

ORDINANCE G-5593

AN ORDINANCE RELATING TO SOLICITATION AND
HANDBILLING; AMENDING CHAPTER 3, PHOENIX CITY
CODE, BY AMENDING SECTIONS 3-1, 3-4, 3-5 AND 3-6,
PHOENIX CITY CODE; AND ADDING A NEW ARTICLE XII
TO CHAPTER 23, PHOENIX CITY CODE, RELATING TO
DOOR-TO-DOOR SOLICITING.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as
follows:

SECTION 1. Sec. 3-1, Phoenix City Code, is amended to read:

Sec. 3-1. Definitions.

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Commercial handbill: MEANS any printed or written matter, any sample,
balloon, or other device, ~~dodger~~, circular, leaflet, pamphlet, papers, booklet, or any
other printed or otherwise reproduced original or copies of any matter of literature:

- (a) ~~Which~~ THAT advertises for sale any merchandise, product,
commodity, or thing; or
- (b) ~~Which~~ THAT directs attention to any business or mercantile or
commercial establishment, or other commercial activity, for the
purpose ~~of~~ OF either directly or indirectly promoting the interest
thereof by sales; or
- (c) ~~Which~~ THAT directs attention to or advertises any meeting,
theatrical performance, exhibition, or event of any kind, for which an
admission fee is charged for the purpose of private gain or private
profit, but the terms of this clause shall not apply where an
admission fee is charged or a collection is taken up for the purpose
of defraying the expenses incident to such meeting, theatrical

performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information ~~which~~ THAT is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this City; or

- (d) ~~Which~~ THAT, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

Newspaper: MEANS any newspaper, periodical or current magazine of general circulation as defined by general case law, or any newspaper, periodical, or current magazine duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, or any newspaper, periodical or current magazine filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall be regularly published with not less than four issues per year.

Noncommercial handbill: MEANS any printed or written matter, any sample or other device, ~~dodger~~, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the ~~aforesaid definitions~~ DEFINITION of a commercial handbill.

Person: MEANS any ~~person~~ INDIVIDUAL, firm, partnership, association, corporation, company or organization of any kind engaging or engaged, either directly or indirectly, in the distribution of either commercial or noncommercial handbills.

Private premises: MEANS any dwelling, house, building, or other structure, designed or used either wholly or in part for private purposes, whether inhabited or temporarily or continuously uninhabited, or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place: MEANS any and all streets, sidewalks, boulevards, alleys, airspace or other public ways and any and all public parks, squares, spaces, grounds and buildings.

SECTION 2. Sec. 3-4, Phoenix City Code, is amended to read:

Sec. 3-4. Depositing commercial and non-commercial handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises ~~which~~ THAT are temporarily or continuously uninhabited or vacant, IF:

- (a)1. ~~Where~~ It is apparent that said property is unoccupied; or
- (b)2. ~~Where~~ It is apparent that a previous day's distribution of handbills has not been removed; or
- (c)3. ~~Where~~ The owner has not given his permission to do so.

SECTION 3. Sec. 3-5, Phoenix City Code, is amended to read:

Sec. 3-5. Prohibiting distribution of handbills at private premises where property posted; CRIMINAL PENALTY; CIVIL SANCTION.

(a)A. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Advertisement," "No Unsolicited Newspapers HANDBILLS," or any similar notice, ~~indicating the manner in which the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.~~ THE NOTICE POSTING PROVISION OF THIS SUBSECTION DOES NOT APPLY TO ANY PERSON WHO HAS PREVIOUSLY RECEIVED UNRESCINDED PERMISSION FROM THE PERSON IN CONTROL OF THE PRIVATE PREMISES TO THROW, DEPOSIT OR DISTRIBUTE THE COMMERCIAL OR NONCOMMERCIAL HANDBILL.

(b)B. ~~Subject to the conditions set forth above,~~ The deposit or distribution of any commercial or noncommercial handbill on private premises shall be done in ~~such~~ a reasonable manner SO as to prevent their being carried or deposited by the elements upon any adjoining premises, street or sidewalk or other public place, or upon other private property.

C. IF THE PROPERTY HAS A CLEARLY-MARKED AND CONSPICUOUS RECEPTACLE FOR THE PLACEMENT OF HANDBILLS LABELED "HANDBILLS," NO PERSON SHALL THROW, DEPOSIT OR DISTRIBUTE ANY COMMERCIAL OR NONCOMMERCIAL HANDBILL ANYWHERE OTHER THAN IN THAT RECEPTACLE.

(c)D. The provisions of this section shall not apply to:

- 1. The distribution of mail by the United States.

2. EMPLOYEES OR AGENTS OF A PUBLIC UTILITY IN THE PERFORMANCE OF DUTIES REQUIRED BY FEDERAL, STATE OR LOCAL LAW, OR TO COMMUNICATE SERVICE INTERRUPTIONS OR SIMILAR NOTICES TO THE PUBLIC.

E. THERE IS A REBUTTABLE PRESUMPTION THAT THE OWNER, MANAGER, DISTRIBUTOR, PROVIDER, OR RESPONSIBLE PARTY OF ANY BUSINESS, PRODUCT, OR SERVICE THAT IS THE SUBJECT OF A COMMERCIAL HANDBILL HAS CAUSED THE HANDBILL TO BE PLACED ON THE PRIVATE PREMISES.

F. EXCEPT AS PROVIDED IN SUBSECTION G, ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS ONE MISDEMEANOR.

G. ANY PERSON WHO IS CHARGED UNDER THE PRESUMPTION OF SUBSECTION E IS SUBJECT TO A CIVIL SANCTION OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS. THE TWO HUNDRED FIFTY DOLLAR MINIMUM SANCTION SHALL NOT BE WAIVED. EACH SIGN, CARD, HANDBILL, NOTICE, OR ADVERTISEMENT PLACED IN VIOLATION OF THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION.

