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**ARTICLE VII. SOLICITATION ON PUBLIC ROAD RIGHTS-OF-WAY AND PARKS**

**Sec. 22-200. 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:

*Bona fide tax exempt organization* means any governmental agency and any private nonprofit organization recognized by the US Internal Revenue Service and the Florida Department of Agriculture and Consumer Services as a tax exempt organization.

*Motorist* means the operator of or any passenger within or upon any motor vehicle being operated upon ~~at~~ the public or private road rights-of-way.

*Public road rights-of-way* means the full physical limits of any road right-of-way owned, maintained, or operated by the city or any other governmental agency, including medians, islands, curbs, and sidewalks which are within the limits of any road right-of-way.

*Public park* means any real property owned or operated by the city or other governmental agency including Volusia County as a recreation area open to the public.

*Solicitation* means ~~collectively any and all activities prohibited under section 22-201~~ which involves a request made by one person to another person for money with or without recompense or a request for the placement of orders for commercial goods or services not otherwise provided for herein, including requests made to motorists upon public rights-of-way and in public parks.

*Solicitor* means any person making or causing a solicitation.

**Sec. 22-201. Prohibited acts.**

~~S~~The solicitation of monies from motorists upon non-state of Florida public road rights-of-way and in city public parks without a lawful permit issued by the city is hereby prohibited at all times in the incorporated areas of the city without a lawful permit issued by the city.

**~~S~~Sec. 22-202. S~~Charitable solicitation; permits~~activities.**

- (a) ~~Permits for the use of any street, road or public right-of-way not maintained by the state of Florida, and any city public park area, may be issued by the city~~appropriate local government for solicitation upon a demonstration by the applicant for such permit that the appropriate safety measures will be in effect at all times during the solicitation. An organization that is qualified under § 501(c)(3) of the Internal Revenue Code and registered under F.S. ch. 496, or a person or organization

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~~acting on behalf of that organization, is exempt from local requirements for a permit issued under this section for charitable~~ Solicitation activities on or along streets or said road rights of ways that are not maintained by the state may be permitted under the following conditions:

- (1) ~~The organization, or the person or organization acting on behalf of the organization,~~ must provide all of the following to the city:
  - a. No fewer than 14 calendar days prior to the proposed solicitation, the name and address of the ~~individual~~person(s) or organization(s) that will perform the solicitation and the name and address of the organization(s) that will receive all the funds from the solicitation;
  - b. ~~For review and comment, a~~ A proposed written plan for the safety of all persons participating in the solicitation, as well as the motoring public, at the location(s) where the solicitation will take place;
  - c. Specific details of the location ~~or location(s)~~ of the proposed solicitation and the hours during which the solicitation activities will occur;
  - d. Proof of commercial general liability insurance ~~for~~against claims ~~offer~~ bodily injury and property damage occurring on ~~public streets, roads, or rights-of-way or~~ claims arising from the solicitor's activities or use of the ~~public streets, roads, or rights-of-way by the solicitor or the solicitor's agents, contractors, or employees. The insurance policy shall have a limit of not less than \$1,000,000.00 per occurrence and for the general aggregate. A~~ The certificate of insurance shall be furnished to the city prior to a permit being issued, and shall name the city~~local government as an "additional insured" and shall be filed with the city~~local government no later than 48~~72~~ hours before the date of the solicitation occurs.
  - e. ~~Proof of registration with the Department of Agriculture and Consumer Services pursuant to [F.S.] § 496.405 or proof that the soliciting organization is exempt from the registration requirement;~~
- (2) ~~O~~Organizations or persons obtaining a permit from the city meeting the above requirements may solicit for a period not to exceed 3 days per solicitation and a total of 10 solicitation days per organization per calendar year~~ten cumulative days within one calendar year.~~
- (3) All solicitation shall occur Monday through ~~Saturday~~Friday not earlier than 9:00 AM and not later than 5:00 PM~~during daylight hours only and Saturday not earlier than 11:00 AM and not later than 6:00 PM.~~ Solicitation activities may not be conducted on Sundays or federal holidays.
- (4) Solicitation activities shall not interfere with the safe and efficient movement of vehicular traffic or pedestrians and shall not cause danger to the participants or the public.

