



CHANGES TO CHAPTER 114 PEDDLERS AND SOLICITORS

Options to Proceed:

1. Motion to amend Chapter 114 as presented
2. Motion to amend Chapter 114 as discussed (*if further changes are discussed*)
3. Motion to leave Chapter 114 as it currently reads
4. Motion to table for further information/research

Staff recommends option 1

SUMMARY

At the direction of Council, staff has adjusted our current peddler and solicitor ordinance to address the concerns stated in the November Special Meeting. Specifically, the issues of enforceability, appearing “unwelcoming” to the public, desire for a general prohibition against begging and/or soliciting alms, and making repeat violations of the ordinance punishable by a 3rd degree misdemeanor have been addressed. The ordinance, as currently written, provided us with a strong foundation that required few adjustments to bring about the desired improvements.

Drawing heavily from Shelby’s peddler and solicitor ordinance, staff broadly prohibited begging as well as “uncharitable soliciting, peddling. . . and the like”. The current ordinance requires all solicitors to obtain a license. Instead, the new red line version states that the license requirement will only apply to religious and charitable organizations, using their commonly accepted definitions, because all other types of organizations shall be prohibited from soliciting within Town. Effort was made to ensure that the Town has the maximum flexibility to determine what constitutes a religious or charitable organization and leaves the final determination to the Town Manager. The current ordinance’s application procedure (Sec. 114.03), standards for issuance (Sec. 114.04), and standards for revocation (Sec. 114.06) already reflect a deliberate effort to allow the Manager or their designee the freedom to apply the standards of the ordinance on a case-by-case basis and are sufficient for our needs in their current form.

Another concern was the risk of seeming “unwelcoming” as a Town. While the manager enjoys a high degree of autonomy when making their determination of what types of organizations are considered charitable or religious, licenses to those organizations shall be given unless there is tangible evidence that the conduct of the organization would pose a threat to the public’s health, safety, morals, or general welfare. There is no intention to restrict, for instance, the Boy Scouts or elementary schools from conducting fundraising activities and the current wording of Sec. 114.04 compels the manager to issue a license to these organizations.

The issue of enforceability was addressed by requiring licensees to carry the license with them at all times while soliciting. Failure to do so may result in revocation of the license. Between the broad ban on



uncharitable soliciting and requiring charitable organizations to carry their license means that if the Police Department receives a call about a salesperson for a company, we automatically know that they should not be soliciting sales for their product. If the Boy Scouts come to sell popcorn, the concerned resident can request to see the license to verify that they are who they claim to be. Staff will also maintain a list of licensees to confirm the validity of a charitable solicitor. This should result in fewer situations where the PD is called to investigate a solicitor who is properly licensed with the town. Furthermore, a company that continues to send people to solicit despite continued warnings or fines can be stopped through Sec. 114.99(b) with equitable remedies, injunctions, and/or abatement orders from the appropriate court. Finally, the penalty section was adjusted to have three tiers of penalties. Each solicitor shall first receive a warning, the second violation shall result in a \$50.00 civil penalty, and the third violation shall result in a \$200.00 civil penalty and may result in a Class 3 misdemeanor. Violations shall remain on a list for a period of one year before resetting the number of violations against the solicitor.

Other minor changes include removing the fee to acquire a license to solicit, increasing the price for a pushcart or mobile food unit, expanding how long licenses issued under this chapter are valid from 90 days to 365 days, and clarifying that equitable remedies and abatement orders shall be issued against companies that continue to violate the provisions of this ordinance rather than the individual solicitor.

2nd Reading Changes:

Staff updated the red-line solicitor ordinance in two ways after the first reading. The first is in Sec. 114.02(c)(1) where the price for a yearly pushcart or mobile food truck permit was increased to \$100.00 from \$25.00 for 90 days. Staff also created a one-time license for \$25.00 and made the one-time license last for 7 days from the date of issuance in Sec. 114.02(e) with the goal of making the yearly option more attractive. An updated Sec. 114.08 now includes a stipulation that failure to solicit while in uniform or “other visible and clearly branded attire” may result in the revocation of the license. The application form will include a section where organizations unable to meet this requirement can explain why they cannot and how they will identify themselves instead.

MATERIALS PROVIDED

- **“Redline” copy of the ordinance highlighting changes**