

Chapter 5.18

CHARITABLE SOLICITATIONS

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5.18.010 Definitions.

For the purpose of this chapter, the following terms shall have the following meanings:

Promoter shall mean any individual, firm, partnership, corporation, association, or other organization which, for pecuniary or other compensation, is engaged in the business of, or holds itself out to the public as engaged in the business of soliciting or making solicitations for or on behalf of any charitable, benevolent, civic, educational, religious, patriotic, or philanthropic cause or organization, or for compensation agrees to manage the solicitations of any campaign for any such purpose.

Solicit and **solicitation** shall mean the request, directly or indirectly, for money, donations of money, property, or financial assistance of any kind and shall include the sale or offer for sale of any article, tag, service emblem, publication, ticket, advertisement, subscription, or anything of value on the direct or implied plea or representation that such sale or solicitation or the proceeds thereof is for a charitable, benevolent, civic, educational, religious, patriotic, or philanthropic purpose. A solicitation shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale as referred to herein.

Soliciting organization shall mean any individual person, group, corporation, association, partnership, or individual engaged in a solicitation.

Solicitor shall mean an individual who actually makes contact, directly or indirectly, by phone, by mail, in person, or otherwise with any potential donor with the intention of soliciting. (Ord. 15461 §1; March 5, 1990; P.C. §2.49.010; Ord. 11285 §1; February 24, 1975).

5.18.020 Permit for Solicitations; When Required.

It shall be unlawful for any person, organization, society, association, or corporation, or for any agent, member, or representative thereof, directly or indirectly, to solicit or make solicitations on the streets, in any office or business building, by house-to-house canvass, or in any other private or public place by telephone, personal solicitation, or in any other way in the City of Lincoln unless such person, organization, society, association, or corporation shall have first obtained a permit as provided herein; provided, that an established church organization may sell tickets for meals or food sales when such food is to be served or sold by the members of such church organization without having obtained such a permit; and provided, further that the provisions of this section shall not apply to any established society, labor union, church, association, or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable, or reformatory purposes, not operated for pecuniary profit, when no part of the net earnings of which inures to the benefit of any person, private shareholder, or individual, and where the solicitation of such organization shall be conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitations, or where such solicitation may be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order, or fraternity or similar organization, or of any branch thereof. (Ord. 15461 §2; March 5, 1990: P.C. §2.49.020: Ord. 11285 §1; February 24, 1975).

5.18.030 Application for a Permit.

Application for a permit to solicit for any cause whatever as provided in Section 5.18.020 hereof shall be filed with the City Clerk at least fourteen days prior to the date when the intended solicitation is to commence, and shall contain the following information:

- (a) Name of applicant and the purpose for which it was organized;
- (b) The principal address of the applicant or, if the applicant does not maintain an office in this state, the name, address, and telephone number of the person having custody of the financial records of the applicant;
- (c) The location and date of legal establishment of the applicant, the form of its organization, and any determination by the Internal Revenue Service or the Nebraska Department of Revenue regarding its tax exempt status under the Internal Revenue Code of 1986;
- (d) The name or names under which the applicant has solicited or intends or does solicit contributions;
- (e) The name, address, and telephone number of the president, vice president, secretary, treasurer, and principal salaried executive staff officer of the applicant;
- (f) Names, addresses and telephone numbers of the individuals or officers of the applicant (i) who will be in direct charge of conducting the solicitation, (ii) who shall have final responsibility for custody of contributions received, and (iii) who shall be responsible for the final distribution of contributions;
- (g) A statement as to whether the applicant is or has been authorized or licensed by, or registered with, any other governmental authority for the purpose of soliciting contributions, a listing of all such authorizations, licensures, or registrations, a statement as to whether or not any such authorization, license, or registration has ever been revoked, suspended, or withdrawn, and whether the applicant, or any of its chapters, branches or affiliates is, or has ever been, enjoined by any court from soliciting contributions;
- (h) A brief description of the purpose for which such solicitation is to be made and an explanation of the intended use or disposition to be made of any receipts therefrom;

