

ORDINANCE NO. 1182

AN ORDINANCE OF THE CITY OF BELMONT REPEALING PROVISIONS PERTAINING TO BUSINESS LICENSES SUPERSEDED BY MEASURE DD (ORDINANCE 2024-1181) AND AMENDING REGULATIONS RELATED TO SOLICITORS

THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. BCC § 1-2 AMENDED

Belmont City Code Section 1-2 is amended by modifying the unnumbered paragraph containing the rule “Computation of time” to read as follows. All other paragraphs in Section 1-2 are unchanged.

Computation of time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday recognized by the City of Belmont, and then it is also excluded and the date for the performance of that act is extended to the next day that is not a Saturday, Sunday, or holiday.

SECTION 2. BCC CHP 12 SECTIONS RELATED TO TAXES REPEALED

City of Belmont Measure DD, Ordinance 2024-1181 adopted November 5, 2024 by the People of Belmont, restructures the City’s Business License Tax and supersedes City Code Sections 12-1, 12-1.1, 12-2, 12-3, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-16, 12-17, 12-18, 12-19, 12-20, 12-21, 12-23, 12-24, 12-25, 12-26, 12-27, 12-28, and 12-29. The foregoing sections are repealed effective January 1, 2025. This section which relates to taxes for the usual and current expenses of the city takes effect immediately under Government Code Section 36937(d) upon adoption of this ordinance.

SECTION 3. BCC CHP 12 AND SECTION 12-22 REPEALED

Belmont City Code Chapter 12 and section 12-22 are repealed.

SECTION 4. BCC CHP 12 ADDED.

Belmont City Code Chapter 12 is added to read:

Chapter 12 – Regulated Business Activities

Article 1 – Solicitors

Sec. 12-1 Definitions

The definitions in this section apply to the words and phrases used in this chapter unless the context clearly indicates otherwise.

“*Applicant*” means the natural person seeking to obtain a registration certificate.

“*Registration Authority*” means the chief of police, his or her authorized representatives, or the person designated by the city manager.

“*Solicitor*” means any person who engaged in the business of going from door to door within the city, selling or taking orders for or offering to sell or take orders for goods, wares or merchandise or other things of value for future delivery, or for services to be performed in the future. For the purposes of this article, “solicitor” includes all persons engaged in the business of distributing samples, handbills, brochures, and other similar items door to door for commercial purposes. Solicitor does not include a person going door to door for the purpose of non-commercial communication.

“Solicitor Registration Certificate” means a certificate issued by the registration authority.

Sec. 12-2 Solicitor Registration and Identification

(a) It is unlawful for a person to engage in the business of a solicitor within the City without a current and valid solicitor registration certificate issued to the person by the registration authority.

(b) It is unlawful for a person to engage in the business of a solicitor within the City without displaying on their person at all times a valid solicitor identification card issued by the registration authority.

Sec. 12-3 Solicitor Registration Application

(a) An application to register as a solicitor, together with the required application fee, must be filed with the City Clerk who will forward the application to the registration authority. A new or renewal application may not be processed without the required application fee.

(b) If the registration authority determines the application is incomplete or that additional information is necessary to determine whether registration complies with this article, the registration authority must promptly inform the applicant in writing to cure the incompleteness or provide additional information required within 30 days or such time as the registration authority determines to be reasonable under the circumstances.

(c) If the applicant does not cure all incompleteness or provide all additional information requested within the time specified by the registration authority, the registration authority may deny the application.

(d) An application to register or renew registration must be on a form approved by the registration authority. The registration authority may develop a form for mandatory use. The application must include the information and documents in subsection (e) and any additional information or documents that the registration authority determines appropriate to carry out the intent and purpose of this chapter.

(e) A registration application must include the following. A mail box number may not be used for required address information.

(1) The legal name and physical address of the applicant.

(2) For each business for which orders are to be secured,

(A) The name and physical address of business;

- (B) All fictitious business names and the county of fictitious name registration;
- (C) If a business entity, the state of incorporation and proof of registration in good standing with the California Secretary of State and Franchise Tax Board;
- (D) The name of the nearest local or state manager, if any, and physical address,
- (E) The location of any warehouse or manufacturing facility within the State of California from which goods will be shipped.
- (3) The kind of goods, wares, or merchandise to be shipped or forwarded and the business supplying them.
- (4) The method of solicitation or taking orders.
- (5) The method of delivery of goods or services.
- (6) Any other facts the registration authority may require.
- (7) A background check application with the following information about the Applicant.
 - (A) The Applicant's business, occupation, and employment history for the seven years preceding the date of the application, including the inclusive dates of any employment;
 - (B) A current driver's license or identification issued by a state or federal governmental agency or other authenticable photographic identification bearing a bona fide seal by a foreign government;
 - (C) Any arrests or convictions within the previous seven years for violations of local, state or federal law;
 - (D) Any administrative or civil proceeding in which a license, permit, or other permission to operate a business was suspended or revoked or in which a civil penalty or fine was imposed or stipulated to in the previous seven years.
- (8) The Applicant must complete a California Department of Justice Live Scan BCIA 8016 form and submit to a live scan fingerprinting process through the Belmont Police Department or an authorized provider.
- (9) The applicant attests under penalty of perjury that all of the information contained in the application, including supporting documentation is complete, true and accurate to the best of the Applicant's knowledge.
- (10) The application must be signed by the applicant and the signature notarized.

Sec. 12-4 Registration

(a) *Registration certificate.* Registration is specific to the applicant and may not be transferred to another person.

(b) *Term.* Registration is valid for one year unless revoked or surrendered. Suspension of a registration certificate does not extend the term of registration.

