

**AN ORDINANCE REPLACING ROBBINS CODE OF ORDINANCES
CHAPTER 112, “PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS” WITH
A NEW CHAPTER 112, “COMMERCIAL SOLICITATION”**

WHEREAS, the Town of Robbins ordinances governing commercial solicitation were last updated in 2012; and

WHEREAS, the Town ordinances governing commercial solicitation need to be updated to reflect current practices and also to ensure that said ordinances comply with the speech protections of the First Amendment;

NOW THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ROBBINS THE FOLLOWING:

Section 1. Robbins Code of Ordinances Chapter 112, “Peddlers, Itinerant Merchants and Solicitors,” is repealed and replaced with the following new Chapter 112, “Commercial Solicitation”:

CHAPTER 112: COMMERCIAL SOLICITATION

- 112.01 Intent
- 112.02 Definitions
- 112.03 Permit required
- 112.04 Permit application
- 112.05 Procedures for considering application
- 112.06 Permit renewal
- 112.07 Revocation procedure
- 112.08 Standards for revocation
- 112.09 Appeal procedure
- 112.10 Town policy on soliciting
- 112.11 Prohibited solicitation
- 112.12 Exemptions

112.01 INTENT.

The purpose of this chapter is to regulate solicitors or door-to-door salesmen, itinerant merchants, and peddlers doing business in the town, and to thereby promote the public safety, health, and welfare.

112.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, solicitor or door-to-door salesman as defined in this section.

DOOR-TO-DOOR SALESMAN or SOLICITOR. A person who travels from dwelling to dwelling or place to place selling or offering for sale or taking orders for the sale of any goods, wares, magazines, periodicals, services or other merchandise of any kind.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. A person, other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot, or other location in the town, and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

PEDDLER. A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

PERSON. An individual, a firm, an association, a partnership, a limited liability company, a corporation, or another group acting as a unit.

112.03 PERMIT REQUIRED.

(A) No person shall conduct any business within the town as a door-to-door salesman, solicitor, itinerant merchant, or peddler until such person has obtained a commercial solicitation permit in accordance with this chapter and has paid an administrative fee to the town for processing of the permit.

(B) No person shall conduct any business within the town as a door-to-door salesman, solicitor, itinerant merchant, or peddler unless:

(1) Such activity occurs between the hours of 9:00 a.m. and 8:00 p.m.;

(2) The commercial solicitation permit is carried at all times by the permittee when engaged in the business activity and is displayed when requested by any police officer, town official, or person solicited; and

(3) All other permits or licenses required by law have been obtained.

(C) No permit issued under this chapter shall be transferable.

(D) All permits issued under this chapter shall expire ninety (90) days after the date of issuance thereof.

112.04 PERMIT APPLICATION.

(A) Applications for commercial solicitation permits under this chapter shall be submitted to the Town police department on a form provided by the Town, under oath, and shall

include, but not be limited to, the following information:

- (1) The full name of the applicant;
- (2) The permanent residence address of the applicant;
- (3) The applicant's temporary address in or in the vicinity of the town, if applicable;
- (4) The name and address of the applicant's employer or the organization with which the applicant is associated in connection with the business activity;
- (5) The type(s) of goods, wares, merchandise, food, periodicals or services to be sold, offered for sale, displayed, or delivered;
- (6) The period for which the application is sought, which shall not exceed ninety (90) days from the date of issuance of the permit, except that permits may be renewed in accordance with § 112.06;
- (7) A record of all crimes of which the applicant has been convicted or has pleaded no contest in the ten (10) years preceding the submittal of the application;
- (8) The age and height of the applicant and any other additional information which the town may reasonably require for identification, including a copy of the document(s) used by the applicant to verify personal identification (e.g., driver's license, passport, picture I.D.);
- (9) A description of any vehicle proposed to be used by applicant in the business, including its registration number, if any; and
- (10) A complete listing of and information concerning all other permits or licenses, which were obtained by the applicant.

(B) If an application is filed by an employer, there shall also be filed separate applications for each individual engaging in the activity, giving the information set forth above for each such individual and signed and sworn to by each such individual, and a separate permit shall be issued for each such individual.

112.05 PROCEDURES FOR CONSIDERING APPLICATION.

(A) Upon receipt of a complete application, the Police Chief or designee shall make such investigation as is reasonably necessary to verify the information in the application and to assure compliance with the provisions of this chapter and shall issue a permit unless the applicant:

- (1) Has not submitted a complete application, along with the administrative fee for the permit;
- (2) Is not permitted by law to engage in the activity due to age;

(3) Has been convicted of, or has pleaded no contest to, a felony charge within the ten years preceding the submittal of the application;

(4) Has been, within the previous five years, convicted of, or pleaded no contest to, a misdemeanor charge under G.S. § 66-257, or a misdemeanor charge, involving theft, fraud, forging, uttering, or other crimes of like nature or any crime involving moral turpitude;

(5) Has committed prior violations of any ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like;

(6) Does not have valid driving privileges in the state in those cases where the applicant will be operating a vehicle in the course and scope of the commercial solicitation; or

(7) Has not obtained all other necessary licenses, including privilege licenses.

