

**CITY OF KENNESAW
GEORGIA**

ORDINANCE NO. 2011-02, 2011

**AN ORDINANCE AMENDING THE KENNESAW CODE OF ORDINANCES
CHAPTER 22 "BUSINESSES," ARTICLE V "COMMERCIAL SOLICITATIONS,"
IN ITS ENTIRETY**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW,
COBB COUNTY, GEORGIA, AS FOLLOWS:**

WHEREAS, Chapter 22, "Businesses," Article V "Commercial Solicitations," is being amended in its entirety to better serve the City and its citizens; and

WHEREAS, the Public Hearings were advertised in the Marietta Daily Journal on January 21 and February 4, 2011.

BE IT FURTHER ORDAINED that this Ordinance shall become effective from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

NOW, THEREFORE, BE IT RESOLVED the Kennesaw City Council approves the amendments to Chapter 22 "Businesses," Article V "Commercial Solicitations."

PASSED AND ADOPTED by the Kennesaw City Council on this 28th day of February, 2011.

ATTEST:

CITY OF KENNESAW:

Debra Taylor, City Clerk

Mark Mathews, Mayor

ARTICLE V. – SOLICITATIONS.

State law references –Peddlers and itinerant traders, O.C.G.A. §§ 40-6-97; 43-32-1 et seq.

Sec. 22-116. – Legislative findings.

Sec. 22-117. – Definitions.

Sec. 22-118. – Penalty for Violation of Article.

Sec. 22-119. – Applicability of Article to Business Solicitors.

Sec. 22-120. – Registration Required—Solicitor.

Sec. 22-121. – Application for Permit.

Sec. 22-122. – Issuance of Permit; Identity Card.

Sec. 22-123. – Requirements of Solicitors.

Sec. 22-124. – Prohibited Acts.

Sec. 22-125. – Records of License Office; Complaints.

Sec. 22-126. – Registration of Charitable Organizations.

Sec. 22-127. – Organizations Not Required to File Annual Registration.

Sec. 22-128. – Fund-Raising Counsel.

Sec. 22-129. – Professional Solicitors.

Sec. 22-130. – Distribution of Literature and Soliciting Upon City Streets, Roadways.

Sec. 22-131 – Violation of Safety Rules Governing Distribution and Solicitation of Contributions on Streets or Highways.

Sec. 22-132 – 22-140. – Reserved.

Sec. 22-116. – Legislative findings.

In enacting this Ordinance, the Mayor and City Council of the City of Kennesaw make the following legislative findings:

- (a) The orderly flow of motorized traffic is a major concern in congested urban areas, particularly because an obstruction or delay in traffic at one point along a traffic artery results in delays and backups far down the roadway.
- (b) There exists a substantial disruption in crowd and traffic control caused by the solicitation of contributions.
- (c) Solicitation and selling requires “stopping [individuals] momentarily or for longer periods of time as money is given or exchanged for literature.” *Heffron v. International Society of Krishna Consciousness, Inc.*, 452 U.S. 640, 653 (1981).
- (d) Restrictions on the solicitation of contributions or sale of items on public streets and highways is necessary to assure the free movement of vehicle traffic on those streets and highways.
- (e) Unlike oral advocacy of ideas or the distribution of literature, successful solicitation of contributions or sales requires the individual to respond by searching for currency and passing it to the solicitor.
- (f) After the solicitor has departed, the driver must then secure any change returned, replace a wallet, or close a purse, and then return proper attention to his or her full responsibilities as motor vehicle driver.

- (g) The direct personal solicitation from drivers and occupants of motor vehicles distracts the driver from his or her primary duty to watch the traffic and potential hazards in the road, observe all traffic control signals or warnings, and prepare to move through the intersection.
- (h) The distraction of motorists occasioned by solicitation not only threatens to impede the orderly flow of traffic, but also raises concerns of traffic and public safety.
- (i) “Evident dangers of physical injury and traffic disruption. . . are present when individuals stand in the center of busy streets trying to engage drivers and solicit contributions from them.” *United States Labor Party v. Oremus*, 619 F.2d 683, 688 (7th Cir. 1980).

Sec. 22-117. – Definitions.

The following terms, as used in this Article whether or not capitalized, shall have the meanings set forth in this Section:

- (a) ***Charitable Organization.***
 - (1). The term "Charitable Organization" means either of the following:
 - a. Any entity that is determined by the Internal Revenue Service to be a tax exempt entity pursuant to Section 501(c)(3) of the Internal Revenue Code;
 - b. Any entity that is or holds itself out to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation.
 - (2). The term "Charitable organization" is not limited to only those entities to which contributions are tax deductible under Section 170 of the Internal Revenue Code.
 - (3). The term "Charitable organization" does not include an employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions but who incidentally solicits contributions for a charitable entity or purpose; or a compensated employee of an employer not engaged in the business of soliciting contributions or conducting charitable sales promotions, when the employee solicits contributions or conducts charitable sales promotions at the direction of the employee's employer.
- (b) ***Charitable Purpose.***
 - (1). The term "Charitable Purpose" means either of the following:
 - a. Any purpose described in section 501(c)(3) of the Internal Revenue Code, as amended.

- b. Any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary objective or any objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.
- (2). The term "Charitable Purpose" is not limited to only those purposes for which contributions are tax deductible under Section 170 of the Internal Revenue Code.
- (c) **City.** The term "City" means the City of Kennesaw.
- (d) **Commercial Co-Venturer.** The term "Commercial Co-Venturer" means any person and/or entity who for profit regularly and primarily is engaged in trade or commerce other than in connection with soliciting for charitable entities or charitable purposes and who conducts a charitable sales promotion.
- (e) **Contribution.** The term "Contribution" means the promise, pledge, or grant of any money or property, financial assistance, or any other thing of value in response to a solicitation or received as part of or in response to a charitable sales promotion. The term "Contribution" does not include any bona fide fees, or any dues or assessments paid by members, provided that membership is not conferred solely as a consideration for making a contribution in response to a solicitation.
- (f) **Business Solicitor.** The term "Business Solicitor" means a person and/or entity who is soliciting the purchase of goods or services from business owners within the City. A Business Solicitor shall be exempt from then registration requirements contained in Section 22-120 of these Ordinances.
- (g) **Door-to-Door.** The term "Door-to-Door" means the visiting of residential dwellings for the purpose of offering goods, wares, merchandise, services, or other things of value for sale.
- (h) **Fund-Raising Counsel.** The term "Fund-Raising Counsel" means any person and/or entity who, for compensation, plans, manages, advises, consults, or prepares material for or with respect to the solicitation in the City of contributions for any Charitable Organization or at any time has custody of contributions from such a solicitation, but does not solicit contributions and does not employ, procure, or otherwise engage any compensated person to solicit contributions. The term "Fund-raising Counsel" does not include the following:
 - (1). An attorney, investment counselor, or banker who in the conduct of the attorney's, investment counselor's, or banker's profession advises a client;
 - (2). A Charitable Organization or a bona fide officer, employee, or volunteer of a Charitable Organization, when the Charitable Organization has full knowledge of the services being performed on its behalf and either of the following applies:
 - a. The services performed by the Charitable Organization, bona fide officer, employee, or volunteer are performed on behalf of the Charitable Organization that employs the bona fide

- officer or employee or engages the services of the bona fide volunteer;
- b. The Charitable Organization on whose behalf the services are performed shares some element of common control or an historic or continuing relationship with the Charitable Organization that performs the services or employs the bona fide officer or employee or engages the services of the bona fide volunteer.
- (3). An employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions but who incidentally solicits contributions for a Charitable Organization or purpose without compensation;
 - (4). A compensated employee of an employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions, when the employee solicits contributions or conducts charitable sales promotions at the direction of the employee's employer.
- (i) **Internal Revenue Code.** The term "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. § 1 *et seq.*, as amended.
 - (j) **Police Department.** The term "Police Department" means the Kennesaw Police Department.
 - (k) **Professional Solicitor.** The term "Professional Solicitor" means any person and/or entity who, for compensation, performs on behalf of or for the benefit of a Charitable Organization any service in connection with which contributions are or will be solicited in the City by the compensated person or by any person it employs, procures, or otherwise engages directly or indirectly to solicit Contributions. The term "Professional Solicitor" does not include the following:
 - (1). An attorney, investment counselor, or banker who in the conduct of the attorney's, investment counselor's, or banker's profession advises a client;
 - (2). A Charitable Organization or a bona fide officer, employee, or volunteer of a Charitable Organization, when the Charitable Organization has full knowledge of the services being performed on its behalf and either of the following applies:
 - a. The services performed by the Charitable Organization, bona fide officer, employee, or volunteer are performed on behalf of the Charitable Organization that employs the bona fide officer or employee or engages the services of the bona fide volunteer;
 - b. The Charitable Organization on whose behalf the services are performed shares some element of common control or an historic or continuing relationship with the Charitable Organization that performs the services or employs the bona

fide officer or employee or engages the services of the bona fide volunteer.

- (3). An employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions but who incidentally solicits contributions for a Charitable Organization or purpose without compensation;
- (1) **Solicitor.** The term “Solicitor” means a person and/or entity who is soliciting the sale of goods, wares, merchandise, services, or other things of value by doing so Door-to-Door. Unless otherwise indicated in this Article, the term “Solicitor” shall not include Business Solicitor. Any person and/or entity who is soliciting orders for goods, wares, merchandise or other things of value from any person by going Door-to-Door on behalf of: a charitable organization; or, any religious organizations; or, any political organization, or any political candidate as described in O.C.G.A. § 43-17-9, as amended, is not a Solicitor as defined in this Article and shall not be subject to the provisions of this Article, with the exception of Section 22-124 of this Article. All persons and/or entities offering for sale any goods, wares, merchandise, services, or other things of value shall be subject to Section 22-124 of this Article.

Sec. 22-118. – Penalty for Violation of Article.

Any person and/or entity violating any provisions of this Article shall, upon conviction thereof, be punished as provided in Section 1-11 of the City Ordinances of the City of Kennesaw.

(Code 1986, §9-3-6)

Sec. 22-119. –Applicability of Article to Business Solicitors.

- (a) This Article shall be inapplicable to any person and/or entity who is solely a Business Solicitor and does not engage in any Door-to-Door solicitation.
- (b) A Business Solicitor shall not engage in any Door-to-Door solicitation without first complying with all of the requirements of this Article.

Sec. 22-120. – Registration Required--Solicitor.

Any person desiring to be a Solicitor within the City shall register with and obtain a Solicitor permit from the business license department of the City.

(Code 1988, §9-3-1)

Sec. 22-121. - Application for Permit.

- (a) No Solicitor shall be authorized to solicit orders until he or she files an application with the business license department and is issued a Solicitor permit from the City. It is the applicant’s responsibility to assure that his or her application is complete as any incomplete application will not be processed by the City.
- (b) Once the application is filed, the license department shall conduct an investigation which includes, but is not limited to, an investigation of the applicant’s police record and moral character. The license department shall

furnish the police department with a duplicate of the application for a soliciting permit.

- (c) The police department, within Ten (10) business days, shall furnish a report to the license department of the police records, if any, of the applicant. No permit shall be given to any applicant who shall have either a pending charge or a conviction for a crime of moral turpitude or an offense involving unethical or improper business actions or any felony or any civil judgments involving unethical or improper business actions, including but not limited to actions which would constitute fraud and deceit under the law of this State.
- (d) No application for a permit under this Section shall be received or acted upon if the applicant has submitted the same or a similar application for a permit within the preceding Twelve (12) months, which prior application has been dismissed, denied, or abandoned.
- (e) No license shall be granted if the applicant is in violation of any portion of this Article or has within Twelve (12) months preceding the filing of an application under this Section been in violation, preceding the filing of the application, of this Article or other law or ordinance regulating the activities for which that permit is sought.

Sec. 22-122. – Issuance of Permit; Identity Card.

- (a) Upon proper registration as provided in this Article with the business license department, a written permit shall issue, to be valid for a period of Thirty (30) calendar days from and after the date of issuance. The permit may be renewed by filing a renewal application with the business license office upon forms prescribed by the office and paying a renewal fee. Such renewal is within the discretion of the business license office taking into account the number of such permits issued within the Thirty (30) calendar days preceding the request for such renewal.
- (b) In addition, identity cards shall be issued by the license department that must be carried by all Solicitors in the City. The permit holder shall wear the identity card on his or her left or right shoulder of his or her outer garment so that such badge can be readily seen by the owner or occupant of the premises.

Sec. 22-123. – Requirements of Solicitors.

