

ORDINANCE NO. 446

AN ORDINANCE REGULATING SOLICITATION AND REPEALING
ORDINANCE NO. 424.

THE CITY OF COLUMBIA CITY DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. The City Council finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right to privacy caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The City Council has also been advised that based upon actual experiences in Columbia City and in the opinion of crime prevention specialists nationwide there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable City officials and citizens of the City to become informed concerning the individuals and organizations who choose to solicit in the City. This ordinance also provides a mechanism for discouraging, through the civil infraction process, those solicitors who avoid registration and provides a mechanism to identify and discourage those whom would use solicitation as a front for criminal activity.

Section 2. Definition. For the purposes of Section 2 to Section 10, the terms "solicit" and "solicitation" shall mean the entry onto real property used for residential purposes by a person for the purpose of communicating with an occupant of the property, whether the communication is verbal, visual or in writing, and regardless of whether the motive for the entry is to sell goods or services.

Section 3. Prohibited Acts, Penalties.

- (1) It is unlawful for any person to:
 - A. Solicit before 9:00 a.m. or after 9:00 p.m., without having first obtained the consent of the occupant to do so.
 - B. Solicit without first having obtained a registration certificate pursuant to Section 7, if required by the section.
 - C. Violate the terms of a registration certificate issued pursuant to Section 7.
 - D. Solicit after a registration certificate has been revoked, pursuant to Section 7.
 - E. Allow, suffer or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.
 - F. Provide false or fraudulent information on a registration statement.

G. Leave written materials upon real property where a sign conforming to the requirements of Section 9 is posted.

H. Solicit upon real property where a sign conforming to the requirements of Section 9 is posted.

I. Allow, suffer or permit any person to solicit on their behalf after a registration certificate has been revoked, pursuant to Section 7.

(2) A violation of this ordinance is punishable by a fine upon conviction not to exceed \$250 for each offense. [Amended by Ord. No. 99-545-0 10/7/99.]

(3) Each day's violation of a provision of this ordinance constitutes a separate offense. [Amended by Ord. No. 99-545-0 10/7/99.]

Section 4. Consent to enter Onto Real Property, Exemptions.

(1) It shall be an affirmative defense to an alleged violation of Section 3 (1) A, G or H that the person charged with the violation or crime had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter real property may be implied from the circumstances of each instance, the relationship of the parties and actual or implied contractual relationships.

(2) The occupant of real property shall be considered to have given constructive consent to enter real property for the purpose of solicitation between the hours of 9 a.m. and 9 p.m., if they have not posed a "No Solicitation" sign, pursuant to Section 9.

(3) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(4) Officers, employees or agents of a governmental entity while performing activities within the scope of their office, employment or agency are exempt from the requirements of Section 2 to Section 10.

Section 5. Registration Statement.

(1) All persons desiring to solicit at one (1) or more dwelling units in the City during any eight (8) hour period shall file with the City a registration statement, on forms provided by the City, containing the following information.

A. The name of the person registering and desiring to solicit.

B. Whether the person registering is a natural person, partnership, corporation or association and,
 i. If a natural person, the business or residence address and telephone number of the person.

ii. If a partnership, the names of all partners and the principal business address and telephone number of each partner.

iii. If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Portland

area office of such corporation, and the names of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation.

iv. If an association, the registration statement shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association, unless they exceed ten (10) in number, in which case the application shall so state and the person registering may alternatively list the names and the principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its Portland area office.

C. A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation from all persons of the intended purpose of the solicitation.

D. The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation and the number of persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the City or the public concerning the solicitation activities.

E. The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

F. A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

G. The names of any other cities in which the person registering has solicited within the past five (5) years, but in the event that the person registering has solicited in more than five (5) other cities, the person registering may list the five (5) cities located closest to Columbia City.

H. A statement that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the City or any of its officers or employees.

I. The names of any officer, director, trustee, partner, corporation, or any current agent or employee engaging in the solicitation who has signed a consent decree or order in the last five (5) years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five (5) years, and the nature of the offense, or consent decree or order, the state where the conviction, or consent decree or order occurred, and the year of such conviction, or consent decree or order.

J. An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

K. The registration statement must be signed by the applicant, if the person registering is an individual, if the person registering is a partnership, by a partner; if a person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and carefully read the registration statement and that all the information contained therein is true and correct.

(2) Registration statement and information submitted with the registration statement are public records available for public inspection during normal City business hours.

Section 6. Registration Fee. Every registration statement shall be accompanied by a registration fee of fifteen dollars (\$30) to compensate the City for the cost of administering this registration program, and such fee will not be refunded if a certificate of registration is not issued.

The registration fee may be waived upon a showing of indigency. Indigency is defined as the circumstance of inability to pay. A request for waiver of fees shall be made to the City Council, and consideration shall be given to the purpose of the organization, the scope of their activities in the City and its financial resources. Religious, political and non-profit groups are presumed to be indigent.

[Amended by Ordinance No. 10-656-O 3/5/10]

Section 7. Issuance of Certificate of Registration, Revocation.

(1) After a review of the registration statement to determine its compliance with Section 5, and, within ten (10) working days of the receipt of the registration statement, the City Recorder shall either issue a certificate of registration, in the form provided by Section 8, or notify the person registering that the registration statement does not comply with requirements of Section 5, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued. If the person registering is engaged in an activity for which a business license is required by this ordinance, proof of a valid business license shall be furnished prior to the issuance of the certificate.

(2) A certificate of registration shall be revoked by the City Recorder if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of three violations of Section 3 (1) occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred. The period of revocation shall be for 60 calendar days, during which the person may not receive a certificate of

registration. Upon receipt of notification that a registered person has been convicted, plead guilty or no contest to the third violation, the City Recorder shall notify in writing the person designated in the registration statement to receive notice of the action to revoke, that the certificate of registration will be revoked on a certain date. The notice shall be mailed at least five (5) days prior to the effective date of the revocation. The person may appeal the decision to the City Council by filing a notice of appeal with the City Recorder within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

Section 8. Form of Certificate of Registration. Term.

(1) The City Recorder shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the City of Columbia City or any of its officers or employees." Each certificate of registration shall bear a registration number, which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the City shall contain, a termination date upon which the certificate shall expire, such date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by Section 3.

Section 9. No Solicitation Sign.

(1) If an occupant of real property chooses to not invite solicitors onto their property, the occupant may post a "No Solicitation" sign pursuant to this section. The effect of the posting of such a sign is to express the refusal of the occupant to grant consent to any person to enter their real property to solicit, except to those persons exempt from these provisions by Section 4.

(2) Signs posted pursuant to this section shall be posted on or near the boundaries of the property at the normal points of entry, and,

- A. Signs must be no smaller than 16" sq. inches; and
- B. Signs must contain the words "No Solicitation."

For real property possessing no apparent barriers to entry at the boundaries of the property which limit access to the primary entrance of a structure located on the property, placement of the sign at the primary entrance to the structure constitutes compliance with this section.

Section 10. Evidentiary Matters.

(1) It shall be prima facie evidence of a violation of Section 3 (1) G if written material is found on real property upon which a sign conforming to the requirements of Section 9 has been posted. The person responsible for such written material shall be the person identified in the written material as its

proponent, sponsor, distributor or potential beneficiary of the communication conveyed.

(2) For the purposes of Section 3 (1) E and I, if a person solicits on behalf of a person registered pursuant to Section 5, it is presumed that the person registered allowed, suffered or permitted the solicitation.

[Section 11. Severability.]

[Section 12. Repealer.]

Passed by the council and approved by the mayor April 6, 1989.