SECTION 4. Sec. 3-6, Phoenix City Code, is amended to read:

Sec. 3-6. Prohibiting distribution of posters, cards, signs, handbills, placards and other notices generally; CRIMINAL PENALTY; CIVIL SANCTION.

~~(a)~~A. No person shall paste, fasten or in any manner affix to any curb, or sidewalk, or other public place within the City; any drawing, writing, handbill, placard, poster, ~~dodger~~ or ~~notice~~ of advertisement.

~~(b)~~B. No person shall write, paint, paste, post or tack any card, sign, notice, ~~handbill~~, ~~dodger~~ or advertisement in, on or upon any tree, post, pole, fence, wall, building, premises or other property owned by, or belonging to, or in THE charge of another person without first having obtained from such person so owning or in charge, custody or control thereof, permission to do so. THIS SUBSECTION DOES NOT APPLY TO COMMERCIAL OR NON-COMMERCIAL HANDBILLS, OR TO GOVERNMENT ACTION.

~~(c)~~C. No person shall paste, post, tack, place or display, or cause or permit to be pasted, posted, tacked, placed or displayed any sign, card, notice, handbill or advertisement on any pole, fence, or at any place within any public right-of-way.

(d)D. For purposes of this section, ~~it may be rebuttably presumed~~ THERE IS A REBUTTABLE PRESUMPTION that the owner, manager, distributor, provider, or responsible party of any business, product, or service ~~which~~ THAT is the subject of a sign, notice, card, ~~handbill~~, or advertisement has caused the sign, card, ~~handbill~~, notice, or advertisement to be ~~placed~~ PASTED, POSTED, TACKED, PLACED OR DISPLAYED within the right-of-way OR ON PRIVATE PREMISES.

(e)E. EXCEPT AS PROVIDED IN SUBSECTION F, any person who violates ANY OF THE PROVISIONS OF this section shall be GUILTY OF A CLASS ONE MISDEMEANOR.

F. ANY PERSON WHO IS CHARGED UNDER THE PRESUMPTION OF SUBSECTION D IS subject to a civil sanction of not less than two hundred fifty dollars nor more than two thousand five hundred dollars. The two hundred fifty dollar minimum sanction shall not be waived. Each sign, card, handbill, notice, or advertisement placed ~~within the right-of-way~~ IN VIOLATION OF THIS SECTION shall constitute a separate violation.

SECTION 5. Chapter 23, Phoenix City Code, is amended by adding a new Article XII, to read:

Article XII. Door-to-Door Soliciting

Sec. 23-140. Definitions.

In this article, unless the context otherwise requires:

Business means any enterprise, regardless of legal form, that is organized or operated for profit or private gain. The fact that an enterprise is operating at a loss does not, by itself, mean that the enterprise is not organized or operated for profit or private gain.

Commercial means to sell or promote a product or service of any business.

Government-issued identification means a valid, unexpired identification document issued by a government in the United States, or any possession of the United States, to an individual that contains a photograph, date of birth and physical description.

Physical contact means direct or indirect contact between a person and any object, including contact that occurs through clothing or by means of any object.

Premises means a dwelling unit under the control of any resident.

Solicit means to engage in the activity of a solicitor.

Solicitor means any person who goes from door to door in a residential neighborhood, without an invitation, seeking to speak with one or more occupants thereof for a commercial purpose.

Sec. 23-141. Hours of operation.

A. From April 1 through September 30, inclusive, no person shall solicit between the hours of 9:00 p.m. and 9:00 a.m. of the following day.

B. From October 1 through the following March 31, inclusive, no person shall solicit between the hours of 7:00 p.m. and 9:00 a.m. of the following day.

Sec. 23-142. Identification document required; display.

A. No person who is sixteen years of age or older shall solicit without possessing a government-issued identification document in the name of that person.

B. No person who is fifteen years of age or younger shall solicit without possessing a government-issued identification document in the name of that person or an identification document issued by any school to that person that bears a photograph of that person and the name of the school.

C. No person shall fail to promptly display for inspection to any person on the premises upon request the identification document required by this section.

Sec. 23-143. Conduct.

A. No solicitor shall:

1. Fail to immediately leave the premises after observing a sign or notice prohibiting soliciting.
2. Open a door or gate that bears a sign or notice prohibiting soliciting.
3. Pass through an open door or gate that bears a sign or notice prohibiting soliciting.

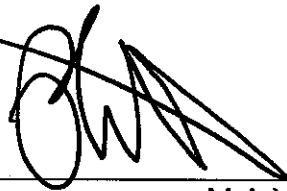
B. No person, who goes from door to door in a residential neighborhood, without an invitation, seeking to speak with one or more of the occupants thereof, shall:

1. Fail to immediately leave the premises after receiving a request from any person on the premises to do so.
2. Fail to immediately leave the premises after observing a sign or notice prohibiting trespassing.
3. Open a door or gate that bears a sign or notice prohibiting trespassing.
4. Pass through an open door or gate that bears a sign or notice prohibiting trespassing.
5. Make physical contact with any window of a building or other structure on private property.
6. Falsely claim to have a business, regulatory or tax license issued by any local, state or federal government.

Sec. 23-144. Penalties.

Any person who violates any of the provisions of this article is guilty of a class one misdemeanor.

PASSED by the Council of the City of Phoenix this 2nd day of March, 2011.



MAYOR

ATTEST:

C Meyer Acting City Clerk



APPROVED AS TO FORM:

William Boal Acting City Attorney

REVIEWED BY:

D. Long City Manager

JHH:eff:890599_1 (CM49)(Item19) 3/2/11