Soliciting or canvassing Door-to-Door in the City shall be subject to the following regulations:

- (a) All soliciting or canvassing in the City shall only occur between the hours of 9:00 a.m. and 6:00 p.m.
- (b) The number of Solicitors in the City from or representing any single firm, corporation or entity shall not exceed Twenty-five (25) in number at any one time.

(Code 1986, §9-3-4)

Sec. 22-124. – Prohibited Acts.

- (a) It shall be unlawful for any person who is soliciting, canvassing, or calling on any business or residence to do any of the following:

- (1) Falsely represent, directly or by implication that funds are being solicited on behalf of any person and/or entity other than as registered with the business license department.
 - (2) Without the express prior permission of an occupant or property owner, solicit at any residence, address, apartment complex or business establishment where there is posted a sign forbidding any solicitation.
 - (3) Remain on private premises after being asked to leave the premises or continue solicitation after being refused; such action shall constitute trespass or harassment, respectively.
 - (4) Enter any residential dwelling except at the express invitation of the occupant.
- (b) A Solicitor shall, at all times, maintain a courteous decorum and shall not use opprobrious words to any homeowner or occupant.
 - (c) No Solicitor shall remain upon the premises of an occupant or owner after such occupant or owner has requested that the Solicitor leave the premises.
 - (d) No Solicitor shall remain upon the premises of an occupant or owner after such occupant or owner has indicated that he or she is not interested in purchasing the good or service being represented by that Solicitor.

Sec. 12-125. - Records of License Office, Complaints.

- (a) The business license department shall maintain true and accurate records of the name and identification number of each Solicitor, together with other requirements of this Article, and shall maintain a log of all complaints made against each Solicitor or entity represented by such Solicitor. If the license office shall receive any ordinance violation complaints concerning a particular Solicitor, or Three (3) violation complaints concerning an entity, the business license office shall notify the Solicitor and the entity that the Solicitor represents of the complaints, and the business license supervisor may suspend the permit of either the Solicitor or of all Solicitors representing that entity until such time as the Solicitor or entity can show cause that he, she or it is in compliance with the rules and regulations of this Article.
- (b) The license office shall maintain a true and accurate log of each complaint showing the name of the complainant, the address of the complainant, and the substance of the complaint. Such records shall be available to the Solicitor, or his or her entity, and shall be deemed a public record.
- (c) A hearing shall be set before the supervisor of the license office within Five (5) business days after notification of the Solicitor of the complaint, at which time the license office shall investigate the nature of the complaints and the Solicitor may use witnesses or other evidence to show his or her compliance with this Article.
- (d) If the supervisor of the license office shall determine a violation on the part of the Solicitor of the ordinances of the City has occurred, he or she shall revoke the permit of that Solicitor.
- (e) If the supervisor of the license office shall determine Three (3) or more violations have occurred on the part of one or more Solicitors representing a

single organization or entity, the supervisor shall revoke all of the permits then held by the Solicitors associated with or representing that organization or entity.

- (f) A Solicitor or the entity or organization shall have the right to file an appeal from the ruling of the business license office to the City Manager. Appeal requests must be made in writing and submitted within Ten (10) calendar days of revocation of the permit or permits of the Solicitors.

Sec. 22-126. – Registration of Charitable Organizations.

- (a) Every Charitable Organization, except those exempted under Section 22-127 of this Article, that intends to solicit Contributions in the City by any means or have Contributions solicited in the City on its behalf by any other person, Charitable Organization, Commercial Co-Venturer, or Professional Solicitor, or that participates in a charitable sales promotion, prior to engaging in any of these activities and annually thereafter, shall file a registration statement with the City upon a form prescribed by the City prior to any Charitable Solicitation in the City. No Charitable Organization that is required to register under this Article prior to registration, shall solicit Contributions in the City by any means, have Contributions solicited in the City on its behalf by any other person, Charitable Organization, Commercial Co-Venturer, or Professional Solicitor, or participate in a charitable sales promotion.
- (b) The registration statement shall be signed and sworn to, under penalty of perjury, by the chief executive officer, treasurer, or chief financial officer of the Charitable Organization and shall contain the following information:
 - (1). The name of the Charitable Organization, the purpose for which it is organized, and the name or names under which it intends to solicit Contributions;
 - (2). The address and telephone number of the principal place of business of the Charitable Organization or, if the Charitable Organization does not maintain an office in this State, the name, address, and telephone number of the person that has custody of its financial records;
 - (3). The names and addresses of the officers, directors, trustees, and executive personnel of the Charitable Organization;
 - (4). A statement of whether the Charitable Organization is registered with or otherwise authorized by any other governmental authority in this State or another State to solicit Contributions;
 - (5). A statement of whether the Charitable Organization has had its registration or authority denied, suspended, revoked, or enjoined by any court or other governmental authority in this State or another State;
 - (6). A statement of whether the Charitable Organization intends to solicit Contributions from the public directly by using its own resources or to have solicitations made on its behalf through the use of another Charitable Organization, Fund-Raising Counsel, Professional Solicitor, or Commercial Co-Venturer;

- (7). The names, addresses, and the telephone numbers of any other Charitable Organization, Fund-Raising Counsel, Professional Solicitor, and Commercial Co-Venturer who act or will act on behalf of the Charitable Organization, together with a statement setting forth the specific terms of the arrangements for salaries, bonuses, commissions, expenses, or other remunerations to be paid the other Charitable Organization, Fund-Raising Counsel, Professional Solicitor, and Commercial Co-Venturers.
 - (8). The Charitable Purpose or Purposes for which the contributions to be solicited will be used;
 - (9). The names, addresses, and telephone numbers of the persons within the Charitable Organization who will have final responsibility for the custody of the Contributions;
 - (10). The names of the persons within the Charitable Organization that will be responsible for the final distribution of the Contributions.
- (c) With the annual registration form, the Charitable Organization shall file with the City the following:
- (1). A copy of the current charter, articles of incorporation, articles of organization, instrument of trust, constitution, or other organizational instruction, and a copy of the By-laws or operating agreement of the Charitable Organization;
 - (2). A certificate of insurance indicating that the Charitable Organization has insurance coverage during the time period it is going to engage in the solicitation of contributions.
- (d) The Charitable Organization shall pay the annual registration fee prescribed by the City.

Sec. 22-127 - Organizations Not Required to File Annual Registration.

The following shall not be required to file a registration statement as provided in Section 22-126 of this Article:

- (a) Any religious agencies and organizations, and charities, agencies, entities, and organizations operated, supervised, or controlled by a religious entity or organization;
- (b) Any Charitable Organization that meets all of the following requirements:
 - (1). It has been in continuous existence in this State for a period of at least Two (2) years;
 - (2). It has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the Charitable Organization is exempt from federal income taxation under Subsection 501(a) and described in Subsection 501(c)(3) of the Internal Revenue Code.
- (c) Any educational institution, when solicitation of contributions is confined to alumni, faculty, trustees, or the student membership and their families;
- (d) Every person other than an individual, when solicitation of contributions for a charitable purpose or on behalf of a Charitable Organization is confined to its

- existing membership, present or former employees, or present or former trustees, and their families;
- (e) Any public primary or secondary school, when solicitation of contributions is confined to alumni, faculty, or the general population of the local school district;
 - (f) Any booster club that is organized and operated in conjunction with and for the benefit of students of public primary or secondary schools.

Sec. 22-128 – Fund-Raising Counsel Requirements.

- (a) No person or entity shall act as a Fund-Raising Counsel unless the person first has complied with the requirements of this Article and any rules adopted under this Article.
- (b) Any Fund-Raising Counsel that, at any time, has custody of contributions from a solicitation shall do all of the following:
 - (1). Register with the City. Applications for registration or renewal of registration shall be in writing, under oath, and in the form prescribed by the City, and shall be accompanied by a fee in the amount of Two Hundred and 00/100 Dollars (\$200.00). Any corporation, general partnership, limited partnership, limited liability company, association, joint venture, sole proprietorship, or other business entity that intends to act as a Fund-Raising Counsel may register for and pay a single fee of Two Hundred and 00/100 Dollars (\$200.00) on behalf of all its members, officers, employees, and agents. In that case, the names and addresses of all the officers, employees, and agents of the Fund-Raising Counsel and all other persons with whom the Fund-Raising Counsel has contracted to work under its direction shall be listed in the application. The registration or renewal of registration shall be for a period of One (1) year or part of One (1) year. All such registrations shall expire on December 31 of each year.
 - (2). At the time of making an application for registration or renewal of registration, file with and have approved by the City a bond in which the Fund-Raising Counsel shall be the principal obligor, in the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), with one or more sureties authorized to do business in this State. The Fund-Raising Counsel shall maintain the bond in effect as long as the registration is in effect; however, the liability of the surety under the bond shall not exceed an all-time aggregate liability of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the City and to any person who may have a cause of action against the principal obligor of the bond for any liability arising out of a violation by the Fund-Raising Counsel of any provision of this Article or any rule adopted pursuant to this Article.
- (c) No person or entity shall serve as Fund-Raising Counsel, or be a member, officer, employee, or agent of any Fund-Raising Counsel, who has been convicted in the last Five (5) years of either of the following:

- (1). Any violation of this Article or any rule adopted under this Article, or of any charitable solicitation legislation or regulation of a political subdivision of this State or charitable solicitation law of any other jurisdiction that is similar to this Article;
- (2). A felony in this or another State.

Sec. 22-129 - Professional Solicitors.

- (a) No Professional Solicitor shall engage in any solicitation unless it has complied with the requirements of this Article and any rules adopted under this Article.
- (b) Every Professional Solicitor, before engaging in any solicitation, shall register with the City. Applications for registration or renewal of registration shall be in writing, under oath, and in the form prescribed by the City, and shall be accompanied by a fee in the amount of Two Hundred and 00/100 Dollars (\$200.00). Any corporation, general partnership, limited partnership, limited liability company, association, joint venture, sole proprietorship or other business entity that intends to act as a Professional Solicitor may register for and pay a single fee of Two Hundred and 00/100 Dollars (\$200.00) on behalf of all its members, officers, employees, agents, and solicitors. In that case, the names and addresses of all the officers, employees, and agents of the Professional Solicitor and all other persons with whom the Professional Solicitor has contracted to work under its direction, including solicitors, shall be listed in the application or furnished to the City within Five (5) days of the date of employment or contractual arrangement. The registration shall be for a period of One (1) year or part of One (1) year. All such registrations shall expire on December 31 of each year.
- (c) At the time of making an application for registration or renewal of registration, the Professional Solicitor shall file with and have approved by the City a bond in which the professional solicitor shall be the principal obligor, in the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), with one or more sureties authorized to do business in this State. The Professional Solicitor shall maintain the bond in effect as long as the registration is in effect; however, the liability of the surety under the bond shall not exceed an all-time aggregate liability of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the City and to any person who may have a cause of action against the principal obligor of the bond for any liability arising out of a violation by the Professional Solicitor of any provision of this Article or any rule adopted pursuant to this Article.
- (d) No person or entity shall serve as a Professional Solicitor, or be a member, officer, employee, or agent of any Professional Solicitor, who has been convicted in the last Five (5) years of either of the following:
 - (1) Any violation of this Article or any rule adopted under this Article, or of any charitable solicitation legislation or regulation of a political subdivision of this State or charitable solicitation law of any other jurisdiction that is similar to this Article;

- (2) A felony in this or another State.

Sec. 22-130 – Distribution of Literature and Soliciting Upon City Streets, Roadways.

- (a) Individuals, entities, and/or organizations may distribute literature on a street or highway if they comply with all of the following conditions:
 - (1). The person, entity, or organization engaging in the distribution of literature shall apply for and receive a permit to do so. The permit shall specify the days on which the distribution of literature shall occur.
 - (2). The distribution of literature shall occur only at the intersections designated in writing by the Police Department. The Police Department shall maintain a list of intersections at which distribution of literature may occur. When obtaining a permit, the individual, entity, or organization shall select the intersection or intersections at which he, she, or it wants to distribute literature, unless another individual, entity, or organization has already selected that intersection for either the distribution of literature or solicitation of Contributions. Only one entity or organization shall solicit at each such intersection at any given time. If an entity or organization selects an intersection from the list approved by the Police Department and no other entity or organization has previously selected that intersection for the distribution of literature or solicitation of Contributions during the same time period, the Police Department shall have no discretion in precluding that entity or organization from distributing literature at that intersection.
 - (3). If the distribution is occurring by or on behalf of an entity or organization, that entity or organization shall provide the City with a Certificate of Insurance indicating insurance coverage for the activities.
 - (4). Each and every person engaging in the distribution of literature activities is older than Eighteen (18) years of age.
 - (5). Each and every person engaging in the distribution of literature activities must wear a high visibility vest approved by the Police Department. The Police Department shall promulgate written standards for such vests.
 - (6). There shall be a maximum of Four (4) persons distributing literature or soliciting Contributions at each intersection assigned to the entity or organization.
 - (7). Each such individual must return to a neutral area when the traffic signal changes to yellow for the cross traffic.
 - (8). The distribution of literature shall be limited to the time period that commences One (1) hour after sunrise and ends One (1) hour prior to sunset, local time.
- (b) Charitable Organizations, persons or entities operating on behalf of Charitable Organizations, and political parties and candidates may solicit Contributions

on a street or highway and solicit Contributions, but may not sell any items, if they comply with the following conditions:

