

Ordinance no. _____

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 10. LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS. ARTICLE V. - PEDDLERS is hereby amended by deleting it in its entirety and replacing it as follows:

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DIVISION 1. – GENERALLY.

Sec. 10-126. - 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:

Solicitor includes any person who solicits orders door to door or house to house on behalf of a business, individual, vocation or occupation.

Sec. 10-127. - Exemptions.

- (a) Persons, businesses and organizations exempted from local regulation by operation of state or federal law, or by the Constitution of the United States, or of the state, are exempt from the requirements of this article.
- (b) Representatives or agents of charitable or nonprofit organizations or corporations registered with the Georgia Secretary of State, or tax-exempt organizations which have been recognized as such by the Internal Revenue Service of the United States Treasury Department, shall be treated as exempt from the provisions of division 2 of this article, provided that such organization first supplies proof of the recognized status to the police department, and has received from such department written confirmation of its exempt status. The organization shall then furnish each of its agents or representatives with a copy of the confirmation letter. The organization shall then furnish the regulatory enforcement unit of the police department with a list of such agents or representatives, and shall promptly notify the unit of changes in the list.
- (c) Any sales representative who calls upon prospective customers at their prior invitation shall be treated as exempt from the provisions of division 2 of this article.
- (d) Any sales representative who does not demand, accept or receive payments in advance of final delivery and who has had, for the previous six months, a regularly established place of business or permanent residence in the county from which the sales representative transacts business or solicits orders on a continuing and ongoing basis within the city, shall be treated as exempt from the provisions of division 2 of this article. Any person who is exempt under this subsection must be soliciting orders only for goods capable of being delivered at one time and must have on such person proper identification which substantiates the claim to an exemption. In this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth, and includes without being limited to a passport, military

identification card, driver's license or an identification card issued by the police department, but shall not include a birth certificate.

Sec. 10-128. - Violation of other ordinances and laws.

- (a) It is unlawful for any person while engaging in any activity for which a permit is required by this article to:
 - (1) Violate any city ordinance.
 - (2) Violate any criminal law of the city, the county, the state, or violate any state or federal consumer protection law.
- (b) In this section, the term "consumer protection law" includes the Fair Business Practices Act of 1975, O.C.G.A. title 10, ch. 1, pt. 3 (O.C.G.A. § 10-10-410 et seq.), O.C.G.A. title 43, ch. 17 (O.C.G.A. § 43-17-1 et seq.) and the Federal Consumer Credit Protection Act (truth-in-lending and truth-in-leasing).

Sec. 10-129. - Hours of operation.

It is unlawful for any person to engage in any of the conduct for which a permit is required by this article between the hours of 9:00 p.m. and 9:00 a.m., according to the standard time in effect.

Sec. 10-130. - Restriction on number of persons soliciting.

It is unlawful for more than two individuals to engage in solicitation upon any premises at the same time for the same goods or services, or religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated this section.

Sec. 10-131. - Persons with criminal records.

It is unlawful for any person with a criminal record as described in section 10-146, whether or not otherwise eligible for an exemption under section 10-127, to engage in any of the activities for which a permit is required by this article.

Sec. 10-132. – Frequency of Solicitation of same premises.

It is unlawful for any person to make more than one solicitation call at the same premises for identical goods or services within any consecutive two-week period, without receiving a private invitation therefor from the occupant of such premises. This section includes solicitation upon the same premises by employees, agents, or representatives of any person more than once during such period without a prior invitation.

Sec. 10-133. - Solicitation to be at main entrances.

It is unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance or part of the building other than the main entrance to the residence.

Sec. 10-134. - Announced purpose of call.

At each dwelling, whether it is an apartment unit or private residence, the solicitor shall inform the occupant in unambiguous terms of the purpose of the call and shall not represent that the solicitor is participating in any contest, game or other competitive endeavor, or that the solicitor is offering the occupant an opportunity to participate in any such contest, game or endeavor.

Sec. 10-135. - Identification to prospective customers.

It is unlawful for any person, at the time of initial contact with a prospective customer, to fail to verbally identify himself for the purpose of the solicitation, and the company and product line represented.

Sec. 10-136. - Fraud, etc.

It is unlawful for any person engaged in solicitation to misrepresent the purpose of the solicitation or use any false or deceptive statements or any misrepresentation to induce a sale or contribution, or use any plan, scheme or ruse which misrepresents the status or purpose of the person making the call.

Secs. 10-137. – 139. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-140. - Required.

Any person engaged in or desiring to engage in any type of selling, soliciting, canvassing, survey-making or any other business, occupation or vocation, which by its nature requires going from door to door or house to house in the residential areas of the city, whether on a temporary or a permanent basis and whether or not it is for any religious, charitable, nonprofit or profit-making organization, shall obtain a solicitor's permit from the police department or planning and development department.

Sec. 10-141. - Application.

