

ORDINANCE NO. O-2019-40

**AN ORDINANCE AMENDING CHAPTER 46 "PEDDLERS AND SOLICITORS"
OF THE WHEATON CITY CODE**

WHEREAS, the City of Wheaton, Illinois ("City") is an Illinois home-rule municipality pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the Corporate Authorities of the City of Wheaton recognize that the United States Supreme Court in *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), refined First Amendment legal precedent by further defining the meaning of "content neutrality" in the context of municipal ordinances; resulting in the City's re-evaluation of its ordinances pertaining to various solicitation activities; and

WHEREAS, the Corporate Authorities of the City of Wheaton have concluded that *Reed* did not overturn the Supreme Court's holding in *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557, 566 (1980) that regulation of commercial speech is subject to less strict scrutiny than "core value speech;" and

WHEREAS, the Corporate Authorities of the City of Wheaton further recognize that municipalities are less constrained in regulating commercial speech versus non-commercial speech. *Gresham v. Peterson*, 225 F3d 899 (7th Cir. 2000); and

WHEREAS, the City of Wheaton has a significant interest in promoting the safety and convenience of its citizens on public streets. *Madsen v. Women's Health Center*, 512 U.S. 753, 768 (1994); and

WHEREAS, the City of Wheaton has a significant interest in recognizing the safety and convenience on public roads. *Cox v. New Hampshire*, 312 U.S 569, 574 (1941); and

WHEREAS, the City of Wheaton has a significant interest in controlling traffic and pedestrian congestion. *Ayres v. City of Chicago*, 125 F. 3d. 1010, 1015 (7th Dist. 1997); and

WHEREAS, the Corporate Authorities of the City of Wheaton directed City staff to undertake an analysis to determine whether solicitation by non-commercial solicitors in the travel lanes of roadways at certain high traffic, high accident intersections, when compared to other intersections within the City of Wheaton, should continue to be permitted; and

WHEREAS, based upon the presentation of information from staff regarding non-commercial solicitation at certain intersections in the City of Wheaton, the Corporate Authorities of the City of Wheaton have determined that it is necessary for the protection of the safety and welfare of both pedestrians and persons in vehicles using public roadways, as well as the safe movement of traffic, to prohibit all non-commercial solicitation within lanes of travel at certain intersections in the City of Wheaton which have high traffic counts and high rates of accidents; and

WHEREAS, the City Council recognizes the constitutional right to solicit but has also concluded, based upon recent experiences, numerous complaints received by the City from vehicle operators, and investigations performed by the Wheaton Police that certain portions of traffic lanes in ten high accident, multiple-lane intersections within the City merit regulation while leaving approximately one thousand fifty intersections that may remain available to provide alternative opportunities within the City for non-commercial solicitation; and

WHEREAS, the Corporate Authorities of the City of Wheaton have further determined that the risk of vehicular accidents involving pedestrians and other vehicles in the Downtown Central Business District, due to the volume of pedestrians and vehicular movements, which are controlled by traffic lights frequently triggered by the presence of trains, make those intersections at higher risk of accidents for pedestrians and vehicles; and

WHEREAS, the City Council further concludes that in order to make non-regulated intersections, as defined herein, available to any non-commercial solicitor, it is reasonable to place a limitation on the maximum number of days per year that a solicitor may occupy a non-regulated intersection under Section 46-18 of the City ordinance: otherwise, a solicitor could occupy a single intersection to the preclusion of other non-commercial solicitors thereby limiting those persons' First Amendment rights to use that intersection or roadway; and

WHEREAS, evolving legal precedent has also provided guidance supporting the City's amendment of its "premises" solicitation ordinances; and

WHEREAS, the Corporate Authorities find that the prevention of fraud, the prevention of crime, and the protection of residents' privacy are important interests that the City may seek to safeguard through some form of regulation of solicitation activities. *Watchtower Bible & Tract Soc. of N.Y., Inc. v. Village of Stratton*, 536 U.S. 150, 164-65 (2002); and

WHEREAS, the Corporate Authorities find that door-to-door solicitation activities present dangers and risks of harm to the owners and occupiers of private premises by criminals posing as solicitors; and

WHEREAS, the City is legally authorized to ascertain when individuals who have recently been convicted of a felony intend to engage in door-to-door solicitation activities based on the

law set forth in *Village of Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 638-39 (1980) and in *Secretary of State v. Munson*, 467 U.S. 947, 962, footnote 10 (1984); and

