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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** August 15, 2013

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Door to Door Salesmen

**MEETING DATE:** For Submission onto the August 20, 2013, City Council Work Session Meeting Agenda

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*BACKGROUND INFORMATION: (Attach additional pages if necessary)*

See attached:

Ordinance

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APPROVAL BY CITY MANAGER:                     JMM                     APPROVED

PLACED ON AGENDA FOR:                     8/20/2013                    

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL:                     SM                    

REMARKS:

*Section 4: Filing of Return.*

Pursuant to O.C.G.A. § 48-6-93(a), each depository financial institution subject to the tax levied by this Article shall file a return of the gross receipts with the Tax Commissioner, business license division of Fulton County on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's Georgia gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The Tax Commissioner of Fulton County shall assess and collect the tax levied pursuant to this Article based upon the information provided in said return.

*Section 5: Due Date of Taxes.*

Taxes levied pursuant to this Article shall be paid to the Tax Commissioner at the time of filing the return.

*Section 6: Administrative Provisions.*

The Tax Commissioner of Fulton County is hereby authorized and directed to forward a copy of this Article to each depository financial institution located in the City of Sandy Springs and to the home office of each such depository financial institution that does business in the City if located outside the county.

*Section 7: Relation of Tax to Other Business Licenses.*

The tax imposed by this Article shall be in lieu of any other business license upon depository financial institutions.

Article 5: Door to Door Salesmen.

*Section 1: Definitions.*

For the purpose of this Chapter, the following words as used herein shall be considered to have the meaning herein ascribed thereto:

- (a) "Soliciting" shall mean and include any one or more of the following activities:
  - (i) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or
  - (ii) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or

- (iii) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- (b) “*Residence*” shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (c) “*Licensed solicitor*” shall mean and include any person who has obtained a valid permit as hereinafter provided, which permit is in the possession of the solicitor on his or her person while engaged in soliciting.

*Section 2: Permit Required.*

- (a) It shall be unlawful for any person, firm or corporation to engage in the business of soliciting, calling on residences door-to-door without first having obtained a permit in accordance with the provisions contained in this chapter.
- (b) The requirement of Subsection (a) above is meant to apply to door-to-door solicitations for commercial transactions for profit only.
  - (i) It is not meant to regulate solicitation for charitable, political, or other nonprofit purposes provided that all sales proceeds are the property of and used by the nonprofit organization.
  - (ii) It does not apply to officers or employees of the city, county, state, or federal government, or any subdivision thereof, when on official business.
- (c) Each person shall at all times while soliciting in the City of Sandy Springs carry upon his or her person the permit so issued and the same shall be exhibited by such solicitor whenever he is requested to do so by any police officer or by any person solicited.
- (d) Each permit issued shall contain the name of the solicitor, the name and address of the person, firm or corporation or association whom the solicitor is employed by or represents, a photograph of the solicitor, and physical description. Such photograph shall be provided by the solicitor and shall be at least 2 inches by 2 inches in size.
- (e) The permit shall state the expiration date thereof. In no event shall a permit be valid for more than 6 months.

*Section 3: Permit Applications.*

- (a) Application for a permit shall be made upon a form provided by the City. The City Manager shall have applications available on request. The applicant shall truthfully state in full the information requested on the application, to wit:

- (i) Name and address of present place of residence and length of residence at such address; also business address if other than present address;
- (ii) Address of place of residence during the past 3 years if other than present address;
- (iii) Age of applicant;
- (iv) Physical description of the applicant;
- (v) Name and address of the person, firm, or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;
- (vi) Name and address of employer during the past 3 years if other than the present employer;
- (vii) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
- (viii) Period of time for which the certificate is applied;
- (ix) Proposed route, including streets to be included on each day, which applicant intends to follow;
- (x) The date, or approximate date, of the latest previous application for permit under this chapter, if any;
- (xi) Whether the applicant has ever been convicted of a felony, a crime of moral turpitude, or any other violation of any state or federal law;
- (xii) Names of magazines, books, or journals to be sold;
- (xiii) Names of the three (3) most recent communities where the applicant has solicited house to house;
- (xiv) Proposed method of operation;
- (xv) Description and license plate number of vehicle(s) intended to be operated by applicant;
- (xvi) Signature of applicant; and
- (xvii) Social security number of applicant.

- (b) All statements made by the applicant upon the application or in connection therewith shall be under oath.
- (c) The applicant shall submit to fingerprinting by the City Police Department in connection with the application for the permit.
- (d) The City Manager shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications. Applications for permits shall be numbered in consecutive order as filed, and every permit issued shall be identified with the duplicate number of the application upon which it was issued.
- (e) No permit shall be issued to any person who has been convicted of a felony or crime of moral turpitude within 5 years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.
- (f) The fee for a permit shall be \$75.00 for a 6-month period for each solicitor.

#### *Section 4: Permit Revocation*

- (a) Any permit issued hereunder shall be revoked by the City Manager if the holder of the permit is convicted of a violation of any of the provisions of this chapter or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter.
- (b) Immediately upon such revocation, written notice thereof shall be given to the holder of the permit in person or by certified United States mail addressed to his or her residence address set forth in the application.
- (c) Immediately upon the giving of such notice the permit shall become null and void and must be turned-in to the City Manager's office.

#### *Section 5: Routes.*

To the extent practical, each solicitor shall identify the streets and routes which he will follow on each day he is engaged in the business of soliciting. If changes in routes are made, then such changes must be immediately reported to the City Manager's office.

#### *Section 6: Prohibitions*

- (a) Any licensed solicitor who shall be guilty of any fraud, cheating, or misrepresentation, whether himself or through an employee, while acting as a solicitor in the City, shall be deemed guilty of a violation of this chapter.

- (b) It is hereby declared to be unlawful and shall constitute a nuisance 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 soliciting as herein defined if the occupant of said residence has made it clear, by written sign or otherwise, that solicitors are not invited.
- (c) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
- (d) Times Allowed.
  - (i) It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether licensed under this chapter or not, 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 soliciting as herein defined, prior to 10:00 a.m. or after 6:30 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time, Monday through Saturday, or at any time on Sunday, or on a state or national holiday.
  - (ii) Solicitations for political purposes shall not occur prior to 10:00 a.m. or after 7:00 p.m., Eastern Standard Time, or before 10:00 a.m. or after 7:00 p.m. Eastern Daylight Saving Time.

*Section 7: Penalties.*

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25.00 nor more than \$200.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Article 6: Adult Entertainment.

*Section 1: Rules for Operation.*

Any person, firm, partnership, or corporation licensed hereunder shall comply with the following rules and regulations pertaining to the operation of the adult entertainment establishment: