

CITY OF UNDERWOOD, MINNESOTA

ORDINANCE #39

AN ORDINANCE LICENSING AND REGULATING SOLICITORS WITHIN THE CITY LIMITS OF UNDERWOOD, MINNESOTA

BE IT ORDAINED by the City Council of the City of Underwood, Minnesota.

SEC. I. SOLICITORS.

Subd. L. Purpose. This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. "Solicitor" means any person making the solicitation, including such common terms as "peddler", "transient merchant" and "canvasser".
- B. "Solicitee" means the person solicited.
- C. "Goods" means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. Terms includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable there from. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.
- D. "Services" means work, labor or services of any kind.
- E. "Established place" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth, compartment or area leased or assigned during and for the length of an event or occasion.

- F. "Business solicitation" means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family or household purposed, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or, (4) an attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.
- G. "Contribution solicitation" means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents and the identity of the services performed or offered by the organization, or (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

Subd. 3. Prohibited Solicitation Practices.

- A. It is unlawful for any solicitor to engage in solicitation for any unlawful business or organization purpose or activity.
- B. It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.
- C. It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least (sic) 3-3/4 inches long and 3-3/4 inches high with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point. (sic)
- D. It is unlawful for any solicitor to refuse to leave business when requested by the owner, lessee, or person in charge thereof.
- E. It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.
- F. It is unlawful for any person to engage in business solicitation without a license as herein provided.

Subd. 4. Application. Applications for licensing or registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may

reasonably be required by the Council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices. No application shall be completed unless it is accompanied by a varied and current license issued by the County in which the solicitor proposed to engage in solicitation.

Subd. 5. Investigation, Approval or Disapproval.

- A. All applications for licensing or registration shall be immediately referred to the City Clerk, and by him or other person acting in his stead, investigated as to the truth thereof. The City Clerk shall have five (5) business days within to investigate and make a recommendation thereon.
- B. If he/she finds no past history of the applicant indicating violations similar to those declared unlawful in this Section he shall recommend issuing a license or approving registration, as the case may be, and the City Clerk shall forthwith advise the applicant. The City Clerk shall issue a license, upon payment of the fee therefore, to the approved applicant for business solicitation, and shall approve the completion of registration by the applicant for a contribution solicitor.
- C. If the City Clerk finds a past history of the applicant indicting violations similar to those declared unlawful in this Section, he shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten (10) days thereafter. The applicant shall be afforded (sic) an opportunity to be heard at such meeting.

Subd. 6. Fees for Business Solicitation Licenses. Fees for Business solicitation licenses shall be fixed, determined and amended by the Council and adopted by resolution.

Subd. 7. Duration of Contribution Solicitation Registration. Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

Subd. 8. Exceptions. This Chapter shall not apply to any sale under Court order, not to any bona fide auction sale, or to newsboys, nor to a sale at wholesale to a retail dealer in the article sold, nor to the sale of farm or garden products by the person producing (sic) the same, nor the sales of admissions by local school students to a school function. Nor shall this chapter apply to solicitations for philanthropic, religious and educational charitable causes if the following procedures has been accomplished:

- A. Sworn application has been made to the City Clerk showing name or organization, its purpose; its officers and directors, period of solicitation and solicitors form or remuneration (sic).

B. The City Clerk has investigated and found such statements true and for charitable purpose and therefore issued a permit without charge.

Subd. 9. Violation a Misdemeanor. Every person (who (sic)) violates a section, subdivision, paragraph or provision of this Ordinance when he performs a (sic) act thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise (sic) stated in specific provisions hereof.

Subd. 10. Penalty. Any person who violates any provision of this ordinance, upon conviction thereof, shall be punished by a fine not exceeding \$100.00 or imprisonment for a period not exceeding 90 days.

Passed by the Underwood City Council this 1st day of April, 1985.

/s/ Clarence A. Jensen

Mayor

Attest:

Katy Johansen

City Clerk

RESOLUTION

BE IT RESOLVED by the City Council of the City of Underwood, that Ordinance No. 13, which was passed and adopted on the 1st day of April, 1935, is hereby repealed and shall be replaced by Ordinance No. 39, "An Ordinance Licensing and Regulating Solicitors Within the City Limits of Underwood, Minnesota", which was passed and adopted by the City Council of Underwood on April 1, 1985.

/s/ Clarence A. Jensen

Mayor

Attest:

Katy Johansen

City Clerk