

Introduced by: City Council
 Date: May 22, 2012
 Public Hearing: June 12, 2012
 Action: Adopted
 Vote: Unanimous

Yes:	No:
Best	
Erbey	
Combs	
Hanson	
Johnson	

CITY OF PALMER, ALASKA

Ordinance No. 12-013

An Ordinance of the Palmer City Council Repealing Palmer Municipal Code Chapter 5.12 Soliciting in Residential Areas and Adopting Palmer Municipal Code Chapter 5.13 Door-to-Door Solicitors

THE CITY OF PALMER, ALASKA ORDAINS:

WHEREAS, the City has a strong interest in promoting commerce and development within its boundaries; and

WHEREAS, door-to-door sales contribute to the flow of commerce in the City; and

WHEREAS, the City also has a strong interest in protecting its residents from unreasonable intrusions into the privacy of the home to promote the health, safety and welfare of its residents; and

WHEREAS, the right and freedom of protected commercial speech is a recognized right under the state and federal constitutions; and

WHEREAS, commercial speech may be limited only by reasonable time, place, and manner restrictions; and

WHEREAS, the right to privacy is also a fundamental right recognized by the federal and state constitutions; and

WHEREAS, door-to-door solicitation of unwilling residents for any purpose jeopardizes the right of residents in the City to enjoy the privacy of their homes in tranquility and security; and

WHEREAS, the risk of consumer fraud increases when the solicitor has no fixed place of business in the City and consumer complaints cannot be resolved locally and expediently; and

WHEREAS, the interests of residents in privacy and the quiet enjoyment of residential premises are protected by reasonable regulation of the time and manner door-to-door solicitation may take place at residences in the City; and

WHEREAS, the City has an interest in balancing the rights of door-to-door solicitors against the privacy rights of its residents in order to promote economic growth preserving the health, safety, and welfare of its residents; and

WHEREAS, it is important for the residents and citizens of Palmer to know their rights as it relates to door-to-door solicitation of residential property; and

WHEREAS, City residents who wish to enjoy the privacy of their homes without interruption have the right to post no trespassing, no soliciting, or other similar signs; and

WHEREAS, a property owner, occupant, lessee, tenant, or agent of the premises has the right to refuse entry to a solicitor; and

WHEREAS, a purchaser of a contract for the sale of goods or services in the amount of \$10 or more from a solicitor soliciting door-to-door must be informed by the solicitor of the right to revoke at the time of the sale.

WHEREAS, this ordinance is not intended to regulate any form of speech other speech designed to do no more than to effect a commercial transaction.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PALMER, ALASKA HEREBY ORDAINS that

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code Chapter 5.12 is hereby repealed in its entirety.

Section 4. Palmer Municipal Code Chapter 5.13 is hereby adopted to read as follows:

Chapter 5.13

DOOR-TO-DOOR SOLICITORS

5.13.010 Definitions.

"Door-to-door solicitation" includes the term door-to-door sale and shall have the same definition provided in AS 45.02.350, as amended.

"Soliciting" means and includes one or more of the following activities:

- A. Seeking to obtain orders for, or the sale of, goods, wares, merchandise, foodstuffs, or services of any kind, character, or description, for any kind of consideration whatever; or
- B. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- C. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publications; or

- D. Seeking to obtain gifts or contributions of money, clothing, or other valuable thing for the support or benefit of any charitable or nonprofit organization, association, or corporation.

"Solicitor". For purposes of this chapter, a person engaged in the business of door-to-door solicitations for the purpose of commercial transactions is a solicitor.

5.13.020 Business license required.

Persons engaged in the business of door-to-door solicitations for the purpose of commercial transactions, including the sale of goods and services are subject to obtain a city business license pursuant to PMC Chapter 5.04.

5.13.030 Solicitor's license – required.

In addition to a City of Palmer business license, every person desiring to engage in soliciting, as defined in this chapter, shall obtain a solicitor's license prior to doing business in the City.

5.13.040 License fee.

The license fee for any person applying for a license under this chapter shall be established by the city council, and the required license fee shall accompany the application, or be deposited with the director of finance before the license is issued.

5.13.050 Solicitor's license – application.

- A. Applications for a solicitor's license shall be made to the director of finance upon forms provided by the city. The applicant shall attest to the truthfulness of the application, and shall complete the application in full, provide the following information:
1. Name, prior name(s) and aliases;
 2. Driver's license or state issued identification number;
 3. Physical description of applicant;
 4. Date of birth;
 5. Current mailing and physical address and the length of residence at the physical address;
 6. Place of residence during the past two years if other than present address;
 7. Name(s) and address(es) of any person, firm, or corporations whom the applicant is employed by or represents; and the length of time of such employment or representation;
 8. A description of the item(s) being solicited and/or a description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
 9. Dates applicant will be engaged in door-to-door solicitation;
 10. Whether the applicant has ever been convicted of a violation of a felony under the laws of this state or any other state or federal law of the United States;
 11. Signature of applicant.
- B. The applicant:
1. Shall obtain and include the required reports as indicated on the Solicitor's License Application, if the applicant has resided in Alaska for less than two years, the applicant shall obtain and include a background check from his or her former place of residence with the application;
 2. Shall complete an authorization to release information form allowing the police department to conduct necessary background checks;

3. May be required to submit to fingerprinting at the applicant's expense by the police department, in connection with the license application;
4. Shall provide a copy of a valid driver's license or picture identification for identification purposes.

