

**AN ORDINANCE TO AMEND THE
THE CITY OF DACULA CODE OF ORDINANCES
REGARDING CANVASSER OR SOLICITOR
(SECTION 12-497 et seq).**

WHEREAS, the City adopted a comprehensive Ordinance to regulate canvassing and soliciting inside the City limits and updated it in 2018; and

WHEREAS, some of the provisions of the current ordinance should be updated and improved; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of the City of Dacula to amend the City Code to make the revisions outlined herein;

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that the existing Article XV - Canvasser or Solicitor Ordinance is amended as follows:

SECTION 1

The existing Section 12-479 Intent is deleted, and the following is substituted in its place:

Section 12-479. Intent.

The intent of the Mayor and City Council in enacting this ordinance is to regulate the sale of goods and services by canvassing or soliciting at the residences in the City, to the end that criminal activity in the City and abusive techniques utilized by any such canvasser or solicitor, which adversely affect the public health, safety and welfare in the City, will be curtailed. This ordinance is not intended as a de facto prohibition of door-to-door solicitation, nor is it an attempt to adversely affect interstate commerce or to limit any parties' constitutional rights. Instead, this article is intended to balance competing interest, reduce criminal activity and protect City citizens from abusive sales techniques with the conduct of proper commercial sales activity by the least restrictive means available. This article is not intended to allow any business activity which would otherwise be unlawful.

Section 12-480 is amended to add the following definition:

As used in this chapter, the following terms shall have the meanings indicated:

CANVASSER or SOLICITOR — Any person traveling from house to house or from street to street taking or attempting to take orders for the sale of goods, wares or merchandise, subscriptions or personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of such or whether he is collecting advance payment on such sales or not;

any person engaged in soliciting information and going from house to house or from street to street for the purpose of conducting a poll, survey or similar activity for any purpose; any person conducting a solicitation, as defined herein, or requesting contributions of any kind and going from house to house or from street to street on the public streets.

CHARITABLE ORGANIZATIONS — Any person or entity which is or holds itself out to be organized or operated for any charitable purpose.

PEDDLER — Any person traveling from house to house or from street to street carrying, conveying or transporting goods, wares and merchandise, offering and exposing the same for sale or making sales of food by traveling from house to house or who shall sell or offer the same for sale from a wagon, automotive vehicle, motor truck, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and, as a separate transaction, makes deliveries to purchasers a part of his scheme or design to evade the provisions of this chapter shall be deemed a "peddler," subject to the provisions of this chapter. The word "peddler" shall often include the words "hawker" and "huckster."

PERSON — Any individual, organization, trust, foundation, association, partnership, corporation, society or other group or combination acting as a unit.

SOLICIT and SOLICITATION — The request, directly or indirectly, for the donation of money, property, anything of value or financial assistance of any kind, and shall include the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including but not limited to goods, books, tags, service emblems, tickets, publications or subscriptions to publications or brochures, and conducted from house to house or on the public streets. A "solicitation" is complete when the solicitation is communicated to any individual then located within the corporate limits of the Town.

The existing Section 12-481 is deleted, and the following is substituted in its place:

Section 12-481 - Exempt activities or organizations.

- (a) Persons, businesses and organizations exempted from local regulation by operation of state or federal law by the Constitution of the United States, or of the state, are exempt from the requirements of this article.
- (b) Bona fide charitable, educational, or nonprofit organizations whose field sales representatives are under the age of 15 are not required to obtain an occupation tax certificate, canvasser's or solicitor's permit.

Section 12-485 (1) is amended as follows:

Section 12-485 – Unlawful or prohibited activities.

- (1) Canvassing or soliciting on Sunday, or between dusk (defined as thirty (30) minutes after sunset) and 9:00 a.m. Monday through Saturday.

A new Section 12-486 is adopted as follows:

Section 12-486 - Proof of vehicle insurance.

Written verification by an insurance company of the amounts and types of motor vehicle insurance coverage required by state statute shall be maintained by canvassers, peddlers, and solicitors using motor vehicles in their business of peddling and shall be presented for inspection, upon demand, to any licensed enforcement official or law enforcement officer.

A new Section 12-487 - Fees is adopted as follows:

Section 12-487 - Fees

- (1) A one-time, \$100.00 annual permit fee per solicitor shall be charged to defray the costs of the City for processing, verifying, and supervising the application information as set forth herein.
- (2) Every permit, certificate of registration and identification card issued by the City shall be issued on a calendar year basis in the year in which it is issued. The fee shall not be prorated over any calendar year. The permit shall expire 365 days after issuance.

A new Section 12-488 – Denial of Permit is adopted as follows:

Section 12-488 - Denial of Permit.

The City Marshals may, upon review of the application, refuse to issue a permit to the applicant for only the following reasons:

- (1) An investigation reveals that the applicant falsified information on the application;
- (2) The applicant has been convicted of a felony, an ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property; or
- (3) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application.

The City Marshals disapproval and the reasons for disapproval, with reference to (1)-(4) above, shall be noted on the application, and the applicant shall be notified that his application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

SECTION 2

In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

SECTION 3

All laws and parts of laws in conflict with this Ordinance are hereby repealed. All existing subsections and parts of Article XV not modified by the Ordinance shall continue in full force and effect.

SECTION 4

The City Administrator, Assistant City Administrator, and Director of Planning and Economic Development are further authorized to correct typographical errors in the text of the existing Code of Ordinances and to produce and publish a final codified version of the City Code with the amendments and revisions outlined herein.

SECTION 5

This Ordinance and the amendments outlined herein shall be effective immediately upon their adoption by the Mayor and City Council.

SO ORDAINED by the governing authority of the City of Dacula, this _____ day of August, 2022.

AYES: ____

NAYES: ____

ATTEST:

HUGH D. KING, III
MAYOR, CITY OF DACULA

HEATHER COGGINS,
ACTING CITY ADMINISTRATOR