WHEREAS, the Corporate Authorities have concluded, after consultation with its police department, that, for the health, safety, and welfare of the City's residents, Chapter 46 of the City of Wheaton's Code of Ordinances should be updated to provide, among other things, a requirement that commercial solicitors notify the Chief of Police of their intent to engage in door-to-door commercial solicitation activity. In support of this determination, the Corporate Authorities make the following findings:

1. the notification requirement helps to serve the City's interest in preventing or investigating crime because criminals sometimes pose as commercial solicitors, either in order that they may have a pretense to discover whether a house is empty, or is occupied by vulnerable persons, and is ripe for theft, burglary or robbery, or for the purpose of surveying the premises in order that they may return later to commit a crime; and
2. the notification requirement helps to serve the City's interest in preventing crime because it is unlikely that a criminal would be willing to identify himself or herself to the Chief of Police and this requirement thereby deprives prospective criminals of at least one of the pretexts commonly used in facilitating their crimes; and
3. the notification requirement is narrowly drawn because the burden of notifying the Chief of Police is not an onerous one and the requirement is closely related to furthering the City's interest in preventing fraud and other crimes; and
4. the notification requirement is narrowly drawn because solicitors are not required to disclose the nature of their solicitation activity and therefore the content of the proposed message or the type or manner of goods or services being sold is not subject to review by City officials nor used by City officials to prevent solicitors from engaging in solicitation activities.

WHEREAS, the Corporate Authorities of the City of Wheaton realize that legal precedent requires that Chapter 46 of the City of Wheaton's Code of Ordinances should be updated to provide, among other things, extended solicitation curfew hours to that of sunset in the City, on all solicitors who wish to enter onto private property of City residents. In support of the City's curfew on solicitors, the City hereby makes the following findings:

1. every individual has a right to privacy, the essence of which is the right to be left alone; and

2. the right to privacy in one's home includes not only the right to be free from unreasonable searches and seizures but also the right to be free from unwanted and unwelcome intrusions; and
3. intrusions on an individual's right to privacy include uninvited knocks on the door and the need to confront and turn away unwelcome visitors at unreasonable times of the day; and
4. the sunset curfew requirement helps to serve the City's interests in protecting its residents' privacy; and
5. after sunset, many residents do not wish to be disturbed; and
6. criminals sometimes pose as solicitors and that crime rates increase during the nighttime hours; and
7. travelling door-to-door in the dark poses an increased risk to the health, safety, and welfare of solicitors; and
8. the sunset curfew requirement does not burden speech to any greater extent than is necessary to further the City's interests in preventing crime and protecting residents' privacy; and
9. the sunset curfew requirement does not ban door-to-door solicitation nor restrict, in any way, the message that may be conveyed, but merely limits the times during which such solicitations may be made; and
10. the sunset curfew's prohibition applies only to those hours during which solicitation is most intrusive on residents' privacy, during which there is an increased risk of crime and during which there is an increased risk of injury to the solicitors.

WHEREAS, a pattern of conduct has developed in the City where adults drop off persons under 16 years of age to solicit donations directly or by the sale of candy or similar items at inflated prices; and

WHEREAS, after the minors are dropped off, the adult leaves and the minors are not supervised by an adult; and

WHEREAS, some unsupervised minors have created disruptions or disturbances when their solicitation is rejected by refusing to honor a person's rejection of the solicitation or when they are asked to leave a private property and refuse to do so promptly when so instructed; and

WHEREAS, some unsupervised minors do not have sufficiently mature judgment to follow the direction of persons solicited rejecting the solicitation or to promptly leave private property when requested by the occupant; and

WHEREAS, maintaining the right of a person being solicited not to listen to a solicitation by an unsupervised minor is best controlled by having a supervising adult with the minor, which adult is obligated to comply with the terms and conditions of this ordinance; and

WHEREAS, having a supervising adult accompanying a soliciting minor enhances the minor's safety; and

WHEREAS, the Corporate Authorities of the City of Wheaton find that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted.

NOW, THEREFORE, BE IT ORDAINED, by the Corporate Authorities of the City of Wheaton, Wheaton, Illinois, pursuant to its home rule authority, as follows:

Section 1: That Chapter 46, "Peddlers and Solicitors," Articles I and II, and all of their subsections, of the Wheaton City Code are hereby repealed and rescinded in their entirety and replaced by a new Chapter 46 to be entitled, "Solicitors: Articles I "Purpose;" Article II "Definitions;" Article III "Roadway Solicitation;" Article IV "Premises Solicitation;" Article V "Solicitation By Minors;" and Article VI "Miscellaneous," Sections 46-1 through 46-88 which shall read as follows:

CHAPTER 46 – SOLICITORS

ARTICLE I - PURPOSE

Sec. 46-1. Purpose.

- (a) It is the purpose of this chapter to: protect the First Amendment rights of solicitors operating within the city; protect the health, safety, and welfare of the citizens of the city, and to ensure clear direction to the police department in the regulation of commercial and non-commercial solicitation; and
- (b) The operation of any solicitor, in conformance with the terms of this chapter shall not be interpreted to be an endorsement of any solicitor, by the city, its elected officials, or employees.

ARTICLE II – DEFINITIONS

Sec. 46-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meanings except where the context clearly indicates a different meaning:

Adult Solicitation Operator means any person who recruits, hires, retains, pays, takes money from, or drops off or picks up a minor, for purposes of the minor conducting solicitation activities in the City of Wheaton.

Begging or Panhandling means a form of non-commercial solicitation in which the act of using the spoken, written, or printed word or bodily gestures, signs or other means is used in public places with the purpose of obtaining an immediate donation of money or other thing of value for oneself.

Business means any enterprise, regardless of legal form, that is organized or operated for profit or private gain. The fact that an enterprise is operating at a loss does not, by itself, mean that the enterprise is not organized or operated for profit or private gain.

City means the City of Wheaton, Illinois.

Commercial means to sell or promote a product or service of any business.

Commercial solicitation means and includes any one or more of the following activities: any attempt, activity, spoken or written speech in furtherance of selling, acquiring or otherwise obtaining orders or contracts for the purchase of goods, wares, merchandise, food products, or any other property of any kind, character or description, including, but not limited to, real estate and personal property of any kind and type, or services of any kind, character or description whatsoever for any kind of consideration, for the sole economic benefit of the speaker or its audience, by a person, partnership, business, corporation, or limited liability company for profit. For purposes of this chapter, the term commercial solicitation shall include acts of peddling as defined herein by the term peddle.

Commercial solicitor means and includes any natural person or any organization, business or entity that engages in commercial solicitation.

Door-to-door means, efforts to travel by foot, motor vehicle or by any other type of conveyance from house-to-house or building-to-building within the city to make personal contact between a solicitor and one more individuals at a home, office or building within the city and does not include telephone, Internet or any other electronic communication.

Downtown Central Business District shall mean that area encompassed by Cross Street on the east, West Liberty Drive on the south, North Gary Avenue on the west and East and West Seminary on the north.

Goods or Wares or Merchandise means and includes tangible commodities such as products or materials that are intended to satisfy a want or need of a consumer or any skill or service that one seeks to sell.

Immediate Company means a supervising adult is within such proximity to a minor who is engaging in solicitation activities to enable the supervising adult to monitor any and all interactions between the minor and the person who is the recipient of the minor's solicitation activities.

Intersection means any portion of the paved surface of the roadway and the shoulders and rights-of-way contiguous to the paved surface, as measured 1,000 feet from the geometric center of the intersection of two roadways.

Minor means any person fourteen (14) years of age or under.

Non-commercial solicitation means any activity which is carried on for the benefit of any natural person, or any charitable or nonprofit association, organization, corporation, or religious corporation or any solicitation activity that is not 'commercial solicitation' which (i) seeks the contribution of alms, food, clothing, money, subscriptions, property or donations with or without an exchange of consideration, or (ii) seeks to advocate for a cause, an organization, or a person; to enlist membership in any organization; or to conduct a survey, poll, or research.

Non-commercial solicitor means and includes any natural person or any organization, or entity that engages in non-commercial solicitation.

Parent means a person having legal authority over a minor as a natural parent, adoptive parent, stepparent, or as a legal guardian who stands in loco parentis by virtue of a court order.

