

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

DATE: August 10, 2015

FROM: James Lewellen, Town Administrator

SUBJECT: Ordinance 2015-14 – Third and Final Reading - An Ordinance to Amend Chapter 110.20 of the Town Code of Ordinances relative to Door-to-Door Solicitation and Canvassing

INTRODUCTION & BACKGROUND: Chapter 110 in the Town Code of Ordinances regulates Temporary Sales and other similar activities. Currently, there is a prohibition against all door-to-door solicitation. Recent court rulings have held that cities cannot prohibit commercial door-to-door sales. Recently, attorneys for Vivent/AMR Security Systems wrote Town Attorney, Nathan Bicks, stating their intent to market their product door to door in Collierville and to seek legal remedies necessary to be able to do so. A copy of the letter is attached.

DISCUSSION: The intent of this amendment is to comply with the new legal standards requiring the Town to allow commercial door-to-door sales and to create a legal framework through which commercial solicitations can occur. The new ordinance requires all companies carrying out door-to-door sales to obtain permits from the Town. The intent of the permit requirement is to protect residences from unscrupulous business practices and from criminal elements that might use door-to-door sales as a ruse to gain access to property, and to protect families from individuals with a history of criminal or violent actions who might pose a danger. Consistent with existing legal precedent, the permit requirement applies only to commercial door-to-door sales and solicitations; non-commercial door-to-door solicitors, such as canvassers, individuals soliciting donations for a charity, etc., are not required to obtain a permit, nor could we require them.

The ordinance will prohibit all door-to-door solicitations, whether commercial or non-commercial, at addresses registered on a Town “Do Not Knock” list. The Town will establish a web page where residents can register their address. Vendors will be prohibited from soliciting for any purpose at a property listed on the register.

The ordinance will also prohibit all door-to-door solicitations, whether commercial or non-commercial, at any residence with a sign, placard, or sticker indicating “No Solicitation” or “No Trespassing” or any other language indicating a clear intent to prohibit solicitation at that property. For this purpose, the Town shall design a Town “No Solicitation Sticker” and make it available to all residents for the purpose of prohibiting solicitation on their property.

The ordinance will require all companies to obtain a permit which will contain information regarding the company, its owners or principals, their address, phone number, etc. The

ordinance will require all persons authorized to solicit under a permit to obtain an ID badge from the Town. As part of the application process, businesses must submit to a criminal background check for all employees before those employees will be issued an ID badge permitting them to solicit door to door in the Town. This background check will be performed by the Collierville Police Department. Applicants can be denied based upon a variety of criminal background factors defined in 110-40.

All commercial solicitors must wear their ID badges on their clothing when engaged in door-to-door sales. If requested, solicitors must leave a business card with the resident. Solicitors may not engage in door-to-door sales except between the hours of 9:00 a.m. and one-half hour before sunset.

A violation of the ordinance may result in the revocation of the permit and/or ID badge, as well as a penalty of \$50 for each day a violation occurred.

The ordinance will take effect 60 days from its passage on third and final reading in order to allow time for the implementation of permit processes and to allow residents to register on the Town "Do Not Call" list.

Staff and legal have continued to work on this ordinance amendment during the period between the first and second reading. These changes are included as Exhibit A. Wording that has been deleted between the first and second reading has been ~~struck through~~. Newly added wording is shown in red. A clean version is included as Exhibit B.

PROPOSED MOTION: To approve Ordinance 2015-14 on Third and Final Reading.

Board Action: Motion By _____ **Seconded By** _____

Vote Total	Allen	Fraser	Patton	Stamps	Worley	Joyner
Yes						
No						
Abstain						

ORDINANCE 2015 - 14

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF COLLIERVILLE
RELATING TO DOOR-TO-DOOR SOLICITATION AND CANVASSING.

- WHEREAS, the Town strives to protect the privacy rights of its residents and to provide for the health, safety, and welfare of its residents; and,
- WHEREAS, due to recent developments in the law, the current ordinance prohibiting door-to-door solicitation and canvassing has been deemed violative of the First Amendment to the Constitution of the United States of America; and,
- WHEREAS, many citizens of this community expect their local government to assist them in preserving their privacy, protecting citizen safety, and avoiding annoyances that disrupt their quiet enjoyment of their homes; and,
- WHEREAS, the Board of Mayor and Alderman of the Town of Collierville has attempted to be continually aware of the problems and issues relating to door-to-door solicitors, whether commercial or noncommercial, and other circumstances which negatively impact the health, safety and well-being of its residents, citizens and inhabitants; and,
- WHEREAS, other persons often desire to interrupt the quiet enjoyment of one's home to solicit for commercial purposes, for donations for causes believed to be worthy of support, or to canvas for support for particular religious, ideological, or political causes; and,
- WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas that may be unpopular, and to engage others in debate without government interference; and,
- WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved; and,
- WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Tennessee, while attempting to minimize fraud, prevent crime, and protect the privacy of our citizens; and,
- WHEREAS, accordingly, the Board of Mayor and Aldermen now deems it in the best interest of the Town to amend Title XI, Chapter 110 of the Town Code; and,
- WHEREAS, a public hearing was held on the 27th day of July, 2015, pursuant to a publication in a newspaper of general circulation within the community on July 15, 2015.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN FOR THE TOWN OF COLLIERVILLE, TENNESSEE THAT:

Section 1. The Heading "TEMPORARY SALES" of Chapter 110 of the Town Code is hereby deleted and the following substituted:

CHAPTER 110: TEMPORARY SALES, DOOR-TO-DOOR SOLICITATIONS, ETC.

Section 2. Part 2, PEDDLERS AND ITINERANT VENDORS (Sections 110.20 – 110.99), of Title IX, Chapter 110 of the Town Code is hereby amended by deleting the same in its entirety and placing in its stead Exhibit A hereto.

Section 3. BE IT FURTHER ORDAINED that this ordinance shall become effective sixty (60) days after approval at its third and final reading, in accordance with the Charter of the Town of Collierville, the public welfare requiring it.

Passed First Reading: July 13, 2015

Passed Second Reading: July 27, 2015

Passed Third Reading:

Stan Joyner, Mayor

Lynn Carmack, Town Clerk

EXHIBIT A

CHAPTER 110: TEMPORARY SALES, DOOR-TO-DOOR SOLICITATIONS, ETC.

[PART 1]

General Business Regulations

[NO CHANGE]

[PART 2]

Transient Vendors

§ 110.20 to § 110.22 RESERVED

§ 110.23 MOBILE FROZEN DESSERT VEHICLES.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

MOBILE FROZEN DESSERT VENDOR. Any person who offers for sale or sells to another ice cream or other frozen dessert products from motor vehicles, human-powered vehicles, bicycles, three- wheeled vehicles or any other form of mobile transportation conveyance on the streets, public or private property within the Town limits of Collierville.

(B) Mobile frozen dessert vehicles (in this section, some are referred to as vendor or vendors) are allowed to sell ice cream and other frozen dessert products under the following conditions:

- (1) Vendors must comply with any license required by the state, county and Town;
- (2) Vendors must comply with Health Department regulations;
- (3) Vendors must carry the minimum amount of insurance required by state and county laws;
- (4) Vehicles used to transport and dispense frozen desserts must meet all state and county regulations for such vehicles;
- (5) Vendors shall not sell/dispense of their products from stationary locations in the Town, including, but not limited to, streets, Town owned property, parking lots, private property or vacant lots;

- (6) Vendors shall not park or stop to sell their products within the one-quarter mile of any boundary of a school zone area during the period from one hour before the start of school until one hour after the school day officially ends;
- (7) Vendors shall not sell their products after sunset;
- (8) A vendor shall make no sales until the vehicle is stopped and lawfully parked;
- (9) A vendor shall sell only from the side of the vehicle away from moving vehicles, away from moving traffic and as near as possible to the curb or side of the street;
- (10) A vendor shall not sell to a person standing in a roadway;
- (11) The driver of a vehicle shall not stop and back the vehicle to make an attempt to make or attempt a sale;
- (12) The driver of every mobile frozen dessert vehicle shall at all times when the vehicle is in motion or at a stop take every precaution to protect the safety of the customers against traffic and other hazards;
- (13) Vendors shall not operate in congested areas where the selling of the product will impede, cause a safety hazard or inconvenience the public.

(C) For the purpose of this section, the judgement of a police officer or a code official acting in good faith shall be deemed conclusive to determine that an area is too congested or unsafe for a mobile frozen dessert vendor to sell products.

§ 110.24 to § 110.29 RESERVED

[PART 3]

Door-to-Door Solicitation

§ 110.30 PURPOSE.

The purpose of this Chapter is as follows:

- (A) To provide for the health, safety and welfare of the citizens of the Town of Collierville;
- (B) To balance the First Amendment rights of residential commercial solicitors with the privacy, safety, health and welfare of the residents within the Town of Collierville;
- (C) To require all commercial solicitors to conduct any door-to-door residential solicitation within the Town pursuant to a permit and identification badge issued by the Town Clerk;
- (D) To prohibit commercial solicitations at residences where the owner or occupant has prohibited solicitation in a manner consistent with the provisions of this Chapter.

§ 110.31 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a differing meaning:

APPLICANT means any person or entity who has submitted an application for a permit.

CHARITABLE ORGANIZATION means a group which is or holds itself out to be a benevolent, patriotic, philanthropic, political, social service, welfare, eleemosynary, civic, or fraternal organization who sells goods, wares, merchandise, or services, or solicits or obtains contributions soliciting from the public, for charitable purposes.

CHARITABLE PURPOSE means any purpose which is benevolent, patriotic, political, philanthropic, social service, welfare, eleemosynary, civic, environmental, or fraternal.

TOWN CLERK means the clerk of the Town of Collierville, or the clerk's designee.

COMMERCIAL SOLICITOR¹ means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.

DOOR-TO-DOOR COMMERCIAL SOLICITATION means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, other than newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; or
- (2) Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

DOOR-TO-DOOR NONCOMMERCIAL SOLICITATION means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);
- (2) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a

¹ For purposes of this Chapter, the term "Commercial Solicitor" shall include individuals commonly referred to as "Peddlers" and "Solicitors."

public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);

- (3) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
- (4) Proselytizing on behalf of a religious organization;
- (5) Soliciting support for a political candidate or organization, or ballot measure or ideology; or
- (6) Soliciting the sale of newspaper or magazine subscriptions.

EMPLOYER means any person, company, corporation, business, partnership, organization or any other entity on behalf of whom a person is acting.

NONCOMMERCIAL SOLICITOR² means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door noncommercial solicitation.

NO-SOLICITATION LIST means a list of the addresses of Town residents who have requested that their residences be placed on a list maintained and published by the Town for the purpose of informing the general public and prospective solicitors that all door-to-door solicitation at such addresses is prohibited.

PERMIT means a document issued by the Town Clerk authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

PERMIT HOLDER means any person to whom a permit has been issued under the provisions of this Chapter.

PERSON means a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

RESIDENCE means a private residence in the Town of Collierville, including but not limited to, condominium units and apartments, including the yards, grounds or hallways thereof.

TOWN NO-SOLICITATION STICKER means a blue circular sticker, supplied by the Town of Collierville, bearing the words "No Solicitation" which any resident may affix to his or her entryway for the purpose of informing the general public and prospective solicitors that all door-to-door solicitation at such addresses is prohibited.

§ 110.32 EXEMPTIONS.

The terms of this Chapter shall not apply to:

² For purposes of this Chapter, the term "Noncommercial Solicitor" shall include individuals commonly referred to as "Canvassers" or individuals who solicit for a charitable, religious, political, or philanthropic purpose, even if, incidental to such purpose, the individual accepts the donation of money for or against such cause.

- (A) Bona fide merchants who deliver goods in the regular course of business; or
- (B) Sellers responding to a prior invitation by the owner or occupant of a residence.

§ 110.33 ALL SOLICITATION PROHIBITED BY POSTING OF “NO SOLICITATION” OR “NO TRESPASSING” SIGN OR TOWN NO-SOLICITATION STICKER.

