



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve Changes to City of St. Charles City Code Title 5 “Business Licenses and Regulations,” Chapter 5.36 “Solicitors.”
Presenter:	Deputy Chief David Kintz

Please check appropriate box:

	Government Operations	X	Government Services 03.23.15
	Planning & Development		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Citizens have brought it to our attention that they were not able to distinguish which solicitors had been vetted and approved by the City. With this in mind, the Police Department conducted a review of our ordinance covering solicitors and a few changes were identified.

The proposed changes follow the best practices of area communities to ensure that applicants pass the appropriate background checks.

Approved solicitors will now be issued ID cards by the Police Department and be required to display them so citizens will know they have a permit. The permit will also now have an expiration date. A permit will be valid for 90 days.

The Illinois Vehicle Code allows for charitable solicitations on the roadway when a municipality expressly permits it by ordinance. This change further defines who may qualify for a permit. This will not have any effect on our current charitable organizations.

A group seeking a permit for solicitation can expect approval generally within two weeks of submitting the application and fingerprint data. Previous to these changes, applications were approved in about one week. All other provisions of the ordinance remain in effect.

Attachments: *(please list)*

Cover Memo
Ordinance Update

Recommendation / Suggested Action *(briefly explain):*

Recommendation to Approve Changes to City of St. Charles City Code Title 5 “Business Licenses and Regulations,” Chapter 5.36 “Solicitors.”

<i>For office use only:</i>	<i>Agenda Item Number: 7.b</i>
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Police Department

Memo

Date: 3/10/2015
To: Chief James Keegan
From: Deputy Chief David Kintz
Re: Solicitor Ordinance Update

I conducted a review of our solicitor ordinance. In general, our ordinance compares very well with that of similar municipalities. I did find some areas that need to be addressed and I recommend that a few changes be made.

1. Our ordinance does not specify the length of time that a permit is good for. I found ordinances that range from unspecified to annual permits. I recommend that a solicitor permit be valid for 90 days.
2. We will soon have the ability to create professional identification badges. Each approved solicitor should be issued an identification badge that clearly shows a photo, solicitor name, company name, St. Charles Solicitor Permit, and expiration date. The ordinance will be amended to reflect the requirement to submit a photo in an approved electronic format to be used to make the identification badge. The ordinance will also reflect that the solicitor must prominently display the badge.
3. Our ordinance prohibits the issuing of a permit to a convicted felon or convicted sex offender. The police department is not allowed to use the LEADS interface to check a criminal history for a solicitor application. We can require them to submit a fingerprint inquiry via Livescan through the Uniform Conviction Information Act (UCIA). This will provide conviction data from the State of Illinois. I recommend that the ordinance be changed to reflect the requirement for each solicitor to submit a fingerprint inquiry through UCIA with an authorized Livescan vendor. The Police Department will also conduct a local records check in addition the report from UCIA.
4. The Illinois Vehicle Code allows for charitable solicitations on the roadway when expressly permitted by local ordinance. Our ordinance allows for this type of solicitation. I do recommend that a permit only be granted to a charitable organization with a City of St. Charles mailing address or to an organization that serves the residents of St. Charles.

I have attached a copy of the suggested changes to the ordinance with this memorandum. Please let me know if there are any other areas of concern to be reviewed.



SOLICITORS

Chapter 5.36

SOLICITORS

Sections:

5.36.010	Definitions.
5.36.020	Charitable Solicitation; Registration.
5.36.030	Commercial Solicitation; Registration.
5.36.040	Registration Fee.
5.36.050	Notice Regulating Soliciting.
5.36.060	Duty of Solicitors.
5.36.070	Uninvited Soliciting Prohibited.
5.36.080	Time Limit for Soliciting.
5.36.090	Prohibitions.
5.36.100	Additional Regulations for Charitable Solicitations.
5.36.110	Records Kept.
5.36.120	Violation – Penalty

5.36.010 Definitions.

The following words and phrases as used in this ordinance shall have the following meanings, unless a different meaning is required by the context:

CHARITABLE ORGANIZATIONS: Any benevolent, philanthropic, patriotic, not for profit, religious or one purporting to be such which solicits and collects funds for charitable purposes.

CHARITABLE PURPOSE: Any charitable, benevolent, philanthropic, patriotic, not for profit, or religious purpose.

CHARITABLE SOLICITATION: Any request for the donation of money, property or anything of value, or the pledge of a future donation of money, property or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a “charitable purpose” as such term is herein defined.

COMMERCIAL SOLICITATION: Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; seeking to obtain subscriptions to books, magazines, periodicals, etc.

PERSON: Any individual, organization, group, association, partnership, corporation, trust or any combination thereof.

SOLICITATION: Any “charitable solicitation” or “commercial solicitation”, as those terms are defined herein.

SOLICITOR: Any person who engages in “charitable solicitation” or “commercial solicitation”, as those terms are defined herein.

(Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1001.)

5.36.020 Charitable Solicitation; Registration.

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- A. It shall be unlawful for any charitable organization to engage in charitable solicitation within the corporate limits of the City unless such organization has registered with the City as hereinafter provided.
- B. Any charitable organization engaging in charitable solicitation within the corporate limits of the City shall register the following information with the Chief of Police or his designee:
 - 1. The name and address of the charitable organization and the name or names under which it intends to engage in solicitation.
 - 2. The names and addresses of all persons who will engage in charitable solicitation in the City.
 - 3. The dates and time of day such solicitations are to be made and the geographic areas within the City wherein such solicitation shall be conducted at a particular time and day.
 - 4. A written statement of recent date issued by the attorney general of Illinois that the charitable organization has complied with the provisions of 225 Illinois Compiled Statutes 460/1 et seq., or a written statement by the attorney general of exemption under 225 Illinois Compiled Statutes 460/3.

(Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1002.)

5.36.030 Commercial Solicitation; Registration.

- A. It shall be unlawful for any person to engage in commercial solicitation within the corporate limits of the City unless such person shall have first obtained approved registration from the City as hereinafter provided.
- B. Application for registration shall be made upon a form provided by the City. The applicant shall truthfully state in full the following information and submit the following documentation:
 - 1. The name and address of the person who intends to engage in solicitation.
 - 2. The name and address of the person or organization by whom the applicant is employed or represents, and the length of time of such employment or representation.
 - 3. The name and address of the person in charge of solicitation in the City and an address within the state of Illinois where service of process may be had.
 - 4. Applicant shall submit his or her driver's license or state ID number and date of birth, as well as a physical description of applicant.
 - 5. The dates and time of day such solicitation is to be made and the geographic area within the City wherein such solicitation shall be conducted at a particular time and day.
 - 6. The date, or approximate date, of the latest previous application for registration under this ordinance, if any.
 - 7. Whether a registration issued to the applicant under this ordinance has ever been revoked.
 - 8. Whether the applicant has been convicted of a violation of any of the provisions of this ordinance or the ordinances of any other Illinois municipality regulating solicitation.
 - 9. A description sufficient for identification of the subject matter of the solicitation which the applicant will engage in.
 - 10. Whether the applicant has ever been convicted of the commission of a felony under the laws of the state of Illinois or any other state, or of a law of the United States.
 - 11. An electronic headshot photo of each applicant in an approved format.
 - 12. Proof of submission for Uniform Conviction Information Act through a fingerprint conviction information request with an approved Livescan Vendor with the Illinois State Police.
- C. An application for registration shall be submitted to the Chief of Police and shall be verified under oath. The Chief of Police shall acknowledge receipt of such application in writing within five (5) working days of such receipt and shall act upon such application within ten (10) days after its receipt. No application shall be effective until acted upon by the Chief of Police. If the Chief of Police finds and determines that all the requirements of this ordinance have been met, the Chief of

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SOLICITORS

Police shall issue said approval forthwith. [Registration shall be valid for 90 days from the date of issue.](#)

- D. The failure of an applicant to fulfill the requirements of this ordinance shall be a basis for the denial of an approved registration by the Chief of Police. In addition, no approved registration shall be issued to any person who has been convicted of a felony under the laws of the state Illinois or any other state or under the laws of the United States; nor to any person who has been convicted of a sex offense as defined by 720 Illinois Compiled Statues, Act 5, Article 11 or any other equivalent law of any other state; nor to any person who has been convicted of a violation of any of the provisions of this ordinance; nor to any person whose registration issued hereunder has previously been revoked as herein provided. In the event that any registration is denied for failure to comply with the requirements set forth hereinabove, the Chief of Police shall immediately notify the applicant, in writing, of the reasons for denial. If said application is not cured within ten (10) days after the date on which the Chief of Police denies the issuance of said registration, said application shall be null and void.
- E. The Chief of Police shall revoke an approved registration for a violation of any of the regulations listed in sections 5.36.050 through 5.36.090 of this ordinance, inclusive. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the approved registration by certified or registered mail, return receipt requested. Upon receipt of said notice of revocation, all solicitation activity shall cease.

(Ord. 2012-M-22 § 1; Ord. 1998-M-82 § 1; Ord. 1979-M-4 § 1; Ord. 1970-M-16 (part): prior code § 25.1003.)

5.36.040 Registration Fee.

The fee for application and approval of registration required to engage in commercial solicitation pursuant to this ordinance shall be fifty dollars (\$50.00) per applicant. Said fee shall be paid at the time of application and prior to the processing of said application.

(Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1004.)

5.36.050 Notice regulating soliciting.

Any person owning or occupying any premises within the City may post a notice indicating if solicitors are not invited at said premises.

Such notice so exhibited shall constitute sufficient notice to any solicitor of the determination by the owner or occupant of the premises of the information contained thereon.

(Ord. 2012-M-12 § 1; Ord. 1970-M-16 (part): prior code § 25.1006; prior code § 25.1005.)

5.36.060 Duty of solicitors.

It shall be the duty of every solicitor, upon going onto any premises in the City, to first examine the notice provided for in section 5.36.050 of this ordinance, if any is attached, and be governed by the statement contained on the notice. If the notice states: "NO SOLICITORS INVITED", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises. [Each approved solicitor must display the City of St. Charles issued permit prominently when soliciting.](#)

(Ord., 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1007; prior code § 25.1006.)

5.36.070 Uninvited soliciting prohibited.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to remain upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the owner or occupant of such premises for the purpose of securing an audience with the owner or occupant thereof, and engage in "solicitation" as herein defined in defiance of the notice exhibited at the premises in accordance with the provisions of section 5.36.050 of this ordinance.

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Any solicitor who has gained entrance to any premises, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant (Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1008; prior code § 25.1007.)

5.36.080 Time limit on soliciting.

- A. No person shall engage in “solicitation” as herein defined prior to nine o’clock (9:00) A.M. or after seven o’clock (7:00) P.M. of any day. No person shall engage in commercial solicitation at any time on a Sunday or any state or national holiday.
- B. No commercial solicitor shall solicit within five hundred feet (500’) of the property line of any elementary or secondary school.

(Ord. 2012-M-22 § 1; Ord. 2010-M-25 § 1; Ord. 1970-M-16 (part): prior code § 25.1009; prior code § 25.1008.)

5.36.090 Prohibitions.

- A. Felons and Persons Convicted of Sex Offenses as Solicitors: It shall be unlawful for any person to be a solicitor who has been convicted of a felony under the laws of the state of Illinois, or any equivalent law of any other state, or under the federal laws of the United States. It shall be unlawful for any person to be a solicitor who has been convicted of a sex offense as defined by 720 Illinois Compiled Statutes, Act 5, Article 11, or any equivalent law of any other state.
- B. Fraud: No person shall misrepresent his name, occupation, financial condition, social conditions or residence, and no person shall make or perpetrate any other misstatement, deception or fraud, in connection with any charitable or commercial solicitation, or in any application or report filed under this ordinance.

(Ord. 2012-M-22 § 1; Ord. 2010-M-25 § 1; Ord. 1970-M-16 (part): prior code § 25.1009.)

5.36.100 Additional Regulations for Charitable Solicitations.

- A. Financial Disclosure Required: The charitable organization shall distribute to every person solicited a financial statement of said charitable organization for the preceding twelve (12) months which shall include a balance sheet and statement of income and expenses clearly setting forth the following: gross receipts and gross income from all sources broken down into total receipts and income from each separate solicitation project or source; cost of administration; cost of solicitation; cost of programs designed to inform or educate the public; funds or properties transferred out of the state of Illinois, with explanation as to recipient and purpose; total net income amount for each major purpose, charitable or otherwise. Statements shall be signed by the president or other authorized officer or agent and shall be accompanied by an opinion signed by an independent certified public accountant that said financial statement fairly represents the financial operation of the charitable organization.

A copy of the annual report to the attorney general of Illinois required by 225 Illinois Compiled Statutes 460/4, as amended, may be presented in lieu of the aforementioned financial statement. For the purpose of financial statements, the definitions and standards applicable to the annual report to the attorney general as set forth in paragraph 460/4 shall be utilized.

In the event a charitable organization has not been established for a period of twelve (12) months, a copy of the registration statement filed with the attorney general of Illinois pursuant to 225 Illinois Compiled Statutes 460/2, as amended, may be utilized.

- B. Solicitation of Charitable Contributions On Highways: Solicitation of charitable contributions on highways within the City shall be permitted; provided, however, that all such activity shall be conducted in strict conformity with and shall be limited to that activity permitted under the provisions of the Illinois vehicle code paragraph 5/11-1006(c) and this code.

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In order to, on an ongoing basis, evaluate the safety of solicitors and the safety of motorists, and to otherwise provide for the orderly flow of traffic, the City may authorize charitable solicitation on highways to take place during such times as the City may approve, notwithstanding any time limitation set forth in section 5.36.080 of this ordinance to the contrary. [Permits will only be given charitable organizations with a City of St. Charles mailing address. A permit may be granted at the discretion of the Chief of Police to a charitable organization who serves citizens of St. Charles but may not have a St. Charles mailing address.](#)

(Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1013.)

5.36.110 Records Kept.

The Chief of Police shall cause to be kept an accurate record of every application received and acted upon together with all other information and data pertaining thereto, under the provisions of this ordinance, and a record of the denial of any and all applications.

(Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1011.)

5.36.120 Violation – Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500) for each offense.

(Ord. 2012-M-22 § 1; Ord. 1994-M-18 § 1.)