(c) *Renewal.* Registration may be renewed subject to the same requirements as registration, except as expressly otherwise provided in this chapter. A registration holder is solely responsible to timely submit a complete renewal application. Failure to timely submit a renewal application may result in the expiration of the registration before the renewal application is granted or denied.

(d) *Other approvals.* Registration required by this chapter is in addition to any other license or permit required under any other provisions of the Belmont City Code or Belmont ordinances, including but not limited to a business license, zoning administrator permit, conditional use permit, building permit, occupancy certification or permit, or any other permit or license required by law. The issuance of a registration certificate does not modify the requirements of any other permit or approval and is not a substitute for obtaining any other permit, license or approval otherwise required. The issuance of a registration certificate may not be construed as a factor in favor of the issuance of any other permit, license, or approval necessary under this Code for the operation of a regulated business.

Sec. 12-5 Registration certificate issuance or denial

(a) *Determination.* Within 45 days of receiving a complete application, the registration authority must register the applicant and issue a registration certificate unless he or she finds one or more grounds for denial under this section.

(b) *Mandatory grounds for denial.* The registration authority may not issue a registration certificate and must deny the application for registration if:

- (1) The application fee has not been fully paid;
- (2) The application, once complete, does not conform to the requirements of this article;
- (3) The applicant is disqualified from registration under this article; or,
- (4) Registration for purpose of sales identified in the application is not consistent with federal, state or local laws, rules, and regulations, or any final administrative decision or court order.

(c) *Permissive grounds for denial.* The registration authority may deny a registration application if:

- (1) The applicant has outstanding violations associated with solicitor activity in another jurisdiction;
- (2) The applicant held an approval to engage in the business of soliciting in another jurisdiction and within the last seven years the applicant either surrendered the approval while an enforcement proceeding was pending or had the approval revoked;
- (3) The applicant holds an approval to engage in the business of soliciting in another jurisdiction and enforcement proceedings are pending in that jurisdiction based on conduct

that if committed in the City of Belmont would be grounds to deny or revoke registration. The registration authority must make an independent determination based on substantial evidence as to whether the conduct occurred; or,

(d) An applicant is disqualified from registration and possessing a solicitor registration if:

(1) The application contains a material misrepresentation including false or misleading information, the application fails to include all required information, or a material fact is omitted;

(2) The applicant has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made which include, but not be limited to, the following:

(A) A violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code;

(B) A serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code;

(C) Any crime involving dishonesty, fraud, deceit, violence, or moral turpitude;

(D) A felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;

(E) Any crime involving burglary, larceny, identity theft, elder abuse, trespassing, public intoxication, or being under the influence of a controlled substance; or,

(F) Any crime involving the sale, manufacture, distribution or transportation of a controlled substance.

(3) The applicant has within the last 10 years from the date of the pending application:

(A) made a material misrepresentation in an application for license, permit or other permission to operate a business or engage in solicitor activity in the City;

(B) had a solicitor or other approval revoked by the City; or

(C) while an administrative, civil or criminal proceeding was pending against the applicant for conduct arising out of business activity in the city, the applicant surrendered the registration certificate, business permit, a land use permit, or other approval issued by the City and necessary to operate the business.

(e) The registration authority may disqualify an applicant from registration if the authority finds based on a preponderance of evidence that:

(1) The applicant engaged in conduct comprising all of the elements of any crime identified in subsection (d)(2);

(2) The applicant has a history of committing, permitting or failing to prevent significant

(3) The applicant had an approval from another jurisdiction to engage in solicitor activity in that jurisdiction within the last seven years and either:

(B) while an administrative, civil or criminal proceeding was pending against the applicant for conduct arising out of solicitor activities, surrendered the approval.

(g) If the registration authority denies the application, he or she must notify the applicant of the reasons for the denial in writing, the right of appeal under this chapter, and that the failure to request a timely appeal will waive the applicant's right to contest the decision.

(a) The registration authority must revoke the registration of a solicitor found to be disqualified under Section 12-5(d).

(c) The registration authority must revoke a registration under subsection (b) unless he or she finds based on substantial evidence that the circumstance or conduct giving rise to the disqualification is not likely to be repeated.

(e) Before suspending or revoking the registration of an existing registrant under this section, the registration authority must provide the ownership notice and an opportunity to be heard in accordance with procedures applicable to regulated businesses set forth in Section 13-11.

Solicitor registration decisions may be appealed to the city manager in accordance with procedures applicable to regulated businesses set forth in Section 13-12.

(a) A violation of this article is a misdemeanor offense that may be charged as an infraction at the discretion of the initiating enforcement official.

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(c) Notwithstanding Section 30-12, administrative fines issued under chapter 30 for violation of this chapter may be issued in amount between \$100 and \$1,000 as determined by the registration authority for each offense.

(d) Every person violating this chapter is subject to a civil penalty of \$1,000 for each day of each violation which may be recovered in a civil action.

(e) An offense charged as a misdemeanor violation of this chapter is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding \$1,000, or by both.

Sec. 12-9

Mandatory duty

This article is not intended to create a mandatory duty on the part of the city to protect any person from any injury or damage arising out of the establishment or operation of a regulated business activity or the enforcement or non-enforcement of this article.

SECTION 5. BCC CHP 19 REPEALED.

Belmont City Code Chapter 19 and sections 19-1 and 19-2 are repealed.

SECTION 6. EFFECTIVE DATE.

Except as provided in Section 2, this ordinance is effective 30 days after adoption.

* * *

YES: Mates, Pang-Maganaris, Latimerlo, McCune, Jordan

ATTEST:

City Clerk

Mayor