Peddle means to travel by foot, vehicle or any other means of conveyance whatsoever from place-to-place, from door-to-door or from street-to-street, whether on private property or on the public way, displaying, selling, offering for sale, taking orders for sale, making sales, or leasing with the option to buy, any goods, wares, merchandise, property or services for a commercial purpose.

Peddler means any person who is peddling in the city.

Personal contact means face-to-face interactions between a solicitor and the occupant of any premises where the solicitor is engaged in solicitation.

Premises means and includes every dwelling, house, building or other structure and any separate units contained therein, occupied for any purpose by one or more persons, including any yard, grounds, walk, driveway, porch, steps, or vestibule belonging or appurtenant to the dwelling, house, building, unit or other structure.

Public way means any sidewalk, street, alley, highway, roadway or other thoroughfare held, maintained, or controlled by the city or serviced by the City of Wheaton Police Department within the corporate limits of the city, for use by the general public.

Regulated public way means any intersection of a public way within the corporate boundaries of the city where solicitation is prohibited.

Roadway means any public highway, road, street or alley within the corporate boundaries of the city or under the jurisdiction of the city police department.

Services means the duty or labor to be rendered by any natural person, company, organization, group or business to another person, company, organization, group or business.

Solicitation activity or activities means to peddle or engage in or conduct acts of commercial solicitation or non-commercial solicitation as those terms are defined herein.

Solicitor means any natural person, partnership, corporation, business, limited liability company, charitable, nonprofit corporation, religious corporation or group engaged in any solicitation activity or activities as that term is herein defined.

Supervising adult means (i) a parent; or (ii) a guardian; or (iii) an individual twenty-one (21) years of age, or older, who has been given written authorization by the minor's parents, guardian, or other lawful authority, to supervise the minor participating in solicitation activities; or (iv) an individual twenty-one (21) years of age or older who is a member of a not for profit organization registered with the Secretary of State, and who is responsible for supervising minors engaging in solicitation activities for that organization.

Unregulated public way means any intersection of a public way within the corporate boundaries of the City of Wheaton where solicitation is not prohibited.

Secs. 46-3—46-15. - Reserved.

ARTICLE III – PUBLIC WAY SOLICITATION

Sec. 46-16. Legislative Findings/Public Way Solicitation.

The City Council finds that:

- a. Begging, panhandling and solicitation activities are speech protected by the First Amendment subject to municipal regulation that comports with First Amendment legal precedent.
- b. Begging, panhandling and solicitation activities present significant public health, welfare and safety concerns regarding traffic and pedestrian safety when such activities are conducted in traffic lanes of public ways at intersections with high traffic volumes and high accident histories and also at public ways containing multiple lanes and intersections with railroad crossings in the city's Downtown Central Business District.
- c. The presence of parents and their children on public ways in the Downtown Central Business District in those areas containing intersections with railroad crossings heightens the risk of injury or death if pedestrians and vehicle operators are distracted as a result of begging, panhandling or solicitation activities at those locations.
- d. By its very nature, solicitation activities on public ways distract drivers and pedestrian movements and, in fact, drivers and pedestrians must be distracted from ordinary safe traffic movements in order to interact with solicitors on public ways in travel lanes.
- e. Drivers and others using those regulated public ways should not be exposed to the distractions of solicitors walking up and down travel lanes even where vehicles are temporarily stopped for a traffic control device at the intersection.
- f. Distractions in lanes of travel from whatever source, such as cell phone usage, gapers, blocks and solicitation in lanes of traffic, impedes the free flow of traffic and results in the delay or obstruction of the public's free flow of travel and increases the possibility of accidents.
- g. That the safety of solicitors is at significant risk when soliciting in public ways meant for the use of and control of vehicular traffic and not designed or regulated for pedestrian movements up and down lanes of travel.

- h. It is not the purpose or the intent of this chapter to prohibit solicitation activities. Solicitors may conduct their activities on public sidewalks and non-regulated public ways, so long as they are otherwise in compliance with this chapter.
- i. Persons in vehicles or on bicycles stopped on public ways are captive and cannot immediately move away from unwanted solicitation if the movement cannot be made in conformance with applicable traffic regulations, statutes and ordinances and further present a hazard to lawfully moving traffic when they remain stopped in a lane of traffic when other users of the public way have legal authority to be moving.

Sec. 46-17. Solicitation Activities on certain locations and City regulated public ways.

- (a) Commercial solicitation is prohibited at, within or upon all public ways.
- (b) Non-commercial solicitation is prohibited: at, within and upon intersections of the following regulated public ways:
 - i. Butterfield/Naperville;
 - ii. Geneva/Main;
 - iii. County Farm/Roosevelt;
 - iv. Naperville/Roosevelt;
 - v. Butterfield/Lambert;
 - vi. County Farm/Manchester;
 - vii. East Loop/Butterfield;
 - viii. Lorraine/Roosevelt;
 - ix. President/Roosevelt; and
 - x. Main/Roosevelt.
- (c) Non-commercial solicitation is prohibited: at, within and upon the public way railroad intersections in the Downtown Central Business District as follows:
 - i. Front Street and West Street;
 - ii. Front Street and Wheaton Avenue;
 - iii. Front Street and Hale Street;
 - iv. Front Street and Main Street;
 - v. Front Street and Cross Street;
 - vi. Liberty Drive and West Street;
 - vii. Liberty Drive and Wheaton Avenue;
 - ix. Liberty Drive and Hale Street;
 - xi. Liberty Drive and Main Street; and
 - xii. Liberty Drive and Cross Street.

- (d) Non-commercial solicitation shall be allowed, in conformance with this chapter, in all non-regulated intersections in the city.

Sec. 46-18. Regulations: Public Way Solicitation

- (a) Non-commercial solicitors may notify the police department of their intent to solicit at a non-regulated public way.
- (b) Non-regulated public ways shall be available on a first-come, first-served, basis. Where more than one non-commercial solicitor, who has not submitted notification to the police, wants to use the same non-regulated public way at the same time as another solicitor, the police shall determine "first-come, first-served" status by the flip of a coin.
- (c) Use of a non-regulated public way by non-commercial solicitors shall be allowed no more than ten (10) days per year per specific, non-regulated intersection.
- (d) If another non-commercial solicitor has previously notified the Chief of Police of its, his or her intent to engage in a solicitation activity at the same location on the same day, the non-commercial solicitor providing the later notice shall be informed by the Chief of Police or his designee that the location is already occupied so that the non-commercial solicitor may provide notification for an alternative location or dates of solicitation.
- (e) No permit or fee shall be required.
- (f) No more than four non-commercial solicitors may occupy the travel lanes, one in each leg, of non-regulated intersections at one time.
- (g) Non-commercial solicitation on a non-regulated public way intersection may commence no earlier than one hour after the time of sunrise in the city, as published by the United States Naval Observatory and terminate no later than one hour before the time of sunset in the city, as published by the United States Naval Observatory.
- (h) Any person engaged in non-commercial solicitation on, in or near a non-regulated public way shall comply with all of the provisions of 625 ILCS 5/11-1006.
- (i) Non-commercial solicitation shall be conducted so as not to pose or create a hazard to the public safety or impede or disrupt the free flow of traffic.
- (j) No person soliciting in conformance with this article shall make physical contact with any vehicle or occupant of any vehicle on a public way.

Secs. 46-19 through 46-28. Reserved.

ARTICLE IV - PREMISES SOLICITATION

DIVISION I - POSTED NOTICE PROHIBITING SOLICITATION

Sec. 46-29. Premises occupant notice prohibiting solicitors.

- (a) Any citizen of the city desiring to prohibit solicitors from personal contact on their premises shall: post a sign indicating that solicitors are prohibited from entering onto the premises; and attach the sign to the principal structure located on the premises near or at the main entrance to said structure; and the text of such sign shall be in print of at least 48 point in size or two-thirds inch in height and state "No Soliciting."
- (b) If the principal structure on any premises is divided into multiple premises or dwelling units, each occupant of a premises to avail themselves of this article may post a sign in conformance with the requirements of subsection (a) of this section.
- (c) Signs posted as provided herein shall constitute sufficient notice to any solicitor that the solicitor is not permitted at or on the premises.

Sec. 46-30. Duty of solicitors.

- (a) It shall be the duty of every solicitor going upon any premises within the city to examine the area near or on the main entrance to the principal structure located on such premises to determine whether it is posted with a notice consistent with this article. If a sign is posted consistent with the terms of this article, the solicitor shall comply with the posted notice.
- (b) Notwithstanding the prohibitions set forth in this article, any solicitor who has gained entry to any premises within the city, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by any occupant thereof. Such requests shall be phrased so as to lead a reasonable person to understand that they are no longer welcome on the premises. If a solicitor fails to comply with the requirements of this subsection, each failure shall constitute a separate, distinct and additional act of uninvited solicitation as prohibited by this article.
(Code 1996, § 46-29; Ord. No. F-0764, § 1, 10-21-2002)

Sec. 46-31. Uninvited solicitation activities prohibited.

It shall be a violation of this article for any solicitor to go upon any premises and ring the doorbell upon or, at or near any door or create any sound in any other manner calculated to attract the attention of the occupant in such premises for the purposes of making face-to-face

contact with the occupant thereof and engage in any solicitation activities as defined herein, in contravention or defiance of any notice exhibited at the premises in accordance with the provisions of this article.

(Code 1996, § 46-30; Ord. No. F-0764, § 1, 10-21-2002)

Secs. 46-32 through 46-42. – Reserved.

DIVISION II – GENERALLY, NOTIFICATION/COMMERCIAL SOLICITORS

Sec. 46-43. Notification required.

- (a) All commercial solicitors intending commercial solicitation activity in the city shall notify the Chief of Police or his designee of their intent to engage in solicitation activity, prior to engaging in any solicitation activities. Notification may be provided to the Chief of Police on a form supplied by the police department, by email, letter or any written form. All notifications shall truthfully state in full the following information, or in lieu thereof, a statement of the reason or reasons why such information cannot be furnished:
 - (1) the name, date of birth, and address of the natural person intending to engage in commercial solicitation;
 - (2) the name, date of birth, mobile telephone number and address of each natural person in charge of and supervising the commercial solicitation;
 - (3) the dates and hours during which the commercial solicitation shall occur;
 - (4) a statement of affirmation that the natural person intending to engage in commercial solicitation has not been convicted of a felony under the laws of the State of Illinois, or any other state or federal law within five (5) years prior to the date of conducting the desired solicitation activity.
- (b) No permit or fee shall be required.
- (c) All notifications of commercial solicitation submitted, as required by this Article, shall remain effective for 90 days from the date of submission.
- (d) Notification shall be promptly supplemented during the 90 days if there is a change in commercial solicitors or the locations of the solicitation. Promptly shall mean prior to the new commercial solicitor engaging in the commercial solicitation.

Sec. 46-44. Time limit on commercial solicitation activities.

- (a) It shall be unlawful and constitute a trespass for any commercial solicitor to go upon any premises and ring any doorbell at, upon or near any door of any premises located thereon, or rap or knock upon any door and create any sound in any other manner calculated to attract the attention of the occupant in such premises for the purposes of making face-to-face contact with the occupant thereof and engage in commercial solicitation as defined herein, prior to 9:00 a.m. prevailing time or after sunset in the city, as published by the United States Naval Observatory, on any weekday, or prior to 10:00 a.m. prevailing time or after sunset in the city, as published by the United States Naval Observatory, on any weekend day.
- (b) Each premises visited in violation of this section shall constitute a separate and distinct violation of this article and shall be punishable by separate fine.
(Code 1996, § 46-31; Ord. No. F-0764, § 1, 10-21-2002)

Sec. 46-45. Prohibited conduct.

- (a) No commercial solicitor shall conduct any commercial solicitation activities in the following manner:
 - (1) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
 - (2) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
 - (3) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening or abusive.
- (b) Each act of prohibited conduct engaged in by a commercial solicitor in violation of this section shall constitute a separate and distinct violation of this article and shall be punishable by separate fine.

Secs. 46-46 through 46-56. – Reserved.

ARTICLE V – SOLICITATION ACTIVITIES BY MINORS

Sec. 46-57. Adult supervision required.

All adult solicitation operators and supervising adults shall insure that minors engaging in solicitation activities in the city are accompanied by a parent, guardian, or other supervising adult who shall be responsible for supervising any minor engaged in solicitation activity.

Sec. 46-58. Dropping off minor solicitors without supervising adult prohibited.

It shall be unlawful for any adult solicitation operator to drop off or pick up a minor solicitor, except in the immediate presence of a supervising adult. When any minor solicitor is found to have violated section 46-61(a), a presumption shall arise that the adult solicitation operator did assist, aid, abet, allow, permit, or encourage said minor solicitor to violate that section.

