

ORDINANCE 2022-11

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FERNANDINA BEACH, FLORIDA, BY AMENDING CHAPTER 26, BUSINESSES, ARTICLE IV, PEDDLERS BY AMENDING SECTION 91, DEFINITIONS; BY AMENDING SECTION 92 TO REQUIRE PERMITS; BY AMENDING SECTION 93 PROHIBITING UNINVITED SOLICITING; BY AMENDING SECTION 94 PROVIDING FOR HOURS OF OPERATION; BY AMENDING SECTION 95 PROVIDING FOR AGE LIMITATIONS; BY AMENDING SECTION 96 REQUIRING COMPLIANCE WITH STATE LAW AND PROVIDING RESTRICTIONS ON METHODS OF SOLICITATION; BY AMENDING SECTION 97 PROVIDING FOR PENALTIES; BY RESERVING SECTIONS 98 THROUGH 100; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has a duty to enforce business operations within City limits; and

WHEREAS, Chapter 26, Article IV of the municipal Code of Ordinances regulates peddling and solicitation as part of these regulations; and

WHEREAS, certain revisions are necessary to update the Code of Ordinances regarding peddling and solicitation.

NOW, THEREFORE, BE IT ENACTED BY CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. It is proposed that Chapter 26, Article IV, Section 91, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-91. Definitions.

~~For the purpose of this part, the following words as used herein have the following meaning:~~

~~*Commercial solicitor* means a person who solicits for purposes of engaging a person in a commercial transaction.~~

~~*Professional solicitor* means a person who for a fee or other compensation solicits on behalf of others.~~

~~*Registered solicitor* means and includes any person who has obtained a local business tax receipt pursuant sections 74-79 and 74-80.~~

~~*Residence* means and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.~~

~~*Residential property* means property on which a residence is located.~~

~~*Residential soliciting* means soliciting on residential property.~~

Soliciting and peddling are interchangeable terms, meaning and including any one or more of the following activities:-

- (1) — Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind or other items of any description whatever, for any kind of consideration whatever; or
- (2) — Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or
- (3) — Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or
- (4) — Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project or for any other purpose; or
- (5) — Selling or attempting to sell merchandise or services or both while carrying such merchandise or the materials necessary to provide services; or
- (6) — The door to door placement of advertising materials intended to persuade or entice the intended recipient to purchase or order goods or services.—

Solicitor means and includes any person engaged in soliciting whether or not a registered solicitor.

The words "peddler" and "solicitor" as used in this article, mean any person, whether a resident of this City or not, traveling from house to house, or from street to street, for the purpose of selling or soliciting for sale, goods, wares, merchandise or services, other than agricultural products produced or processed in this state; and also mean and include any person transacting a temporary business within the City at an established place of business. The words "peddler" and "solicitor," are interchangeable and include the terms "transient or itinerant merchant or vendor," or "transient or itinerant photographer."

SECTION 2. It is proposed that Chapter 26, Article IV, Section 92, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-92. ~~Local business tax receipt~~ Permit required.

Every person desiring to engage in residential soliciting as a commercial or professional solicitor is must obtain a permit through the Nassau County Clerk of Court as required by Florida Statute 501.022. Peddlers must have a copy of the permit available while doing business within the City limits. ~~hereby required to obtain a local business tax receipt pursuant [to] sections 74-79 and 74-80. Such receipt must be carried by the solicitor and presented upon request of a person being contacted for solicitation or upon request of a code enforcement officer or law enforcement officer.~~

~~Charitable organizations registered under U.S. Internal Revenue Code Section 501(c)(3) are exempt from obtaining a local business tax receipt. The solicitor must carry a copy of an official state or federal document verifying the status of the group they are representing as a charitable organization and present a copy upon request of a person being contacted for solicitation or upon request of a code enforcement officer or law enforcement officer.~~

SECTION 3. It is proposed that Chapter 26, Article IV, Section 93, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-93. ~~Notice regulating residential soliciting and peddling.~~ Uninvited soliciting prohibited.

Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this part, must substantially comply with the following directions.

- (1) Notice by the occupant(s) refusing an invitation to solicitors to any residence(s), may be given in the manner following:-

A clearly legible notice exhibited upon or near the main entrance door to the residence, indicating the occupant is refusing an invitation to solicitors, containing the applicable words or similar words to the following: "no solicitors" or "no solicitors allowed or invited" or "no peddlers" or "no peddlers allowed or invited."

- (2) Any such notice so exhibited constitutes sufficient notice to any solicitor by the occupant of the residence(s) that any soliciting by any person is prohibited at such residence(s).
- (3) The provisions of this part do not apply to constitutionally protected political speech or political campaigns.

(a) It is unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect. This provision does not apply to constitutionally protected political speech or political campaigns.

(b) Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, is deemed a violation of Florida State Statute 810.08, trespassing, which is a first-degree misdemeanor.

SECTION 4. It is proposed that Chapter 26, Article IV, Section 94, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-94. Duty of solicitors. Hours of operation.