- (i) An outline of the method or methods to be used in conducting the solicitations;
- (j) The time when such solicitations shall be made, giving the preferred dates for the beginning and ending of such solicitation;
- (k) The total amount of funds proposed to be raised;
- (l) A projected schedule of wages, fees, commissions, expenses, or emoluments to be expended or paid to anyone in connection with such solicitation together with the manner in which such wages, fees, expenses, commissions, or emoluments are to be expended, to whom paid, and the amounts thereof;
- (m) A copy of a financial statement prepared, within 365 days of the date of filing the application for a permit hereunder, on forms approved by the City Clerk which statement contains complete disclosure of all solicitation activities of the applicant during the preceding five years. Such statement shall specifically identify the amount of funds raised through solicitation, all costs and expenses incidental thereto, all publicity costs, and all costs of allocation or disbursement of such funds. In lieu of such financial statement, the applicant may file with the City Clerk completed copies of all forms required to be filed by a charitable organization with the Internal Revenue Service or any other federal agency disclosing the same or substantially similar data as required to be included in such financial statement if such information was filed within the 365 days immediately preceding the date of application for a permit hereunder;
- (n) A full statement of the character and extent of the charitable, educational, religious, civic, benevolent, or philanthropic work being done by the applicant within the City of Lincoln, and a statement of the percentage of the funds to be collected to be applied to such purposes in Lincoln;
- (o) An estimated percentage of the costs of solicitation and disbursement with the projected collections;
- (p) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the City of Lincoln;
- (q) The name and address of any promoter if a promoter is to be employed in the proposed solicitation and the amount to be paid as compensation for the services of such promoter;
- (r) The names of any officer, director, trustee, partner, or any current agent or employee engaging in solicitation of funds who has been convicted of a felony or of a misdemeanor involving moral turpitude within the past five years, and the nature of the offense, the location where such conviction occurred, and the year of such conviction.
- (s) A statement as to whether the applicant or any officer, director, trustee, partner, or any current agent or employee engaged in solicitation of funds has engaged in any solicitation or transaction or enterprise found to be fraudulent in either a civil or criminal action.

The application must be signed by the applicant if the organization applying is an individual person; if the applicant is a partnership, by the partner charged with disbursing funds solicited; if the applicant is a corporation or an association, by its president or officer charged with disbursing the funds solicited. The individual signing the application shall sign the application and swear before an officer authorized to administer oaths that such individual has carefully read the application and that all the information contained therein is true and correct. (Ord. 16208 §1; August 31, 1992: prior Ord. 15461 §3; March 5, 1990: P.C. §2.49.040: Ord. 13653 §1; August 1, 1983: Ord. 12290 §1; May 22, 1978: Ord. 11285 §1; February 24, 1975).

5.18.040 Procedure Upon Application.

After a review of the application to determine its compliance with Section 5.18.030 and within fourteen days of the receipt of the application, the City Clerk shall either approve issuance of a permit or notify the person applying that the application does not comply with the requirements of Section 5.18.030 and specifically point out what information or explanation has not been furnished that is required before a permit can be issued.

If the City Clerk approves issuance of a permit to any such applicant, the City Clerk shall issue the permit upon payment by the applicant of a fee of ten dollars, same to be deposited in the General Fund to defray administrative expense hereunder. Said permit shall be nontransferable and shall not run more than three months. The City Clerk, upon receipt of an application for extension, may grant an extension of such permit for additional periods of not to exceed thirty days upon payment of ten dollars by the applicant for each such extension period. The City Clerk may issue, together with said permit, a sufficient number of copies of said permit to furnish all agents, members, or representatives soliciting with a copy thereof, the cost of which shall be paid by the organization, society, association, or corporation obtaining such permit. Each solicitor shall carry such copy with him or her when soliciting, and such permit must be shown upon request to all persons solicited and to any police officer of the City of Lincoln.

The application and all information submitted to the City Clerk shall remain in the City Clerk's office and shall be available for inspection by the public to permit the public to make an informed judgment as to whether or not to donate to any permittee hereunder. (Ord. 15461 §4; March 5, 1990: P.C. §2.49.050: Ord. 13653 §2; August 1, 1983: prior Ord. 12290 §2; May 22, 1978: Ord. 11285 §1; February 24, 1975).