(A) No solicitor, whether commercial or noncommercial, shall enter or remain upon any private premises in the Town where:

- (1) A “No Solicitation” or “No Trespassing” sign is clearly posted or placed at or near the entrance(s) to such premises or, in the case of a multi-family dwelling, at or near the entrance(s) to such individual dwelling; or
- (2) A Town No-Solicitation Sticker, supplied by the Town of Collierville, is placed upon or affixed to the entryway or door of such premises or individual dwelling.

(B) This provision shall apply to all solicitation, including, without limitation, all activities that are religious, charitable or political in nature and all solicitation of newspaper or magazine subscriptions.

§ 110.34 NO-SOLICITATION LIST.

(A) The Town may establish a no-solicitation list allowing any owner or lawful occupant of any residence within the Town to prohibit solicitation at said residence by registering the address with the Town. Such registration shall take effect as soon as it is noted on the Town’s no-solicitation list.

(B) If the Town establishes a no-solicitation list, the Town shall maintain and publish on the Town’s website and have available at the office of the Town Clerk such no-solicitation list consisting of all addresses that have been registered thereon.

- (1) Such list shall be made available without charge to any person requesting same. No person shall be required to provide identification as a condition of obtaining a copy of such list.
- (2) The Town will make the necessary arrangements to periodically update the no-solicitation list.
- (3) Each address appearing on the no-solicitation list will remain on the list until removed by the occupant.

(C) Each permit holder shall be responsible for obtaining and reviewing a copy of the no-solicitation list immediately upon issuance of a permit under this Chapter and at such intervals thereafter as may be reasonably necessary to ensure compliance with the requirements of subsection (D) below.

(D) As of the effective date of the registration of a residential address under subsection (A) above, door-to-door solicitation at such address shall be prohibited until such time, if at all, that the address has been deleted from the no-solicitation list.

(E) Neither the Town nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages or liabilities of any kind arising from or relating to any errors or omissions that may occur in compiling or maintaining the no-solicitation list.

§ 110.35 PERMIT AND IDENTIFICATION BADGE REQUIRED FOR ALL COMMERCIAL SOLICITORS.

(A) No person shall engage in door-to-door commercial solicitation within the Town without first obtaining a permit and identification badge from the Town Clerk and paying all applicable fees as provided in this Chapter.

(B) It shall be the sole responsibility of the permit holder to:

- (1) Provide a copy of the permit to each person authorized to engage in solicitation under the permit;
- (2) Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and with the provisions of this chapter;
- (3) Notify the clerk in writing of any persons to be added to or deleted from the list of authorized solicitors or any changes in employment; and
- (4) Submit to the Town Clerk, for each person to be added to such list, the information required under Section 110.36(A)(4), together with payment of the identification badge fee required under Section 110.36.

§ 110.36 APPLICATION FOR PERMIT.

(A) Each person applying for a door-to-door commercial solicitation permit shall file with the Town Clerk an affidavit on a form supplied by the Town Clerk stating the following information, as applicable:

- (1) The full name, business address, business telephone number, email address, and website of the applicant;
- (2) Information regarding the business as required by the Town Clerk, including, without limitation, its federal tax identification number, its legal status and proof of registration with, or a certificate of good standing from, the Tennessee Secretary of State, and, if different from its business address, the address at which it may be provided notice under this Chapter;
- (3) A complete list of all persons to be authorized to solicit under the permit and all supervising staff;

- (4) For each person authorized to solicit under a permit and all supervising staff, the following information:
 - (i) Full name, address, telephone number, email address, date of birth and social security number;
 - (ii) A description of the individual including height, weight, color of eyes and color of hair;
 - (iii) The number and state of issuance of the individual's driver's license, state identification card, passport, or other government-issued identification card;
 - (iv) The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by such person;
 - (v) A statement certifying that the person is not prohibited from commercial solicitation under Section 110.40 of this Chapter as determined by a criminal background check or any other information reasonably available to the employer concerning the criminal record of such individual; and
 - (vi) Any other identifying information as may be required by the Town Clerk to ensure or verify compliance with this Chapter.
- (5) A statement certifying that the business has not engaged in unlawful solicitation in the last three cities or towns, if that many, where the applicant carried on business immediately preceding the date of the application and, if available, records from such cities or towns demonstrating the same.
- (6) A brief explanation of the nature of the solicitation activity that requires a permit under this Chapter, including the type of the goods, wares, merchandise, and/or services to be offered to the consumer;
- (7) The length of time for which the right to do business in the Town is desired;
- (8) If the applicant is a foreign corporation or an employee of such corporation, the name, address and telephone number of an agent for process residing in the state;
- (9) Proof that the applicant has obtained a valid business tax license issued by the Town; and
- (10) Any other information determined to be relevant by the Town Clerk.

(B) At the time of application, each applicant shall pay a fee in an amount sufficient to defray the costs incurred by the Town in processing the application, plus an additional fee to defray the costs of preparing and issuing an identification badge for each person to be authorized to solicit under the permit, including the applicant. Such fees shall be established by the Board of Mayor and Alderman prior to becoming effective.

§ 110.37 INVESTIGATION OF APPLICANT; ISSUANCE OF PERMIT AND IDENTIFICATION BADGE(S)

(A) Upon receipt of a complete application and all applicable fees, the Clerk shall immediately refer the application to the Chief of Police who shall investigate the applicant and return the application along with a report of such investigation to the Clerk.

(B) All applicants shall undergo a criminal background check as part of the determination of permit eligibility.

(C) The Town Clerk shall, following the receipt of a complete application for a permit under this Chapter, issue such permit, together with identification badges for all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the Town Clerk determines that the permit application is denied under the criteria stated in Section 110.41 of this Chapter.

(D) All permits shall be issued in the name of the applicant. A permit may be issued to an individual or an employer. Upon issuance of each permit, the Town Clerk shall create and maintain a list of all persons authorized to engage in door-to-door commercial solicitation under the permit.

(E) The identification badges shall contain a photograph of the solicitor, bear the words "Permitted Solicitor," include the names of the solicitor and the employer the solicitor represents, the name of the permit holder (if different), the permit number, and the expiration date of the permit.

(F) Subsequent to the issuance of any permit, and upon receipt of the information and fee required under Section 110.36, the Town Clerk shall issue an identification badge to any new or additional person to be authorized to solicit under the permit as long as such person is not prohibited under Section 110.40. The Town Clerk shall also issue a replacement identification badge to any solicitor who, by affidavit, notifies the clerk that his or her identification badge has been lost or stolen, and who pays an additional identification badge fee as established under Section 110.36.

(G) If an employer applies for and is granted a permit under this chapter, the employer shall be entitled to obtain identification badges from the Town Clerk for each employee or agent authorized to solicit under the permit as long as such person is not prohibited under Section 110.40.

(H) No permit or identification badge issued pursuant to this Chapter shall be transferred to any person.

§ 110.38 DURATION OF PERMIT; RENEWAL.

(A) Each permit shall be valid for one (1) year, effective from the date of issuance.

(B) Any permittee wishing to renew a permit issued under this Chapter must apply for the renewal of the permit no less than thirty (30) days prior to the expiration of its term.

(C) The renewal application shall be made substantially in the same form as an original application; however, except for the information required in sub-sections (A)(3), (A)(4), and (A)(5) of Section 110.35, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed.

(D) At the time of the renewal application, the permittee shall pay a fee in an amount determined by the Town Clerk to be sufficient to defray the costs incurred by the Town in processing the renewal application, plus an identification badge fee for any new or additional person to be authorized to solicit under the permit.

(E) If a permittee fails to apply for such renewal within said thirty-day period of time, the permit will expire.

§ 110.39 PERSONS PROHIBITED.

A person shall not be eligible for issuance of a permit or identification badge under this Chapter if:

(A) Such person has been convicted, pled guilty, placed on probation or parole, pleaded nolo contendere, or been released from incarceration within a period of ten (10) years prior to the date of application of a felony or Class 1 misdemeanor under the laws of the State of Tennessee or an equivalent offense under any federal, state, county or municipal law; or

(B) A permit or an identification badge previously issued to such person under this Chapter has been revoked by the Town Clerk under Sections 110.42 or 110.43 of this Chapter.

§ 110.40 DENIAL OF PERMIT.

(A) The Town Clerk shall deny an application for a permit or any renewal of a permit under this Chapter if the Town Clerk determines that the applicant has:

- (1) Made any material misrepresentation or false statement in the application for the permit, including, without limitation, representations made as to the criminal history of any person to be authorized to solicit under the permit; or
- (2) Failed to obtain a business tax license as required by law; or
- (3) Been convicted of a felony or Class 1 misdemeanor under the laws of the State of Tennessee or an equivalent offense under any federal, state, county or municipal law.

(B) Upon such a determination, the Town Clerk shall notify the applicant that his or her application is disapproved and that no permit will be issued.

§ 110.41 REVOCATION OR SUSPENSION OF IDENTIFICATION BADGE.

(A) The Town Clerk may, after written notice of no less than seven (7) calendar days, suspend or revoke the identification badge of any solicitor that has engaged in any unlawful solicitation.

(B) The grounds for such suspension or revocation may include, but shall not be limited to, the following:

- (1) Failure to solicit in a manner that is in compliance with the permit and the provisions of this Chapter; or
- (2) Soliciting in such a manner as to constitute a menace to the health, safety or general welfare of the public; or
- (3) Conviction of a felony or Class 1 misdemeanor under the laws of the State of Tennessee or an equivalent offense under any federal, state, county or municipal law.

(C) In the event the alleged conduct that is the basis for the suspension or revocation of the identification badge is the subject of a pending criminal citation, the Town Clerk may either defer his or her decision regarding suspension or revocation until such citation has been resolved or immediately proceed with the foregoing administrative action prior to the resolution of such citation.

(D) The permit holder shall cause the suspended or revoked identification badge to be delivered to the Town Clerk within five (5) business days from notification.

§ 110.42 NONRENEWAL OR REVOCATION OF PERMIT.

(A) The Town Clerk shall, after written notice of no less than seven (7) calendar days, revoke and shall not renew any permit issued pursuant to this Chapter if the Town Clerk determines that any of the following have occurred:

- (1) Fraud, misrepresentation or false statement in the application for the permit or any renewal application, including, without limitation, representations made as to the criminal history of any person to be authorized to solicit under the permit; or
- (2) Failure to obtain a business tax license as required by law; or
- (3) Failure to supervise solicitation conducted under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this Chapter; or
- (4) Authorizing, condoning or knowingly tolerating any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(B) In the event the alleged conduct that is the basis for the revocation or nonrenewal of the permit is the subject of a pending criminal citation, the Town Clerk may either defer his or her decision regarding revocation or non-renewal until such citation has been resolved or immediately proceed with the foregoing administrative action prior to the resolution of such citation.

(C) The permit holder shall cause the suspended or revoked permit along with all identification badges of persons authorized to solicit under the permit, to be delivered to the Town Clerk within five (5) business days from notification.

§ 110.43 EMERGENCY SUMMARY SUSPENSION OF IDENTIFICATION BADGE OR PERMIT.

(A) If reasonable grounds exist to believe that a permittee and/or badge holder has engaged in illegal activity such that the public health, safety or welfare imperatively requires emergency action, the Town Clerk may summarily suspend the permit and/or badge pending the notice set forth in Sections 110.42 or 110.43 as applicable.

(B) The temporary suspension of a permit or badge shall be for a period not to exceed twenty (20) days.

§ 110.44 APPEALS FOR DENIAL OR REVOCATION OF PERMIT; HEARINGS.

(A) Upon the denial, suspension, or revocation of a commercial solicitation permit by the Town Clerk, the applicant or permit holder shall be entitled to a hearing before the Board of Mayor and Alderman in accordance with the following:

- (1) A request for a hearing shall be in writing, setting forth fully the grounds for the appeal, and filed with the Town Administrator within twenty (20) days of the Town Clerk's decision to deny an initial application or renewal, or to suspend or revoke a permit.
- (2) The Town Clerk shall notify the applicant or permit holder by United States mail of the hearing date.
- (3) The hearing date shall fall within twenty-five (25) days from the date the Town Clerk receives the request, unless the applicant requests a later date and the Town Clerk grants the request.
- (4) The applicant or permit holder is considered notified upon publication of the hearing date by the Town Clerk
- (5) At the hearing, the applicant or permit holder may present evidence as to why his/her initial application or renewal should not be denied, or why his/her permit should not be suspended or revoked.
- (6) The Town Clerk has the authority to subpoena witnesses to testify at such hearings.

