

CITY OF SANIBEL

ORDINANCE NO. 10-006

AN ORDINANCE AMENDING THE SANIBEL CODE, SUBPART A, GENERAL ORDINANCES, AMENDING CHAPTER 46, PEDDLERS AND SOLICITORS, ARTICLE II, SOLICITORS, DIVISION 1, GENERALLY, AND DIVISION II, PERMIT, IN ORDER TO CLARIFY DEFINITIONS, EXCEPTIONS, AND ACTS PROHIBITED; AMENDING AND CLARIFYING THE PERMIT APPLICATION PROCEDURES AND RESPONSIBILITIES, INCLUDING PROVISIONS RELATING TO ISSUANCE, DURATION, DUTY TO CARRY PERMIT, AND FEES; PROVIDING FOR REVISIONS TO THE APPEAL PROCESS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sanibel, Florida:

SECTION 1. The Code of Ordinances of the City of Sanibel, Chapter 46, Peddlers and Solicitors, Article II, Solicitors, Division 1, Generally, and Division 2, Permit, are hereby amended, with underlining indicating additions and strikethrough indicating deletions, to read as follows:

ARTICLE II. SOLICITORS

DIVISION 1. GENERALLY

Sec. 46-31. 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:

Person means any individual, for profit corporation, not for profit corporation, charitable organization or any other business or entity, or any employee, agent or contractor acting on its behalf.

Solicitation means a request for donations, information, money services, or the sale or offer of sale of goods, wares, merchandise, real estate (including timesharing), or services, or offer of money for services of any kind, or other consideration, or the enticement or importunity thereof.

Solicitor means a person who goes from door to door visiting residential dwellings or commercial buildings for the following purposes:

- (1) To sell or entice the sale of any goods, wares, real estate (including timesharing), or merchandise or accept subscriptions or orders therefor, and includes persons engaged in soliciting information door-to-door for the purpose of polls, surveys and similar activities.
- (2) To accept or request donations for any charitable purpose.

Sec. 46-32. Exception.

The provisions of this article shall not apply to:

(1) Distribution or dissemination of political information, pamphlets, flyers, or similar materials, or the distribution or taking of political polls or surveys, provided there is no request for or acceptance of money, donations, compensated services, goods of any kind or any other consideration, as part of, or before, during or after such distribution or dissemination, other than a campaign contribution by check written to the campaign account of a registered political candidate.

(2) Distribution or dissemination of religious information, pamphlets, flyers, or similar materials, or the distribution or taking of religious polls or surveys, provided there is no request for or acceptance of money, donations, compensated services, goods of any kind or any other consideration, as part of, or before, during or after such distribution or dissemination.

~~(1) To unpaid members of any civic or charitable organization who are registered as such with the city manager and the names of the solicitors have been listed as such members and the organization has provided each person listed with an approved means of identification with the organization represented.~~

~~(2) Newspersons soliciting subscriptions to any newspaper for home delivery within the city.~~

~~(3) Route deliverypersons who make deliveries at least once a week to regular customers and whose sSolicitation is only incidental to their regular deliveries.~~

~~(4) Government entities conducting official business.~~

Sec. 46-33. Acts prohibited.

No person shall:

(1) Enter into or upon a any residential premises or commercial premises in the city under false pretenses to ~~solicit~~ engage, or attempt to engage, in Solicitation for any purpose.

(2) Enter into or upon any residential or commercial premises to engage in sSolicitation, when the owner or occupant has displayed a "No Solicitation", "No

Soliciting", or "No Peddlers" sign on such premises. sSuch sign shall conform to the provisions of chapter 106 of this Code.

(3) Remain in or on any residential or commercial premises to engage in sSolicitation after the owner or occupant has requested any such person to leave.

(4) Engage in sSolicitation in the city without a permit as provided in this chapter.

(5) Engage in sSolicitation on any dry sand or wet sand beach, whether bay or gulf, within the city corporate limits.

(6) Engage in sSolicitation on any public street, road, right-of-way or any other property owned by or under the control of the city within the city corporate limits unless specifically authorized by a permit issued by the City of Sanibel.

DIVISION 2. PERMIT

Sec. 46-51. Application; contents; Violation to provide false or misleading information

All persons, before entering into or upon a any residential or commercial premises within the city for the purpose of ~~soliciting~~ Solicitation, shall file an application for a permit with the ~~city manager~~ Sanibel Police Department and furnish ~~him~~ the Sanibel Police Department with the following on a form available through the Sanibel Police Department:

A. Application; contents.

(1) The name, local and permanent addresses, age, race, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the applicant.

(2) The nature or purpose for which sSolicitations will be made and the nature of the goods, wares and merchandise offered for sale.

(3) The name and address of the employer or organization represented.

(4) A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor.

(5) A complete set of fingerprints of the person registering, such fingerprints to be taken by the ~~city manager~~ Sanibel Police Department.

(6) Authorization for a Criminal history background check to be obtained through the Sanibel Police Department.

B. Violation to provide false or misleading information.

(1) Violation to provide false or misleading information. It shall be unlawful and a violation of the Sanibel Code of Ordinances for any applicant to provide false or misleading information to the City as part of or in support of any Solicitor's Permit

application. Such act shall be punishable as a misdemeanor pursuant to Section 1-15 of this Code of Ordinances.