- (a) ~~It is the duty of every solicitor upon going onto any premises in the city upon which a residence is located, to first examine the premises for a notice provided for in section 26-93 of this article.~~
- (b) ~~If a notice is observed and substantially complies with section 26-93, then the solicitor, whether possessing a local business tax receipt or representing a charitable organization registered under U.S. Internal Revenue Code Section 501(c)(3), will immediately and peacefully depart from the premises.~~
- (c) ~~Any solicitor who has gained entrance to any residence, whether invited or not, will immediately and peacefully depart from the premises when requested to do so by the occupant.~~

It is unlawful for any peddler to engage in the business of peddling within the City prior to 9:00 a.m. or after 7:00 p.m. of any weekday or Saturday, or at any time on a Sunday or on a nationally recognized holiday, except by specific appointment with or invitation from the prospective customer.

SECTION 5. It is proposed that Chapter 26, Article IV, Section 95, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-95. Uninvited soliciting prohibited. Age limitations.

- (a) ~~It is hereby declared to be unlawful for any person to go 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 occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in, or attempt to~~

engage in, soliciting as herein defined, in defiance of a notice exhibited at the residence in accordance with the provisions of this article.

(b) It is hereby unlawful for any solicitor who has gained entrance to any residence, whether invited or not to remain on the premises once requested to depart by the occupant.

(a) It is unlawful for any person under the age of 18 to engage in residential peddling or solicitation without direct supervision by a person at least 18 years of age. Direct supervision means the supervising person must at all times have the minor in sight and in no event be more than 100 feet away from the minor.

(b) Persons over the age of 18 supervising solicitors under 18 must have emergency contact information for the parent or legal guardian of the solicitor under 18.

SECTION 6. It is proposed that Chapter 26, Article IV, Section 96, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-96. Time limit on soliciting. Compliance with state law; Restrictions on methods of solicitation.

It is hereby declared to be unlawful for prior to 9:00 a.m. or after 7:00 p.m. of any weekday, or at any time on a Sunday or on a nationally recognized holiday, any solicitor whether possessing a local business tax receipt or representing a charitable organization registered under U.S. Internal Revenue Code Section 501(c)(3), to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in, or attempt to engage in, soliciting as herein defined

(a) Peddlers operating within the City limits are subject to all of the requirements of Florida of State Statute 501.021-501.055 as may be amended from time to time.

(b) It is unlawful for a solicitor to do any of the following:

(1) Provide false or misleading information regarding the purpose of the solicitation, the organization or person the solicitor is representing or quality of goods or services to be sold.

(2) Threaten, directly or by implication that the information requested will be solicited from sources other than the interviewee if the interviewee does not provide the information.

(3) Fail to identify the company or charitable organization the solicitor is representing when engaged in residential soliciting.

SECTION 7. It is proposed that Chapter 26, Article IV, Section 97, of the Code of Ordinances, City of Fernandina Beach, Florida, is amended as follows:

Section 26-97. Age limitations. Penalty.

(a) ~~It is unlawful for any person under the age of 18 to engage in residential peddling or solicitation without direct supervision by a person at least 18 years of age. Direct supervision means the supervising person must at all times have the minor in sight and in no event be more than 100 feet away from the minor.~~

(b) ~~Persons over the age of 18 supervising solicitors under 18 must have emergency contact information for the parent or legal guardian of the solicitor under 18.~~

Any person violating a provision of this article will be guilty of an offense and upon conviction and adjudication of guilt be punished as follows:

- (1) For a first offense, by a fine of not more than seventy-five dollars (\$75.00) or by imprisonment of not more than ten (10) days or by community service of not less than fifty (50) hours; and
- (2) For a second and subsequent offense, by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not less than fifteen (15) days nor more than ninety (90) days or by community service of not less than five hundred (500) hours.

SECTION 8. It is proposed that Chapter 26, Article IV, Sections 98-100, of the Code of Ordinances, City of Fernandina Beach, Florida, are hereby reserved as follows:

Section 26-98. Restrictions on methods of solicitation. Reserved.

It is unlawful for a solicitor to do any of the following:

- ~~(1) — Falsely represent, directly or by implication, that the solicitor is acting on behalf of a governmental organization, a charitable organization or any person other than the person for whom the solicitor is actually acting.~~
- ~~(2) — Threaten, directly or by implication that the information requested will be solicited from sources other than the interviewee if the interviewee does not provide the information.~~
- ~~(3) — Fail to identify the company or charitable organization the solicitor is representing when engaged in residential soliciting.~~

Sections 26-99-100. Reserved.

SECTION 9. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof is held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application will not be affected thereby.

SECTION 10. The provisions of this Ordinance will take effect immediately upon its passage and enactment.

ENACTED this 21st day of June, 2022.

CITY OF FERNANDINA BEACH

MICHAEL A. LEDNOVICH
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



CAROLINE BEST
City Clerk

TAMMI E. BACH
City Attorney

Date of First Reading: May 17, 2022

Date of Second Reading/Final Hearing: June 21, 2022

Date of Publication: