identification;
- (2) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and authority of the applicant to act for the employer or principal, as the case may be;
- (3) 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 such law or regulation, would exempt the applicant from the licensing requirements of this article;
- (4) A brief description of the activity to be conducted;
- (5) The date when street solicitation activities are desired;
- (6) The hours and location where street solicitation activities are desired;
- (7) The number of persons participating in solicitation activities;
- (8) If any activities are to be conducted by any persons under the age of 18 years, a permit shall be obtained by a sponsoring adult, company or organization for the conduct of such minors. The sponsor shall be responsible for supervising and controlling the conduct of all juveniles soliciting under the sponsor's permit.
- (9) A certificate of insurance evidencing that the applicant has public liability insurance in an amount sufficient to cover potential claims for any bodily injury, death, or disability and for property damage which may arise from or be related to the use allowed by the permit. The policy shall name the city as an additional insured, apply as primary insurance regardless of any insurance which the city may carry; and obligate the insurance company to give notice to the city at least 30 days before any cancellation of the policy. The insurance provided shall be in the following minimum amounts: \$100,000.00 per claim, \$300,000.00 per occurrence;
- (10) A statement that applicant will indemnify and hold the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of the public street, as provided for in the application;
- (11) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the

offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;

- (12) An application fee to cover the cost to the city of processing the application and investigating the facts stated therein. The application fee shall be \$35.00 for each permit requested. The application fee shall not be refunded in the event the permit is denied; and

- (13) Any other information requested by the ~~city clerk~~director of public safety, or designee.

- (e) *Approval by director of public safety.* The ~~city clerk~~director, or designee, shall review, approve and issue a permit as follows:

- (1) Upon receipt of an application, the director of public safety, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.

- (2) If the director finds the application to be satisfactory, the director shall endorse an approval on the application and shall, upon proof of payment of the prescribed fee, provide the required permit to the applicant. The permit shall be posted by the applicant at a main location where the solicitation activities will occur.

- (3) Upon the director's review of the application, the director may refuse to issue a permit to the applicant under this article for any of the following reasons:

- a. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
- b. An investigation reveals that the applicant falsified information on the application;
- c. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any acts of violence against persons or property;
- d. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five years immediately preceding the date of application;
- e. There is no proof as to the authority of the applicant to serve as an agent to the principal; or
- f. The applicant has been denied a permit under this article within the immediate past year, unless the applicant can and does show to the satisfaction of the director that the reasons for such earlier denial no longer exist.

- (4) The director's approval or disapproval shall be noted on the application, and the applicant shall be notified of such action. Notice shall be mailed by the ~~city clerk~~director to the applicant at the address shown on the application form, or at the applicant's last known address.

- (f) *Revocation of permit.* Following issuance of a permit, upon determination by the director of public safety, or the director's designee, that the activities conducted by such individual or organization pursuant to any permit issued hereunder are dangerous to the motoring public

or unreasonably obstruct traffic or that the applicant is conducting a false or misleading solicitation as set forth in this article, the permit may be revoked by the director and all street solicitation activities shall cease immediately. Notice of such revocation shall be made by hand delivering such notice to any individual conducting activities pursuant to the street use permit which is being revoked or by mailing such notice to the permittee's address by certified mail as shown on the permit application form, or to the permittee's last known address.

(g) *Appeal of denial or revocation of permit.* Any person aggrieved by the action or decision of the director to deny, suspend or revoke a permit applied for under the provisions of this article shall have the right to appeal such action or decision to the city manager within 15 days after the notice of the action or decision has been hand delivered to the person or mailed to the person's last known address. Such appeal shall be taken as follows:

- (1) A written statement setting forth the grounds for the appeal shall be filed with the ~~city clerk~~ director;
- (2) The ~~city clerk~~ director shall transmit the written statement to the city manager within ten days of its receipt and the city manager shall set a time and place for a hearing on the appeal;
- (3) A hearing shall be set not later than 20 days from the date of receipt of the appellant's written statement;
- (4) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision;
- (5) The decision of the city manager shall be provided to the appellant in writing within 20 days from the date of the hearing;
- (6) The decision of the city manager on the appeal shall be final and binding on all parties concerned.

Sec. 5.160.240. - False or misleading solicitations.

It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

- (1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact;
- (2) Stating that the donation is needed to meet a need which does not exist;
- (3) Using a false business name to obtain donations;
- (4) Stating that the donation is for a charitable purpose or charitable organization which does not exist;
- (5) Stating that the solicitor is from out of town and stranded, when that is not true;
- (6) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;

- (7) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- (8) Use of any makeup or device to simulate any deformity;
- (9) Stating that the solicitor is homeless, when the solicitor is not;
- (10) Stating the donation is for food, but in reality is used for "sidewalk" drugs, or illegal contraband;
- (11) Using and exposing minors/children to hazardous conditions, i.e., cold, heat, animals, weather, and/or strangers, to solicit funds;
- (12) To offer to sell newspapers, magazines, periodicals, pamphlets for a price, which are offered free-of-charge to the general public;
- (13) Fraud, misrepresentation or false statement contained in the application for a permit;
- (14) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities; or
- (15) Stating that funds solicited are needed for a specific purpose and then spending the funds received for a different purpose.

Sec. 5.160.250. - Penalties.

Violation of any of the provisions of this article shall, upon conviction, be punishable by a fine not exceeding \$500.00 or by imprisonment for a period of time not exceeding 90 days, or by both such fine and imprisonment. Each day any violation of this article shall continue shall constitute a separate offense. In addition, the city or any individual may pursue any available civil remedies deemed appropriate and necessary.