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- (5) No person engaging in solicitation activities shall persist after solicitation has been denied, suspended or revoked by any law enforcement officer or the city manager, nor shall they solicit ~~act in a demanding or harassing manner, or use any use any laser light or sound producing sound or voice-amplifying apparatus or device.~~
- (6) All persons participating in the solicitation shall be at least 16-18 years of age and shall possess picture identification, which shall be voluntarily displayed upon request by a law enforcement officer or by any person being solicited.
- (7) Signage providing notice of the solicitation shall be visibly posted on at the public right of way or park area between least 300 feet and 500 feet before the site of the solicitation. Such signage shall be a temporary ground sign not to exceed 84.5 square feet (4'x4') and must include the words "Solicitation Activities Ahead" and "Complaints Call: (386) 860-7177" in a clear typeface with at least 5" lettering. A separate sign permit fee shall not be required for said signage.
- (8) The city may suspend or revoke ~~stop~~ solicitation activities if any conditions or requirements of this articlesubsection are not met.
- (9) The city shall issue a permitletter of compliance, to the organization not earlier than 30 days prior to the planned solicitationsolicitation ~~which shall be on file with the Planning and Development Services Department of the City of Deltona, upon verification of compliance and approval of with the above provisions.~~
- (10) The initial annual fee for a solicitation permit and annual renewal fee for a solicitation permit shall be established by resolution of the city commission from time to time.
- (11) Any bona fide tax exempt organization applying for a permit shall be required to furnish proof of its tax exempt status with the Internal Revenue Service along with its latest filed form IRS 990, and tax exempt status with the Florida Department of Agriculture and Consumer Services. Proof shall include a written determination by the federal Internal Revenue Service of tax exempt status, and proof of registration with the Department of Agriculture and Consumer Services pursuant to F.S. §496.405 or proof that the organization is exempt from the registration requirement. Any such tax exempt organization shall be granted a permit without paying a fee to the city.

### **§Sec. 22-203. Permitting procedures.**

An application for a permit pursuant to section 22-2024 hereof shall be filed with the Planning and Development Services Department or other designated department designated by the city manageremployee, in the following manner:

- (1) *Application.* The permit application shall include:

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- a. The name, mailing address and telephone number of the person applying for the permit, along with their position title and authority to apply for the permit from the organization board chair, chief executive officer, chief operating officer or equivalent officer of the organization.
  - b. A detailed description of the proposed activities, including the duration of the solicitation, ~~which shall not exceed 72 hours.~~
  - c. A covenant not to sue the city and statement agreeing to indemnifying, defending, and h-save and holding the city harmless the city from all claims, demands, liabilities and suits of any nature arising out of, because of, or due to any actions taken by the permittee or its agents.
  - d. A certificate of liability insurance as provided in this article ~~in the amount of \$1,000,000.00, evidencing insurance coverage for injury or death occurring to participants in solicitation activities authorized under this section and naming the city as an additional insured.~~
  - e. A proposed physical plan, seeking ~~approved~~ by the Volusia County Sheriff's Office, for the safety of all persons participating in the solicitation and, as well as the motoring public, at the locations where the solicitations will take place. No permit shall be issued without the approval of the Volusia County Sheriff's approval of the physical plan.
  - f. Proposed sSignage as provided herein ~~providing notice of the solicitation shall be posted at least 500 feet before the site of the solicitation. Such signage shall be a ground sign not to exceed 4.5 square feet and must include the words "Solicitation Activities Ahead" and "Complaints call (386) 860-7177". A permit shall not be required for said signage.~~
  - g. Payment of the required permit fee ~~A permit application fee of \$15.00 due at the time of application which shall accompany the permit application.~~
- (2) Additional ~~When~~ notice to city required. Any person who has been issued a permit under this article shall provide additional written notification to the y the city via the established online portal on the city's official website ofef the intended solicitation activities not less than 3 days no less than 14 calendar days p prior to theundertaking actual solicitation activities after issuance of a permit in accord with this section. Notwithstanding the foregoing, no such additional notice shall be required for door-to-door solicitation activities.
- (3) Contents of additional notice. The notification shall be in writing and shall include:
- a. The name, mailing address and telephone number of each person who will be engaging in solicitation activities. Any minor person under the age of 18 soliciting must also provide a "permission slip" on a form approved by the city attorney and signed by a parent, guardian or person having parental responsibility for said minor.