5.18.050 Final Accounting Required.

At the conclusion of any solicitation by a soliciting organization securing a permit as herein provided, such permit holder shall file in writing with the City Clerk reports signed and sworn to before a person authorized to administer oaths and containing information showing the gross amount raised by such solicitation, the wages, fees, commissions, and expenses paid to anyone in connection with such solicitation, and the disposition to be made of the balance. The report required herein shall be filed no later than sixty days after the conclusion of the solicitation, and failure to file such report within the required time shall constitute a violation of this section. (Ord. 15461 §5; March 5, 1990: P.C. §2.49.060: Ord. 13653 §3; August 1, 1983: prior Ord. 11285 §1; February 24, 1975).

5.18.060 Continuing Solicitations; Annual Permit and Accounting.

Notwithstanding other provisions of this chapter to the contrary, any soliciting organization which certifies to the City Clerk that it is permanently located and conducts the bulk of its solicitations within the City of Lincoln and that it conducts various solicitations on a continuing basis solely for the purposes of such soliciting organization shall, upon compliance with all other provisions of this chapter, be granted, upon payment of twenty dollars, a permit which shall be valid for one year and may be renewed each year thereafter upon payment of an additional twenty dollars per year. The application of such soliciting organization so certifying shall include, in addition to all other requirements, a list of the solicitations which the soliciting organization intends to engage in during the year. Such list may be amended by the soliciting organization by adding additional solicitations or deleting solicitations therefrom at the time of renewal of

the annual permit. No other solicitation, other than those so listed, shall be engaged in by the soliciting organization without first notifying the City Clerk of such solicitation.

Any soliciting organization qualifying for such annual permit shall not be required to submit to the City Clerk a final accounting as required by Section 5.18.050 as hereinbefore set out, but shall be required, instead, to file an annual accounting at the end of each fiscal year of said organization, which fiscal year shall be noted upon the original application. Nothing in this section shall be construed as relieving any soliciting organization qualifying for an annual permit from complying with all other requirements of this chapter. (Ord. 15461 §6; March 5, 1990: P.C. §2.49.065: Ord. 13653 §4; August 1, 1983: prior Ord. 11862 §1; December 20, 1976).

5.18.070 Permit Not to be Used as an Endorsement.

It shall be unlawful for any person, organization, society, association, or corporation holding a permit, or for any agent, member, or representative thereof, to advertise, represent, or hold out in any manner that said permit is an endorsement of said holder by the City of Lincoln. (Ord. 15461 §7; March 5, 1990: P.C. §2.49.080: Ord. 13653 §6; August 1, 1983: prior Ord. 11285 §1; February 24, 1975).

5.18.080 Revocation of Permit.

The City Clerk shall have the power to recommend the revocation of any permit that may have been granted as herein provided. Such recommendation of revocation shall be addressed to the Mayor who, upon receipt of such recommendation of revocation, shall order the immediate temporary revocation of the permit of the soliciting organization, and the Mayor shall instruct the City Clerk to notify the permit holder to show cause, if any, upon a date certain not less than three days from the date of such notice, why said permit should not be permanently revoked; and all solicitation under such permit shall be suspended from the date of service of the notice until final disposition of the case.

A misrepresentation of or making untrue statements with regard to the solicitations or the purposes thereof or untrue statements in the application, or that in any other way the solicitation has been conducted or is being conducted in violation of this chapter, shall be grounds for the City Clerk's recommendation for revocation of such permit. (Ord. 15461 §8; March 5, 1990: P.C. §2.49.090: Ord. 13653 §7; August 1, 1983: prior Ord. 11285 §1; February 24, 1975).

5.18.090 Telephone Appeals.

Any telephone appeal shall accurately disclose at the onset of the call:

- (a) the name of the soliciting organization;
- (b) the purpose of the call; and
- (c) how further information concerning the soliciting organization can be obtained. (Ord. 15461 §9; March 5, 1990: P.C. §2.49.100: Ord. 11285 §1; February 24, 1975).