(B) Upon completion of the investigation, the Police Chief or designee shall either issue the permit to the applicant or deny the permit and provide the applicant with a written statement of the reasons for denial.

(C) An applicant to whom a commercial solicitation permit has been issued shall have such permit on their person, available for display, at all times while engaging in commercial solicitation activities.

112.06 PERMIT RENEWAL.

Commercial solicitation permits may be renewed by following the procedures in §§ 112.04 and 112.05 for one renewal period of up to ninety (90) additional consecutive days.

112.07 REVOCATION PROCEDURE.

Any permit granted under this chapter may be revoked by the Town Manager pursuant to the standards in section 112.08 after giving notice and a hearing on the decision. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the revocation and the time and place of the hearing. Such notice shall be mailed to the permittee at his or her last known address, at least ten (10) days prior to the date set for the hearing.

112.08 STANDARDS FOR REVOCATION.

A permit granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud, misrepresentation or false statement contained in the application for the permit;

(B) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the license;

(C) Any violation of this code and/or other ordinance of the town;

(D) Conducting the activity under this code and/or any ordinance of the town in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public; and

(E) Where evidence is presented, it is shown that the applicant has been arrested for a felony or a misdemeanor under G.S. § 66-257 or a misdemeanor involving theft, fraud, forgery, moral turpitude, criminal trespass, or a threat to the public safety during the permit period, or has otherwise violated the provisions of this chapter.

112.09 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision to deny issuance of a permit or the revocation of a permit under sections 112.05 or 112.08 of this chapter shall have the right to appeal to the Town Board of Commissioners. The appeal shall be taken by filing with the Board of Commissioners, within fourteen (14) days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Board of Commissioners shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in section 112.07.

(B) The order of the Board of Commissioners after the hearing shall be final.

112.10 TOWN POLICY ON SOLICITING.

(A) It is hereby declared to be the policy of the town that the occupants of the residences in the town shall make the determination of whether solicitors, door-to-door salesman, peddlers, or itinerant merchants (collectively, "solicitor") shall be, or shall not be, invited to their respective residences.

(B) It is a violation of this section for a solicitor to go onto or into any private residence in the town for the purpose of commercial solicitation if the residence has a visible sign posted that says "no soliciting" or that has comparable language indicating that solicitation is unwelcome.

(C) If a residence's "no soliciting" sign or comparable sign is not visible from the adjoining public street but is visible to one approaching the residence's front entrance, it shall not be a violation of this section if the solicitor promptly leaves the residence's property upon seeing the sign and does so without having rung the doorbell, knocked on a door or window of the residence, or otherwise sought to obtain the attention of anyone inside the residence.

(D) If, at the entrances to a neighborhood with a property owners' association, a visible sign that says "no soliciting" or that has comparable language indicating that solicitation is unwelcome has been posted by the association pursuant to authority granted to it, it shall be a violation of this section for a solicitor to go onto or into any private residence in that neighborhood, regardless of whether that particular residence has a "no soliciting" or comparable sign posted, for

the purpose of commercial solicitation.

(E) Regardless of whether a residence has a “no soliciting” sign or comparable sign posted, it shall be a violation of this section if a solicitor does not immediately leave a residence’s property after being told to do so by any owner or occupant of the residence.

112.11 PROHIBITED SOLICITATION.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of section 112.10 above.

112.12 EXEMPTIONS.

The following are exempt from the provisions of this chapter:

- (A) The delivery of goods or services which have been ordered before delivery;
- (B) The circulation of petitions for signature or lawful distribution of advertising materials, flyers, or materials expressing views on political, social, or religious matters;
- (C) The lawful promotion or expression of views concerning political, social, religious and other like matters;
- (D) The selling or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, educational or fraternal organizations, and who receive no compensation of any kind for their services, and such sale or offering by children under the age of 18 years who are students in a public or private school for school activities;
- (E) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations;
- (F) The selling or delivery of goods to business establishments; and
- (G) The selling of an individual’s household personal property at a yard sale on the premises of the individual’s residence.

Section 2. All provisions of any town ordinance or resolution in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this _____ day of April, 2023.

Ayes: _____

Noes: _____

Absent or Excused: _____

Dated: _____

Cameron Dockery, Mayor

ATTEST:

Jessica Coltrane, Town Clerk