- b. The name, mailing address and telephone number of the person who will supervise or have responsibility for the solicitation activities.
- c. The site or sites at which solicitation activities will take place.
- d. The date and time solicitation activities will begin and end.
- e. ~~No permit may be issued for a solicitation period of time which exceeds 72 hours.~~
- (4) *Approval of intended solicitation activities.* Solicitation activities may not occur until all information required herein has been provided to the city and has been approved for the intended solicitation activities. All permits must be secured no ~~fewer~~ less than 14 days prior to the intended solicitation activity.
- (5) *Safety training.* The city may, in reasonable discretion, require that all persons engaging in solicitation activities first provide proof of satisfactory completion of a safety training program appropriate to the particular solicitation activity, sponsored by the National Safety Council or similar organization.
- (6) *Exempt activity.* Nothing in this section shall be construed to inhibit, regulate, or prohibit political campaigning or expression of political views or other protected speech, without solicitation, on the public right-of-way or to require a permit for such activity so long as such activity does not restrict the flow of traffic or pedestrians, or cause any harm to the public safety.

**SSec. 22-204. Additional solicitation activity restrictions.**

- (a) There shall be no more than two persons engaging in solicitation activities at each intersection on a two-lane highway and no more than eight such persons at each intersection on a divided highway.
- (d) No person engaging in solicitation activities shall:
  - (1) Persist or disturb the public peace after solicitation has been suspended or revoked.
  - (2) Harass, demand, threaten or intimidate by action or voice any person being solicited or other member of the public.
  - (3) Obstruct, delay or interfere with the free movement of pedestrian or vehicular traffic, or hamper or impede the conduct of any authorized business.
  - (4) Use any sound or voice-amplifying apparatus, any drum, bell, tambourine, horn or other noise-making device or any laser light device.
  - (5) Engage in dancing, singing or chanting.

(6) Wave any objects, lights, or signs or otherwise distract or impede drivers or pedestrians.

(6) Engage in the use of alcoholic beverages or illegal drugs.

(7) Wrongfully indicate to the public that the solicitor is a representative of a military or governmental entity or otherwise misrepresent his or her identity or affiliation.

### **Sec. 22-205. Penalties.**

Any person who is found to be in violation of any provision of this chapter for which another penalty is not specifically provided shall immediately cease the activity in violation and may be issued a citation by a city enforcement services officer or law enforcement officer and be punishable by a fine not to exceed \$500.00. For each day that the violation of a provision of this chapter exists, such violation shall constitute a separate offense.

### **Sec. 22-2046. Suspension or revocation of permit or letter of compliance.**

(a) A permit or letter of compliance granted hereunder may be suspended or revoked by the city manager for any material violation of this article, including but not limited to of the following reasons:

(1) Violation of the restrictions in section 22-206 hereof.

(2) Multiple, substantial verified complaints in writing of harassments by from members of the public; -

(3) Any action which would adversely affects the health, or safety or welfare of the traveling solicitation participants or the public; -

(4) Fraudulent activity; or misrepresentation of in any information document submitted to the city; or -

(5) Failure to provide the notification required by subsection 22-203(32) hereof prior to beginning solicitation activities.