5.13.060 Investigation of applicants.

- A. It shall be the duty of the chief of police to investigate each application made under this chapter. In his or her investigation, the chief of police shall determine:
 1. The genuineness of all credentials presented by the applicant;
 2. If the applicant has a criminal record;
 3. The truth of facts set forth in the application.
- B. The chief of police shall complete the investigation within ten business days of receiving the application.
- C. No license shall be issued to any person who has been convicted of a felony under the laws of the state, or any other state or federal law of the United States, within ten years from the termination of any court ordered time served and including any probationary period ordered.
- D. The chief of police has the authority to deny or revoke any license for the conviction for the following crimes:
 1. Larceny;
 2. Assault;
 3. Domestic violence crimes;
 4. Fraud;
 5. Sex crimes;
 6. Drug related crimes;
 7. Crimes against children; and
 8. Crimes against vulnerable adults.

5.13.070 Issuance of license – expiration date.

- A. No license shall be issued until the conclusion of the police chief's investigation of the application.
- B. If after completion of the investigation the chief of police determines the facts set forth in the application are true, the chief shall notify the director of finance.
- C. The director of finance shall issue the license and solicitor license photo identification card.
- D. The license shall not be transferrable.
- E. All licenses expire December 31 of the year in which issued.

5.13.080 Denial, revocation or suspension of license.

In addition to the other penalties provided by law, any license issued under the provisions of this chapter may be denied, revoked or suspended at any time, where the same was:

- A. Procured by fraud, false representation or material omission of fact, or for the violation of or failure to comply with any of the provisions of this chapter by the person holding the license; or
- B. If the licensee violates any applicable city, state or federal law, or if the purpose for which the license was issued is being abused to the detriment of the public, or if the license is being used for a purpose different from that for which it was issued;
- C. Upon revocation, the individual shall not be granted a license upon any new application that may be made for a period of 90 calendar days from the date of revocation;

- D. It is unlawful for any person whose license has been revoked or suspended to continue in the business of solicitor or to keep the license issued to him or her in his or her possession and control, and the same shall immediately be surrendered to the director of finance;
- E. Upon denial of a license, the director of finance shall give written notice of such action to the applicant, stating the basis for such action. A copy of this letter shall become part of the original application, and kept on file in the finance director's office.

5.13.090 Denial, suspension or revocation procedure.

Should the chief of police determine that denial, revocation, or suspension of the license is in order; the applicant shall have the right to appeal the decision to the city manager within ten business days of the written denial by the chief of police.

5.13.100 Carrying of license required.

The City of Palmer business license, Solicitor License, and solicitor license photo identification shall card be carried at all times by the solicitor for whom it was issued when soliciting in the city. The licenses and photo identification shall be exhibited by the solicitor whenever and wherever he or she shall be requested to do so by any police officer, city official or person solicited.

5.13.110 Prohibitions.

No solicitor shall:

- A. Ring the bell or knock on the door of, or attempt to gain entrance to, any residence before nine am (9:00 am) of any day or after eight pm (8:00 pm) of any day.
- B. Solicit at any residence or at any business where there is a sign indicating "No Solicitors", "No Peddlers", "No Trespassing", or any similar indication that solicitation is not desired by the owner, lessee, tenant, agent or occupant, unless expressly permitted by the owner, lessee, tenant, agent, or occupant of the premises.
- C. Continue to solicit a person after the desire not to be solicited has been expressed.
- D. Intentionally obstruct the free movement of any person or vehicle.
- E. Refuse to leave any residence or other private property within the City when requested to leave by the owner or occupant, or agent of the owner or occupant.

5.13.120 Right of revocation.

A contract for the purchase of goods or services in the amount of \$10 or more from a solicitor soliciting a door-to-door sale shall require, as a condition of taking effect, that the purchaser shall have the right to revoke the offer to buy within five (5) days from entering into the contract, and the solicitor, at the time of sale shall give the purchaser written notice of the right to revoke. The right of revocation shall be exercised pursuant to AS 45.02.350, as amended, to be effective.

5.13.130 Exceptions.

With the exception of the PMC 5.13.110, this chapter shall not apply to:

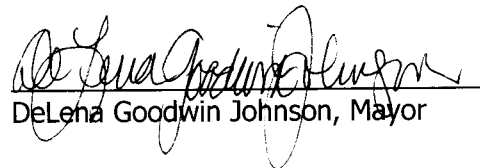
- A. Charitable, religious or nonprofit organizations, or organizations that have received exempt status under 26 USC 501(c)(3); and
- B. Candidates for political office, campaign workers, members and representatives of political committees or political organizations campaigning on behalf of ballot issues, distributors of sample ballots and other political literature and persons soliciting signatures of registered voters on petitions.

5.13.140 Certificate – organizational.

- A. Recognizing that bona fide community based organizations engage in annual fund raising with volunteer solicitors, the director of finance is authorized to grant an organizational certificate to an appropriate official of the organization who shall comply with the application procedure.
- B. The organizational certificate shall be limited in time, and in no event for more than 30 days in any calendar year.
- C. Each individual solicitor shall then be issued a copy of the organizational certificate, which shall contain the solicitor’s name in prominent letters, and shall contain the inclusive dates of validity.

Section 5. Effective Date. Ordinance No. 12-013 shall take effect upon adoption by the City of Palmer City Council.

Passed and approved this twelfth day of June, 2012.


DeLena Goodwin Johnson, Mayor


Janette M. Bower, MMC, City Clerk