Sec. 46-52. Responsibilities.

City of Sanibel Police Department responsibilities:

(1) Provide a Solicitation Permit applicant with the City of Sanibel Solicitor's Application Form. (Criminal History background check must be obtained by the Sanibel Police Department as part of an Application before a permit can be processed or issued.) Applicant must have photo identification (e.g., current driver's license) for fingerprinting and photocopying. The City of Sanibel currently assesses a fee of two dollars (\$2.00) for fingerprinting.

(2) Accept and process the City of Sanibel Solicitor's Permit Application and Permit Application Fee, including the applicant's criminal history background check to be obtained by the Sanibel Police Department. The City of Sanibel Police Department will review the completed application and information furnished by the Applicant. If the completed application is in compliance with the requirements of the Solicitation provisions of this Code, and the criminal history background check shows the Applicant has not been convicted of a crime involving theft, fraud or moral turpitude, the application will be sent to the Finance Department.

City of Sanibel Finance Department responsibilities:

The City of Sanibel Finance Department will review the completed application and upon applicant's completion of required paperwork and payment of any fees due for a City of Sanibel Business Tax Receipt or Business Tax Registration, approval will be granted for the issuance of a City of Sanibel Solicitors Permit by the Finance Department. The Solicitor's Permit will be issued by the Sanibel Police Department as provided in section 46-54

Sec. 46-53. Contact Information.

(1) Sanibel Police Department
800 Dunlop Road
Sanibel, Florida 33957
239-472-3111

(2) City of Sanibel Finance Department
800 Dunlop Road
Sanibel, Florida 33957
239-472-9615

Sec. 46-52 46-54. Issuance.

Upon furnishing the information required under section 46-51, the applicant shall be issued a permit by the Sanibel Police Department in accordance with the procedures set forth in section 46-52 of this Article, unless the information furnished in compliance with this article shows that the applicant has been convicted of a crime involving theft, fraud or moral turpitude.

Sec. ~~46-53~~ 46-55. Duration.,-renewal.

~~A permit issued under this article shall be valid for 30 days from the date of issuance. Renewals for like periods may be granted, unless earlier revoked as provided in this article- for up to one year from the date of issuance or remainder of the Business Tax Receipt fiscal year (September 30), whichever is less.~~

Sec. ~~46-54~~ 46-56. Duty to carry, exhibit permit.

Every ~~s~~Solicitor shall carry his/her permit with him or her at all times while engaged in ~~soliciting~~ Solicitation, and shall display the permit to any person who shall demand to see the permit while ~~he~~ such Solicitor is so engaged.

Sec. ~~46-55~~ 46-57. Fees.

- (1) Sanibel Police Department fingerprinting \$2.00
- (2) Sanibel Police Department application processing \$50.00 (includes the cost of criminal history background check).
- (3) Sanibel Business Tax Receipt or Registration (unless applicant is already in possession of a Sanibel Business Tax Receipt or Registration for Solicitation) is processed by the Sanibel Finance Department and fees charged pursuant to City of Sanibel Ordinance 06-019, as such fees shall be amended from time to time.

~~A fee which is in a fee schedule on file in the city manager's office per application to cover the costs of investigation of the applicant and processing of the application for a permit shall be paid to the city manager when the application is filed, and shall not be returnable under any circumstances. There shall be no fee for renewals of valid permits. There shall be no fee for government entities.~~

Sec. ~~46-56~~ 46-58. Revocation authorized; grounds.

Permits issued as provided by this article may be revoked by the ~~e~~City ~~m~~Manager or ~~his~~ designee after notice and hearing for any of the following offenses:

- (1) Fraud, misrepresentation or a false statement in the application.
- (2) Fraud, misrepresentation or a false statement in conduct of the business.
- (3) Violation of any condition, provision or qualification provided in the application.

- (4) Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law involving moral turpitude.
- (5) Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or menace to public health, safety or welfare.
- (6) Failure to comply with the provisions of this article.

Sec. ~~46-57~~ 46-59. Notice of revocation.

Written notice of revocation and the grounds therefor shall be mailed to a permittee at his address of record at least five days before the date set for a hearing.

Sec. ~~46-58~~ 46-60. Appeal from permit denial or revocation.

An applicant denied a permit or a holder of a revoked permit aggrieved by the action of the ~~eCity manager~~ may appeal to the ~~eCity Manager council~~ by filing with the City Manager a written statement summarizing such appeal within 14 days after the notice of denial or revocation has been mailed. The ~~eCity Manager council~~ shall set a time and place for hearing and ~~its decision shall be final~~ due process shall be afforded the applicant. If an applicant is aggrieved by the decision of the City Manager, the applicant may appeal to the City Council by filing with the City Manager a written statement within 14 days after the City Manager advised the applicant, in writing, of a denial of the appeal to the City Manager. The City Council shall schedule a hearing and notify the applicant of the date, time and place of the hearing, which shall take place within 45 calendar days and at which applicant shall be provided due process.

SECTION 2. Codification. This ordinance shall be deemed an amendment to Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment

SECTION 3. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

SECTION 4. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