(b) Any person or organization having its permit revoked under this article may not apply for another permit until after the expiration of three (3) years from the date of revocation.

(Ord. No. 06-2008, § 1, 4-21-2008)

### **Sec. 22-2075. Appeal.**

(a) If any person or organization which is denied a permit or has its permit revoked, the applicant shall have the right to appeal such denial or revocation to the city manager by filing a notice of appeal in the city clerk's office within ten days after such denial. An informal hearing shall be held by a magistrate appointed by the city to hear such appeals within ten (10) seven days of its receipt. The magistrate shall be an

independent Florida attorney in good standing who shall conduct the hearing to determine if the applicant has complied with the requirements of all applicable ordinances, ~~fees~~ codes, and regulations and the lawful orders of law enforcement officers. Written notice of the hearing shall be provided by the city clerk to the applicant, which notice shall set a date, time and location for the hearing, giving the applicant or permittee and the city manager's designee an opportunity to be heard on the denial or revocation of the permit. The ~~magistrate~~ city manager, after accepting sworn testimony and other relevant evidence ~~hearing from the~~ all interested parties, shall make a ruling and enter findings of fact, conclusions of law and an order shall either sustain the position of the city and deny the permit, or direct the city to issue the permit.

(b) ~~If the city manager sustains the position of the city and denies a permit, the applicant shall have the right to appeal such denial to the commission by filing a notice of appeal with the city clerk within ten days after such denial. The commission, within 30 days of such request for an appeal, shall hold a public hearing to determine if the application complies with the requirements of all applicable ordinances, codes and regulations. Written notice of the hearing shall be provided by the city clerk to the applicant, which notice shall set a date for the hearing giving the applicant an opportunity to be heard on the denial of the application. The commission, after hearing from all interested parties, by majority vote, shall either sustain the position of the city and deny the permit, or order the city to issue the permit.~~

**~~Sec. 22-206. Solicitation activity restrictions.~~**

- (a) ~~Solicitation activities may be conducted Monday through Saturday during daylight hours only. Solicitation activities may not be conducted on Sundays.~~
- (b) ~~Solicitation activities shall be conducted for no more than ten cumulative days within one calendar year.~~
- (c) ~~There shall be no more than two persons engaging in solicitation activities at each intersection on a two-lane highway and no more than eight such persons at each intersection on a divided highway.~~
- (d) ~~No person engaging in solicitation activities shall:~~
  - (1) ~~Persist after solicitation has been denied.~~
  - (2) ~~Harass persons; be demanding, threatening or intimidating.~~
  - (3) ~~Obstruct, delay or interfere with or distract the free movement of either pedestrians or vehicular traffic, or hamper or impede the conduct of any authorized business.~~
  - (4) ~~Use any sound or voice-amplifying apparatus, any drum, bell, tambourine, horn or other noise-making device.~~
  - (5) ~~Engage in dancing, singing or chanting.~~
  - (6) ~~Engage in the use of alcoholic beverages or drugs.~~

- ~~(7) Wrongfully indicate to the public that he or she is a representative of the state or other governmental entity or otherwise misrepresent his or her identity.~~
- ~~(e) Any permittee which has had its permit revoked under this subsection may not apply for another permit until after the expiration of three years from the date of revocation.~~

**~~Sec. 22-207. Penalties.~~**

~~Any person who is found to be in violation of any provision of this chapter for which another penalty is not specifically provided shall immediately cease the activity in violation and may be issued a citation by a city enforcement services officer or law enforcement officer and be punishable by a fine not to exceed \$500.00. Failure to immediately cease the activity in violation may result in arrest by a law enforcement officer under F.S. § 901.15(1). For each day that the violation of a provision of this chapter exists, such violation shall constitute a separate offense.~~