Sec. 46-59. Prohibition without Adult Supervisor.

It shall be unlawful for any minor to engage in solicitation activity without adult supervision.

Sec. 46-60. Solicitation activities on roadways by minors prohibited.

It shall be unlawful for any minor to engage in solicitation on any City roadway.

Sec. 46-61. All minors engaged in any solicitation activity shall:

- (a) be in the immediate company of a supervising adult;
- (b) comply with the directions of the supervising adult;
- (c) not engage in any solicitation activity in contravention or defiance of any notice exhibited at any premises in the city in accordance with provisions of this article;
- (d) promptly depart and desist all solicitation on any premises when instructed by the owner, landlord, tenant, or business staff of the premises to leave the premises; and
- (e) immediately desist in solicitation activities with a solicited person when the solicited person informs them that they are not interested.
- (f) comply with sections 46-59 through 46-62.

Sec. 46-62. Identification.

- (a) *Minor solicitors.* A minor solicitor shall have photo identification for himself or herself, such as a current school issued identification card, or a passport, which shall be with him or her at all times while engaging in any solicitation activity within the city.
- (b) *Supervising adults.* A supervising adult, at all times while supervising any minor solicitor in the city, shall have photo identification of himself or herself, such as a

current driver's license, state issued identification card or passport, and shall exhibit the same upon request by any owner, landlord, tenant, guest, business staff member or business patron of the premises upon which the minor solicitor whom the supervising adult is supervising is engaging in a solicitation activity, or upon request by law enforcement officers.

Sec. 46-63. Presumption of age.

A person engaging in any solicitation activity who shall appear to be under fourteen (14) years of age based on physical stature, tone of voice, and/or behavior shall be presumed to be under that age unless it is shown by evidence that he or she is in fact over that age. Where a person engaging in any solicitation activity appears to be under fourteen (14) years of age, based on physical stature, tone of voice and/or behavior, a police officer shall have cause to request the identification of such person for the purpose of determining the age of such person and the failure to produce such identification upon request shall result in the presumption that the person is a minor under this section article.

Sec. 46-64. Supervising adult's obligations.

A supervising adult shall:

- a) be in the immediate company of a minor solicitor at all times when the minor solicitor is engaged in any solicitation activity in the city; and
- b) instruct the minor solicitor to promptly stop the solicitation activity when any solicited person refuses the solicitation activity; and
- c) instruct the minor solicitor to leave the premises without delay when the minor solicitor is instructed to do so by an owner, landlord, tenant, guest, business staff member or business patron of the premises; and
- d) instruct the minor solicitor to obey "No Solicitors Invited" signs posted on any premises; and
- (e) carry documentation which establishes that he or she is a "supervising adult" as that term is defined under section 46-2.

Secs. 46-65 through 46-75. – Reserved.

ARTICLE VI - MISCELLANEOUS

Sec. 46-76. Fraud.

It shall be unlawful for any person, engaged in any solicitation activities as defined herein, to make a false or misleading statement which is material to the subject matter of the

solicitation activity. For purposes of this section, the terms "false" and "misleading" shall have the meanings described to them by a dictionary of common circulation. Each false or misleading statement shall constitute a separate and distinct violation of this provision and shall be punishable by a separate fine.

Sec. 46-77. Convicted felon.

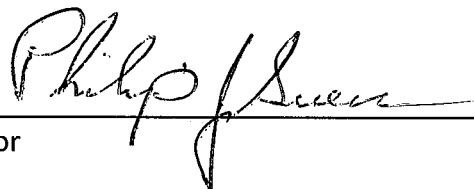
Solicitation by any person convicted of any felony under the laws of the State of Illinois, or any other state or federal law, within five years of the date of such conviction, is hereby prohibited.

(Code 1996, § 46-34; Ord. No. F-0764, § 1, 10-21-2002)

Secs. 46-78 through 46-88. – Reserved.

Section 2: All ordinances or parts of ordinances in conflict with these provisions are repealed,

Section 3: This Ordinances shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:



City Clerk

Ayes: Roll Call Vote:
Councilwoman Bray-Parker
Councilwoman Fitch
Mayor Sues
Councilman Rutledge
Councilman Zaruba
Councilman Barbier

Nays: None
Absent: None
Motion Carried Unanimously

Passed: August 19, 2019
Published: August 20, 2019