- (7) Within five (5) days of the hearing, the Board of Mayor and Alderman shall state in writing the reason for the Board's decision that will either affirm or reject the denial of an initial application, renewal, suspension, or the revocation of a permit and mail it by United States mail to the address of the applicant as listed on the application.

(B) Any denial after a hearing of an initial application for a permit may be appealed by writ of certiorari to the Circuit or Chancery Courts of Shelby County within sixty (60) days from the date of the hearing.

§ 110.45 DUTY TO DISPLAY IDENTIFICATION BADGE AND TO EXHIBIT PERMIT.

(A) Any commercial solicitor engaging in door-to-door commercial solicitation under a permit issued pursuant to this Chapter shall conspicuously display his or her identification badge on the front of his/her person at all times so to be reasonably visible to any person who might be approached by said person while engaged in the act of commercial soliciting.

(B) Whenever requested by any police officer or by any customer or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation under a permit issued pursuant to this Chapter shall exhibit his or her permit and identification badge.

(C) Whenever requested by any police officer or by any customer or prospective customer, any commercial solicitor engaged in door-to-door commercial solicitation under a permit issued pursuant to this Chapter shall present some form of business card or, if the solicitor does not utilize business cards in the course of his or her business, some form of informational document, containing information on the solicitor including, at a minimum, the solicitor's name, the name of the company, organization, or entity that the solicitor represents or is employed by, the business address, telephone number, and, as applicable, email address and website. Further, if requested at such time as the above request, the solicitor must provide his or her permit number, the name of an individual at the company, organization or entity that the solicitor represents that is responsible for the supervision or management of the solicitor, and such supervisor's telephone number.

(D) A permit holder shall, without undue delay, report any lost or stolen identification badge to the Town Clerk.

§ 110.46 LIMITATIONS ON ALL SOLICITATION.

(A) No solicitor, whether commercial or noncommercial, shall:

- (1) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property; or
- (2) Remove any "No Solicitation" or "No Trespassing" sign or Town No-Solicitation Sticker that gives notice to such solicitor that the resident or occupant does not invite visitors.

(B) It shall be unlawful for any solicitor, whether commercial or noncommercial, to remain upon any private premises and refuse to leave such premises after having been notified by the owner or occupant of such premises or his or her agent to leave the same and not return to such premises.

§ 110.47 LIMITATIONS ON COMMERCIAL SOLICITATION.

(A) No commercial solicitor shall solicit for a purpose other than that set out in the application upon which the permit was issued.

(B) No commercial solicitor shall conduct any door-to-door solicitations except between the hours of 9:00 A.M. and one-half (1/2) hour before sunset, it being the intent that door-to-door commercial solicitations occur during daylight hours and at times when citizens feel secure in their homes to receive unexpected visitors.

§ 110.48 FALSE OR DECEPTIVE REPRESENTATIONS PROHIBITED.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement.

§ 110.49 RECORDS.

The Town Clerk shall maintain records showing each permit issued and the alleged violations of this Chapter.

§ 110.50 ADMINISTRATIVE REGULATIONS.

The Town Clerk is authorized to promulgate rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this Chapter.

§ 110.51 SEVERABILITY.

If any provision or clause of this Chapter or the application thereof to any person or circumstance is held to be unenforceable by a court of competent jurisdiction, such clause or provision and the remainder of this Chapter shall remain effective and enforceable to the fullest extent allowed by law, and all clauses and provisions of this Chapter are hereby declared to be severable.

§ 110.51 to § 110.97 RESERVED

§ 110.98 ENFORCEMENT.

The provisions of this Chapter shall be enforced by any police officer, code enforcement official or other duly authorized official of the Town of Collierville.

§ 110.99 PENALTY.

Any person, firm, partnership, corporation or other legal entity violating this ordinance of the Town shall be fined not more than \$50 or the maximum amount permitted by state law, whichever is greater, for each offense. Each day a violation occurs shall constitute a separate offense.