

INTRODUCED BY ALDERMAN OTTENAD

BILL NO. 22-2462

ORDINANCE NO. 22-2347

AN ORDINANCE AMENDING CHAPTER 610 OF THE MUNICIPAL CODE OF THE CITY OF MANCHESTER, MISSOURI PERTAINING TO SOLICITORS AND CANVASSERS.

WHEREAS, Chapter 610 of the Municipal Code of the City of Manchester addresses regulation of the activities of solicitors within the City of Manchester; and,

WHEREAS, many citizens of this community expect their local government to assist them in preserving their privacy and avoiding petty annoyances that disrupt their quiet enjoyment of their homes, and,

WHEREAS, other persons often desire to interrupt the quiet enjoyment of one's home to solicit donations for causes believed to be worthy of support, or to canvas for support for particular religious, ideological, or political causes or for reasons of prompting commerce, and,

WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas that may be unpopular, and to engage others in debate without government interference, and

WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved, and

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the constitutions of the United States and of Missouri, while attempting to minimize fraud, prevent crime, and protect the privacy of citizens; and,

WHEREAS, to ensure the application and licensure process is thorough, but not unduly burdensome and to take reasonable steps to encourage solicitors and canvassers to comply with the City's regulations regarding permissible conduct, it is the desire and intent of the Board of Aldermen to amend Chapter 610 for the health, safety, and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MANCHESTER, STATE OF MISSOURI, AS FOLLOWS:

Section One: Chapter 610 of the Code of Ordinances of the City of Manchester is hereby repealed in its entirety and replaced with a new Chapter 610 to read as follows:

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CHAPTER 610 SOLICITORS AND CANVASSERS

Article I Definitions; Purpose

Section 610.010 Definitions.

The following words, terms, and phrases, when used in this Chapter 610, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CANVASSER

Any person, firm, corporation, or other entity, whether a resident of the city or not, which attempts to make personal contact with a resident at their residence without prior specific invitation or appointment from the resident for the primary purpose of:

- (1) Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, or some patriotic, philanthropic social service, welfare, benevolent, educational, civic, fraternal, charitable purpose or cause even if incidental to such purpose the canvasser accepts a donation of money for or against such cause or if incidental to such donation there is a promise of some good or service; or
- (2) Distributing a handbill or flyer advertising a non-commercial event or service.

CANVASSING

Engaging in the activities described in the definition of the term "canvasser" in this section.

CHARITABLE CAMPAIGN SOLICITOR

Any person, firm, corporation or other entity engaging in the activities described in the definition of the terms "charitable solicitation campaign."

CHARITABLE SOLICITATION CAMPAIGN

Any course of conduct involving a charitable campaign solicitor whose activities in soliciting property or financial assistance of any kind in relation to selling or offering to sell any article, tag, service, emblem, publication, ticket, subscription or anything of value is made on the representation that such sale or solicitation or the proceeds therefrom are for a tax-exempt charitable, educational, patriotic or philanthropic purpose.

COMMERCIAL SOLICITOR

Any person, firm, corporation or other entity, whether a resident of the city or not, traveling either by foot, automobile or any other type of conveyance from place to place, from house to house or from street to street directly selling goods, wares, merchandise,

personal property of any nature whatsoever or services, or taking or attempting to take orders for, or distributing information, whether written or oral, pertaining to the sale of goods, wares and merchandise, personal property of any nature whatsoever, or services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether they are collecting advance payments on such sales or not. Distributing a handbill or flyer advertising a commercial event or service shall not be considered solicitation, soliciting, or peddling if direct contact with the inhabitant or owner of a property is not attempted.

SOLICITATION OR SOLICITING

Engaging in the activities described in the definition of the terms "charitable solicitation campaign" or "commercial solicitor" in this section.

Section 610.020 Purpose; Exception.

- A. The purpose of this chapter is to prevent fraud, to deter and protect the residents against crime, to protect residents against annoyance, and to protect the privacy of the residents of the City of Manchester in a manner consistent with the Constitution of the United States and of Missouri. The provisions of this Chapter have neither the purpose nor intent of infringing upon or denying rights protected by the Constitutions of the United States and the State of Missouri, and instead constitute narrowly drawn, reasonable time, place and manner restrictions on door-to-door soliciting and canvassing in the City of Manchester.
- B. This chapter shall not apply to a federal, state, or local government employee or a public utility employee in the performance of his duty of his employer.

Article II Canvassers and Commercial Solicitors

Section 610.030 Canvassers

- A. Nothing in this Chapter shall be construed as to prohibit the lawful practice of any person, firm, corporation, or other entity, whether a resident of the city or not, which attempts to make personal contact with a resident at their residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, or some patriotic, philanthropic social service, welfare, benevolent, educational, civic, fraternal, charitable purpose or cause even if incidental to such purpose the canvasser accepts a donation of money for or against such cause or if incidental to such donation there is a promise of some good or service; or distributing a handbill or flyer advertising a non-commercial event or service.

Section 610.040 Commercial Solicitor – Application for License; Filing Fee.

A. Prior to engaging in commercial solicitation activities within the City, each person who will engage in those activities within the city must have submitted an application and administration fee to and have been issued a valid commercial solicitor's license ("CSL") by the City. An applicant for a CSL must file with the City Clerk a sworn application in writing and in duplicate on a form to be furnished by the City Clerk, which shall give the following information:

1. The name and description of the applicant;
2. The permanent home address and telephone number and full local address and telephone number of the applicant;
3. A brief description of the nature of the business and the goods sold, and a copy of any of the marketing material if available;
4. If employed, the name and address of the employer, with credentials establishing the exact relationship;
5. The City Clerk shall issue the license for the period of time sought by the applicant as long as such time period does not exceed one (1) month.
6. The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time such application is filed, and the proposed method of delivery;
7. The City shall take a photograph of the applicant and attach the image to the application;
8. A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor. Also, whether the applicant has ever had a charter, registration permit or license denied, suspended, revoked, or enjoined by any court or governmental authority;
9. A copy of the state sales tax license or a state registration certificate must be provided;
10. A state highway patrol check must be provided from the state of the applicant's permanent residence issued not more than six months prior to the date of application;
11. The year, make, and model of the vehicle that will be used and names of people who will be riding in the vehicles; and

12. Such other information as the city may require.

- B. At the time of filing the application, an administration fee of \$50.00 shall be paid to the City Clerk to cover the cost of processing the application for a CSL. The application fee shall be used to defray the cost of the City's investigation of the proposed applicant.
- C. Upon submission of a completed application form and payment of both the administration fee and the license fee, the City Clerk shall initiate the investigation of the truth and accuracy of the information contained in the application as soon as possible, but in no event shall such investigation delay the issuance of a card more than one (1) hour. If the investigation cannot be completed within such time, the CSL shall be issued by the City Clerk immediately. The City Clerk shall deny/revoke issuance a CSL and an identification badge per Section 610.070 if a timely investigation reveals that:
1. The applicant has been convicted of Section 566.032, RSMo., statutory rape and attempt to commit; or Section 566.067, RSMo., child molestation, first degree; or Section 566.068, RSMo., child molestation, second degree; or Section 566.083, RSMo., sexual misconduct involving a child; or Section 566.086, RSMo., sexual contact with a student while on public school property; or Section 566.151, RSMo., enticement of a child; or Section 566.212, RSMo., sexual trafficking of a child; or Section 566.213, RSMo., sexual trafficking of a child under age twelve; or Subsection 2 of Section 568.020, RSMo., incest; or Section 568.045, RSMo., endangering the welfare of a child in the first degree; or Subsection 2 of Section 568.080, RSMo., use of a child in a sexual performance; or Section 568.090, RSMo., promoting a sexual performance by a child; or Section 573.023, RSMo., sexual exploitation of a minor; or Section 573.025, RSMo., promoting child pornography; or Section 573.035, RSMo., promoting child pornography in the second degree; or Section 573.037, RSMo., possession of child pornography; or Section 573.040, RSMo., furnishing pornographic material to minors within the past seven (7) years; or
 2. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.
- D. If a CSL issues before the investigation can be completed and if the investigation subsequently reveals that the card should have been denied because of one (1) or more factors listed in the preceding Subsection, then the City Clerk shall administratively revoke the CSL.
- E. If the City Clerk denies or revokes a CSL and identification badge, he/she shall immediately convey the decision to the applicant orally and prepare a written report of the reason for the denial, which shall be immediately made available to the applicant. The applicant may then request, within five (5) days of the denial/revocation, an

immediate appeal of the City Clerk's decision to the City Administrator who shall hold a hearing as soon as possible to determine if the revocation or denial by the City Clerk was proper under authority of this Chapter. Any appeal from the decision of the City Administrator shall be made within thirty (30) days to the Circuit Court of St. Louis County.

- F. Upon the expiration of a CSL, the same applicant, person, firm, corporation or other entity are ineligible to apply for or renew their license for a period of 30 days.
- G. Nothing herein pertaining to CSLs shall apply to recognized charitable organizations or any other bona fide, non-profit, charitable, educational, political, social welfare or religious organization involved in canvassing activities, except that all such persons, firms, corporations or other entities shall not engage in any of the unlawful practices set forth in Section 610.050, nor engage in canvassing outside of the permitted hours of operation set forth in Section 610.110.
- H. Commercial Solicitors shall not engage in any of the unlawful practices set forth in Section 610.050, nor engage in soliciting outside of the permitted hours of operation set forth in Section 610.110. Commercial Solicitors shall be subject to the penalties addressed in Section 610.120 upon any finding that such person has violated the requirements of Section 610.050, 610.110 or 610.120 and additionally may have their CSL suspended or revoked per Section 610.100.

Section 610.050 License Fees.

The commercial solicitor's license fee, which shall be charged by the City Clerk for the license required by this chapter, shall be \$10.00 per day. No license fee shall be transferrable from one licensee to another. The license fee shall be used to defray the cost of any potential investigation of unlawful practices by the proposed applicant.

Section 610.060 Unlawful Practices.

The following acts and practices are hereby declared unlawful as applied to the planning, conduct, or execution of any solicitation by a solicitor or canvasser:

1. Operating in violation of, or failing to comply with, any of the requirements of this chapter.
2. Utilizing any unfair or deceptive acts or practices. In deciding whether an act or practice is unfair or deceptive within the meaning of the subsection, definitions, standards, and interpretations relating thereto under RSMo Ch. 407 shall apply.

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3. Misrepresenting or misleading anyone in any manner to believe that any other person sponsors, endorses, or approves such solicitation when such other person has not given consent in writing to the use of their name for these purposes.

4. Utilizing or exploiting the fact of registration or licensing to lead any person to believe that such registration or licensing in any manner constitutes an endorsement or approval by the city.

5. Refusing or failing to leave any building, any enclosed or improved real estate, lot, parcel of ground or any other private property in the city when requested to leave by the owner or occupant.

6. Soliciting at a residence or business where a "No Soliciting" sign or its equivalent is posted.

Section 610.070 Display of License.

Commercial solicitors are required to always maintain on their person a valid, current commercial solicitor's license issued by and on file with the city and to exhibit their licenses at the request of any police officer, city official, or resident.

Section 610.080 Badge.

In addition to the commercial solicitor's license, the City Clerk shall issue to each licensee at the time of delivery of the commercial solicitor's license as required by this chapter a badge which shall contain the words "licensed solicitor," the period for which the license is issued and the number of the license in letters and figures easily discernible from a distance of ten feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of their outer garment in such a way as to be conspicuous.

Section 610.090 Enforcement.

A. It shall be the duty of any police officer to require any person seen soliciting to be duly licensed, to produce their commercial solicitor's license, to wear their badge in a conspicuous manner, and to enforce the provisions of this chapter against any person found to be violating the same.

B. It shall be the duty of the City Clerk to make available a means of communication for residents to report a commercial solicitor of engaging in any of the unlawful practices set forth in Section 610.050.

Section 610.100 Records.

The Chief of Police shall report to the City Clerk all convictions for violation of this chapter; and the City Clerk shall maintain a record for each license issued and record the reports of violation thereof.

Section 610.110 Suspension, Revocation of License.

- A. The license of any commercial solicitor issued under this chapter who makes a false statement or misrepresentation in an application for license, or who otherwise violates any provision of this chapter, or who conducts the business of soliciting in an unlawful manner or in such manner as to constitute a menace to the health, safety, or general welfare of the public, may be temporarily suspended or revoked by the City Clerk for a period not to exceed ten days.
- B. In event of such temporary suspension or revocation, a notice of temporary suspension or revocation shall be mailed to the licensee and their employer at their respective last known addresses, certified mail return requested. Said notice of suspension or revocation shall also provide a notice of hearing before the City Administrator setting forth specifically the grounds of the complaint and the time and place of the hearing. Said notice shall be mailed to the licensee and their employer at least five days prior to the hearing.
- C. After notice and hearing, the City Administrator may issue an order permanently suspending or revoking the license. Said order shall be mailed, postage prepaid, to the licensee at their last known address.
- D. No activity for which a license was issued under this Chapter 610 shall occur during the period of suspension or revocation or before the completion of such hearing before the City Administrator.
- E. Upon the City Administrator determining that two or more violations of this chapter have occurred by one or more licensees who are soliciting for the same business/employer within a 12-month period, the City Clerk shall provide written notice to such business/employer that the business/employer shall be barred from having any employees or other representatives engage in soliciting activities in the city for a period of twenty days.

Section 610.120 Hours of Operation.

All persons, firms, corporations, or other entities engaging in solicitation or canvassing shall be permitted to conduct such activities within the city only between the hours of 9:00 a.m. and 7:00 p.m.

Article III Charitable Solicitation

Section 610.130 Charitable Solicitation Campaign- Permit Required for Commercial District - Application - Area and Location Restrictions.

- A. Any individual, group, organization, corporation or religious organization (collectively the "organization") desiring to solicit in the City as a charitable solicitation campaign as defined in this Chapter in a commercial district shall first apply for a charitable solicitation campaign permit on an application furnished by the City Clerk. This form shall require the following information to be furnished:
1. The name of the organization.
 2. The address of the organization.
 3. The legal form of the organization.
 4. The purposes of the organization.
 5. Proof of charitable exemption approval by the Internal Revenue Service of the United States.
 6. Purpose of desired charitable solicitation campaign.
 7. The names and addresses of the person(s) in charge of and who are supervising the others in the organization.
 8. Whether any orders will be solicited for sales of products or tags, emblems, publications, or tickets or services as part of the charitable solicitation campaign.
 9. Whether products, tags, emblems, publications, or tickets or services will be offered for sale at the time of solicitation by the charitable solicitation campaign.
 10. The number of persons intended to be engaged in the charitable solicitation campaign.
 11. Written authorization from property owner or their designee.
- B. Charitable solicitation campaigns in residential districts shall be exempt from the requirements set forth in Section 610.130(A).
- C. Charitable solicitation campaigns may only be conducted in the commercial districts of the City if permission has been obtained from the property owner or tenant to solicit in

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such districts, such permission to be in such form as the City Clerk shall reasonably determine acceptable. Letter, fax, or e-mail may be deemed acceptable if sufficiently clear and certain. Charitable solicitation campaigns permitted by a property owner or tenant shall be confined to such owner/tenant's property or on property in front of their business location, but not, in any event, in the public right-of-way.

- D. No charitable solicitation campaign shall be conducted on any property in the residential districts of the City displaying a "no solicitation" sign or its equivalent.

Section 610.140 Issuance of Permit – Extensions.

- A. Upon receipt of the application as provided in Section 610.130, the City Clerk shall make or cause to be made such investigation as shall be deemed necessary in regard thereto. If satisfied that such charitable solicitation campaign is to be for a charitable, patriotic, or philanthropic purpose and that the persons conducting the campaign is under the control and supervision of the organization, then the City Clerk shall, upon the payment of a fee of ten dollars (\$10.00) for charitable solicitation campaigns in a commercial district, issue such permit. The permit shall designate the total number of persons allowed to participate in the charitable solicitation campaign as declared in the application for the charitable solicitation permit. Such permit shall be non-transferable and shall not run for more than thirty (30) days.
- B. The City Clerk, upon receipt of a written request for an extension of time filed prior to the expiration date of the charitable solicitation permit, may authorize the extension of the time period for the conducting of the charitable solicitation campaign set forth in the charitable solicitation permit for additional periods of not to exceed seven (7) days each; provided however, in no case shall more than two (2) such extensions be authorized by the City Clerk with respect to the original charitable solicitation permit.

Section 610.150 Identification Card-Commercial Districts.

- A. For all charitable solicitation campaigns conducted in the commercial districts of the City, the organization shall post the permit, or its equivalent, issued by the City pursuant to Section 610.130 above, such to be posted during all times such campaign is under way and shall be posted at a conspicuous space at the site of such campaign.
- B. In the event the permit holder shall be granted one (1) or more extensions of the time period for conducting the charitable solicitation campaign, the City Clerk shall alter the expiration date set forth in the identification card or permit.

Section 610.160 Hours of Solicitation.

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All persons or entities engaging in a charitable solicitation campaign as defined in this chapter shall be permitted to conduct such activities within the city only between the hours of 9:00 a.m. and 7:00 p.m.

Article IV Additional Solicitation Regulations

Section 610.170 Solicitations Prohibited in Parks.

No person shall engage in acts of solicitation or canvassing in a park for any purpose except in an area dedicated to speech as identified by the City.

Section 610.180 Reserved.

Article V Appeal and Penalty

Section 610.190 Rights of Appeal

In the event of a disagreement regarding the City Clerk's interpretation of these provisions, such disagreement shall be submitted to the City Administrator, who shall make the decision on such disagreement, provided the applicant shall have the right to appeal such decision.

Section 610.200 Penalty

Any person who engages in unlawful practices as defined in Section 610.050 or otherwise violates this Chapter 610 may be punished by a fine not to exceed \$500.00, or imprisonment for up to 90 days, or both.

PASSED AND APPROVED THIS 21ST DAY OF MARCH 2022.

CITY OF MANCHESTER, MISSOURI

By: 
Mayor

ATTEST:


City Clerk