(a) *Questionnaire.* The police department or planning and development department shall prepare a questionnaire requiring pertinent information regarding the physical description, identity, and background of each applicant for a permit, to include the following:

- (1) Name, local address and telephone number.
- (2) Date and place of birth.
- (3) Driver's license number and issuing state.
- (4) Social Security number (if different from driver's license number).
- (5) Race and sex.
- (6) Height and weight.
- (7) Eye color and hair color.
- (8) Name, address and telephone number of the organization represented.
- (9) Name and telephone number of immediate supervisor.

(10) Product or service.

(11) A list of all arrests, convictions and the disposition of each charge, other than minor traffic violations.

(b) *Statement.* The questionnaire form shall also bear the following statement:

"Georgia Code section 16-10-71 provides that a person who makes a lawful oath or affirmation or who executes a document knowing that it purports to be an acknowledgment of a lawful oath or affirmation commits the offense of false swearing when, in any matter or thing other than a judicial proceeding, he knowingly and willfully makes a false statement."

Sec. 10-142. - Investigation and issuance.

- (a) Upon filing of an application for a solicitor's permit, the police department shall review the application for the purpose of ascertaining whether the applicant has plead to, or has been convicted of, a felony, or a misdemeanor involving violence or moral turpitude. After ascertaining that the application has been properly completed, and that the applicant has not been disqualified by virtue of prior pleas of conviction, the planning and development department shall approve the application.
- (b) In any case in which it appears to the planning and development department that a solicitor's permit should not be issued to an applicant, the planning and development shall so inform the applicant, and upon the applicant's request, shall furnish the applicant with a reasonably detailed written statement of the reasons why the permit will not be issued.
- (c) Following approval of the permit application and prior to issuance of a permit, the applicant shall obtain a business license and pay the required license fee.
- (d) Upon payment of the permit fee, the applicant shall receive from the planning and development a copy of the license application, which the applicant shall then carry to the police department. Upon payment by the applicant of a fee in the amount established by action of the city council, a copy of which is on file in the office of planning and development department, the police department shall photograph the applicant and provide the applicant with a permit bearing the applicant's photograph, name, and organization, and identifying the applicant as a solicitor.
- (e) A decision to issue or deny the application shall be made within ten (10) business days from the date of filing.
- (f) The fee of said license is as referenced on the fee schedule referred to at City of Cartersville Section 17-87.

Sec. 10-143. - Expiration and renewal.

Each solicitor's permit shall indicate thereon an expiration date which is one year from the date of issue. Application for renewal may be made at any time following the 60th day preceding the date of expiration.

Sec. 10-144. - Selling, renting, etc.

It is unlawful for any person to lend, rent or sell a solicitor's permit card to another.

Sec. 10-145. - Display.

The planning and development department shall furnish to each holder of a solicitor's permit a device suitable for attaching the permit card to the outer clothing. No person shall act as a solicitor without wearing and displaying the permit in a conspicuous manner. Such a person shall display such identification to any authorized person or potential customer upon request.

Sec. 10-146. - Denial; suspension or revocation.

- (a) No solicitor's permit shall be issued to any person who has been found guilty of any misdemeanor involving violence or moral turpitude any time within five years prior to the date of application, nor shall a permit be issued to any person convicted of a felony, except that a permit may be issued to a convicted felon if it appears that such person either has been pardoned, or that such person has been free from any legal restriction for a period of five or more years prior to the date of application. In this section the terms "conviction" and "found guilty" include verdicts or pleas of guilty, entered by a court of the state, a court of any sister state, or any federal district court. Any permit issued as the result of willful false statements or omissions in the solicitor's application for the permit shall be deemed null and void from the time of its issue.
- (b) The permit of any solicitor charged with a felony, or a misdemeanor involving violence or moral turpitude shall be deemed suspended from the time of lawful arrest, formal accusation or indictment, whichever shall first occur; such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charge is dismissed, dead-docketed, nol-prossed or no-billed.
- (c) The permit of any solicitor who is convicted of a felony, or of a misdemeanor involving moral turpitude or violence, shall be deemed revoked from the time of such conviction. The permit of any solicitor convicted of having violated any provision of this article after issuance of the permit shall be deemed revoked from the time of such conviction.
- (d) Any suspension or revocation occurring pursuant to the provisions of this article shall be effective by operation of law, whether or not any formal notification to the solicitor is given or received.
- (e) It is unlawful for any person to act as a solicitor while such person's permit has been suspended or after it has been revoked.

Sec. 10-147. - Surrender.

Each solicitor's permit shall remain the property of the city. Each permit holder shall surrender the permit card to the police department no later than three business days following the expiration, suspension or revocation of the permit or upon the demand of the police department or finance department, whichever occurs first.

Sec. 10-148. - Appeals.

A person to whom the city refuses to issue a solicitor's permit or whose solicitor's permit is suspended or revoked may appeal pursuant to section 10-3.

Secs. 10-149. – 10-150. - Reserved.

BE IT AND IT IS HEREBY ORDAINED.

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
JULIA DRAKE, CITY CLERK