- (1). The entity engaging in the solicitation shall apply for and receive a permit to do so. The permit shall specify the days on which such solicitation shall occur. Solicitation at intersections shall be limited to the following days: Friday, Saturday, Sunday, and any Federal holiday.
- (2). The entity soliciting the money or funds has received a permit from the City and paid the required fee to the City for that permit. The maximum duration of each such permit shall be Thirty (30) calendar days. A Charitable Organization shall receive no more than Six (6) such permits during any 52-week period of time.
- (3). The solicitation shall occur only at the intersections designated in writing by the Police Department. The Police Department shall maintain a list of intersections at which solicitation may occur. When obtaining a permit, the entity or organization shall select the intersection or intersections at which it wants to solicit, unless another entity or organization has already selected that intersection for the distribution of literature or solicitation of Contributions. Only one entity shall solicit at each such intersection at any given time. If an entity selects an intersection from the list approved by the Police Department and no other entity has previously selected that intersection for the distribution of literature or solicitation of Contributions, the Police Department shall have no discretion in precluding that entity from soliciting funds literature at that intersection.
- (4). The entity soliciting Contributions has provided the City with a Certificate of Insurance indicating insurance coverage for the solicitation activities.
- (5). Each and every person engaging in solicitation activities is older than Eighteen (18) years of age.
- (6). Each and every person engaging in solicitation activities must wear a high visibility vest approved by the Police Department. The Police Department shall promulgate written standards for such vests.
- (7). There shall be a maximum of Four (4) persons soliciting at each intersection assigned to the entity.
- (8). Each such individual must return to a neutral area when the traffic signal changes to yellow for the cross traffic.
- (9). The solicitation shall be limited to the time period that commences One (1) hour after sunrise and ends One (1) hour prior to sunset, local time.

Section 22-131 – Violation of Safety Rules Governing Distribution and Solicitation of Contributions on Streets or Highways.

- (a) Should any officer of the Kennesaw Police Department observe any person violating any of the safety provisions contained in Section 22-130(a) or 22-130(b) or engaging in disorderly conduct in the distribution of literature or

solicitation of Contributions, he may direct such persons to immediately discontinue the distribution of literature or the solicitation of Contributions, as the case may be. No further distribution of literature or the solicitation of Contributions shall then occur until the person or persons distributing the literature or soliciting the Contributions come into full compliance with safety regulations and/or discontinue the disorderly conduct.

- (b) If the person or persons fail to adhere to the directions of the police officer on the scene requiring them to come into compliance with the safety regulations or to discontinue the disorderly conduct, the permit under which those persons are operating can be immediately suspended by any supervising officer of the Kennesaw Police Department.
- (c) Once the permit is so suspended, no further distribution of literature or solicitation of Contributions shall occur. Any further distribution of literature or solicitation of Contributions after the suspension of the permit by a supervising officer of the City of Kennesaw shall be a violation of this Article and punishable as set forth in Section 1-11 of the Code of Ordinances, Kennesaw, Georgia.
- (d) The permit shall remain suspended unless and until the permit is reinstated by the business license manager. The permit holder may appeal the suspension, in writing, to the manager of the business license office. Within Five (5) business days of the receipt of the request from the permit holder that the suspension be lifted, the business license manager shall either uphold the suspension and permanently revoke the permit; or, reinstate the permit.
- (e) Any appeal of the revocation of the permit shall be made to the Mayor and City Council of the City of Kennesaw. That appeal must be in writing, and must be filed with the Clerk of the City of Kennesaw and the City Manager within Five (5) business days from and after the date on which the permit holder receives the decision of the business license manager. The Mayor and City Council shall issue a decision on the appeal within Thirty (30) days from and after receipt of the appeal.

Sections 22-132 – 22-140. - Reserved