

AN ORDINANCE OF THE CITY OF CHESTERFIELD AMENDING MUNICIPAL CODE CHAPTER 605 REGULATING COMMERCIAL SOLICITATION

WHEREAS, Chapter 605 of the City's Municipal Code regulates solicitation within the City; and

WHEREAS, the City of Chesterfield (the "City") has undertaken a review of its regulations regarding solicitation due to the May 11, 2021 opinion by Judge Stephen N. Limbaugh Jr. of the United States District Court for the Eastern District of Missouri in the case of *Robert Fernandez v. St. Louis County, Missouri*, which, in part, struck down certain sections of St. Louis County's Code regarding solicitors;

WHEREAS, the City Council desires to amend the Municipal Code to reflect the changes in the state of the case law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:

Section I: Section 605.260 of the City of Chesterfield Municipal Code shall be amended as follows:

Section 605.260 Definitions.

For purposes of this Article, the following terms shall have the meanings herein ascribed:

RESIDENCE

Every separate living unit occupied for residential purposes by one (1) or more persons and contained within any type of building or structure.

SOLICITOR

A Solicitor, as used herein, is any individual, for the purpose of communicating or presenting a message, regardless of the topic discussed or the idea or message expressed:

- (1) Traveling by foot, wagon, automobile, motor truck, or any type of conveyance from place to place, uninvited or without invitation; or
- (2) positioned on or near street corners, public ways or places of public assembly or congregation; or
- (3) located in or near the roadway or right-of-way of a roadway.

COMMERCIAL SOLICITOR

A Commercial Solicitor, as used herein, is a person who attempts to make personal contact with a resident at his/her residence or business with or without prior specific invitation or appointment for the primary purpose of selling or attempting to sell or delivering a previously sold good or service for profit. This contact would result in an agreement or order for which payment would occur at the time of the visit or arrangements for payment at a later date. The good or service could be delivered at a later date. A "commercial solicitor" does not include a person who distributes handbills or flyers for a commercial purpose advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or business, such a person is a Solicitor.

Section II: Section 605.270 of the City of Chesterfield Municipal Code shall be amended as follows:

Section 605.270 Certificate of Registration Required

It shall be unlawful for any Commercial Solicitor to go in or upon any private residence in the City for the purpose of soliciting from the occupants without having first applied for and received a certificate of registration as hereinafter provided.

Section III: Section 605.280 of the City of Chesterfield Municipal Code shall be amended as follows:

Section 605.280 Application.

- A. The applicant shall truthfully state in full the information requested on the application, which shall include at least the following:
 1. Name and address of present place of residence and length of residence at such address; also business address if other than residence address and Social Security number.
 2. Physical description of applicant.
 3. Name and address of person, firm, corporation or association whom the applicant is employed by or represents and length of time of such employment or representation.
 4. Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in.
 5. Period of time for which the certificate is applied for.

6. Date, or approximate date, of latest previous application for a certificate of registration under this Article, if any.
7. Whether a certificate of registration issued to the applicant under this Article has ever been revoked.
8. Whether the applicant has ever been convicted of a violation or any of the provisions of this Article or any ordinance of any other municipality regulating soliciting.
9. Whether the applicant has ever been convicted of the commission of a felony under the laws of the State of Missouri or any other State or the Federal law of the United States.
10. Such additional information as the Chief of Police may deem necessary to process the application. All statements made by the applicant upon the application or in connection therewith shall be under oath.
11. An indemnity agreement provided by the City of Chesterfield in which the applicant agrees to hold harmless the City of Chesterfield from any and all liability arising out of the solicitation in the City of Chesterfield;

All statements made by the applicant upon the application or in connection therewith shall be under oath.

- B. Each applicant shall pay an application fee as set by the City Council.
- C. The City Administrator shall cause to be kept an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this Article and of the denial of applications.
- D. Every permit shall be granted unless the solicitor has been convicted of the commission of a felony under the laws of the State of Missouri or any other State or the Federal law of the United States within five (5) years of the date of the application; has been convicted of a violation or any of the provisions of this Article; or whose certificate of registration issued hereunder had previously been revoked, as herein provided.
- E. If applicable, an applicant should:
 1. demonstrate that he/she or his/her employer has a valid retail sales license issued by the State Director of Revenue as required by Section 144.083, RSMo.

Section IV: Section 605.300 of the City of Chesterfield Municipal Code shall be amended as follows:

Section 605.300 Duration – Renewal – Maximum Number.

A certificate of registration shall be issued for a specific period of time not to exceed twenty-eight (28) calendar days. No more than two certificates of registration will be issued in a given calendar year.

Section V: Section 605.310 of the City of Chesterfield Municipal Code shall be amended as follows:

Section 605.310 Exhibition Of Certificate.

A certificate of registration issued pursuant to this Article shall be carried at all times by the Commercial Solicitor to whom issued when soliciting or canvassing in the City and shall be exhibited by such Commercial Solicitor whenever he/she shall be requested to do so by any officer of the City or by any person being solicited.

Section VI: Section 605.320 of the City of Chesterfield Municipal Code shall be repealed and replaced with the following:

Section 605.320 Duty to Observe Notice.

- A. Any individual, business, or organization may place a sign which substantially states “NO TRESPASSING OR SOLICITING ALLOWED” on or directly adjacent to any entrance to the individual, business, or organization’s residence, place of work, or other non-public or semi-public place.
- B. It shall be the duty of every Commercial Solicitor and Solicitor upon going onto a premises in the City to first examine any notice which substantially states “NO TRESPASSING OR SOLICITING ALLOWED” which may have been placed on such premises.
- C. A violation of this Section may be prosecuted as a trespass in the first degree or second degree under Section 210.1060 or Section 210.1070, respectively.

Section VII: Section 605.330 of the City of Chesterfield Municipal Code shall be deleted.

Section VIII: Section 605.340 of the City of Chesterfield Municipal Code shall be deleted.

Section IX: Section 605.350 of the City of Chesterfield Municipal Code shall be repealed and replaced as follows:

Section 605.350. Sale Of Goods Or Services Prohibited In Public Rights-Of-Way

A. Definitions. For purposes of this section only, the following terms shall be defined, as follows:

1. Roadway shall mean the portion of a street or highway improved, designed, or ordinarily used for vehicular travel and extending from one (1) curb or edge of pavement to the opposite curb or edge of pavement, including lanes commonly used for parking and including center medians and lane dividers.

2. Sidewalk shall mean that portion of a public right-of-way between the curb lines, or the lateral lines of a roadway and the adjacent property lines, intended for use by pedestrians.

B. No person shall stand in or enter upon a roadway for the purpose of soliciting, except from the occupants of parked motor vehicles located in the roadway adjacent to a sidewalk if the solicitor is on a sidewalk.

Section X: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section XI: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 21st day of March, ~~2021~~ ²⁰²².

Bob Nation
Presiding Officer

Bob Nation
Bob Nation, Mayor

ATTEST:

Vickie McGownd
Vickie McGownd, City Clerk

FIRST READING HELD: 3/7/2022