5.18.100 Sales in Conjunction with Charitable Solicitations.

Any offer for sale of merchandise made in conjunction with a charitable solicitation shall clearly disclose the amount or percentage of money from the sale which will actually go to the organization for whose benefit the appeal is made. The wholesale value of such merchandise shall not be included in computing the cost of raising the funds for purposes of Section 5.18.030(l) and Section 5.18.040. (Ord. 15461 §10; March 5, 1990: P.C. §2.49.110: Ord. 11285 §1; February 24, 1975).

5.18.110 Promoter's License Required.

No permit shall be issued upon the application of any soliciting organization which intends to employ a promoter as defined by this chapter to carry on any fund-raising campaign or solicit contributions within this city unless such promoter is licensed in accordance with the provisions of this chapter. (Ord. 15461 §11; March 5, 1990: P.C. §2.49.130: Ord. 11285 §1; February 24, 1975).

5.18.120 Promoter's License; Procedure for Obtaining.

Any promoter who intends to carry on any fund-raising campaign or solicit contributions on behalf of any soliciting organization shall at the time the soliciting organization applies for a permit make application for a promoter's license. Such application shall be filed with the City Clerk and shall contain the following information:

(a) The name and address of the applicant, and if such applicant be a corporation, the name and address of each of its managing officers and agents, and, if it be an unincorporated association, firm, or partnership, the name and address of each member of such unincorporated association, firm, or partnership;

(b) A statement of the facts showing that the applicant, if not a corporation or an unincorporated firm, association, or partnership, is of good character and reputation, or if the applicant be a corporation, that each of its managing officers is of good character and reputation, or if the applicant be an unincorporated association, firm, or partnership, that each of its members is of good character and reputation.

(c) The general plan or method by which applicant proposes to conduct business as a promoter, a statement of any and all agreements or understandings made or had with any person or association in whose behalf such solicitation is being conducted, together with at least one copy each of any such agreement or understanding which may be in writing, and specifically the amount of pecuniary compensation said promoter is to receive for said promotion or solicitation. At the time of filing an application for said promoter's license, the applicant shall file and thereafter maintain with the city, if said license is granted, a good and sufficient bond in the aggregate sum of \$5,000.00 running to the City of Lincoln for the use and benefit of interested persons and parties executed by a surety company authorized to do business in the State of Nebraska and approved as to form by the City Attorney. Said bond shall be conditioned upon the strict compliance by the principal with the provisions of this chapter and the payment of any pecuniary loss sustained, through any act, fraud, or theft on the part of the principal, by any donor, or by any person on whose behalf the funds or personal property were solicited or received by the principal. The bond shall not be released until the report of the final accounting is received and the City Clerk determines that the solicitation was carried on in accordance with the provisions of this chapter. The City Clerk shall examine such application for completeness and compliance with this ordinance and shall make such further investigation of the applicant as deemed necessary. If from such investigation the City Clerk shall be satisfied that the applicant fulfills all the requirements of this chapter and that all the statements made in the application are true and that the general plan of the proposed solicitation is approved, the City Clerk, upon payment of a twenty-five dollar fee, the same to be deposited in the General Fund to defray the administrative expense hereunder, shall issue a permit to said promoter, which permit shall expire at the end of each program of solicitation for which it was issued. The promoter's license granted hereunder may be revoked upon the filing with and verification by the City Clerk of any complaint if it be found that any person to whom a promoter's license has been issued has violated any of the requirements of this chapter

or any other law or that said license holder, agent, or solicitor has made untrue statements or misrepresented the purposes of the solicitation. (Ord. 16208 §2; August 31, 1992: prior Ord. 15461 §12; March 5, 1990: P.C. §2.49.140: Ord. 13653 §8; August 1, 1983: prior Ord. 11285 §1; February 24, 1975).

5.18.130 Penalty for Violation.

Any person, organization, society, association, or corporation, or any agent or representative thereof, who is found soliciting or engaged in solicitation without the permit required by this chapter shall be deemed guilty of a misdemeanor and fined not less than \$100.00 nor more than \$500.00 or be imprisoned in the county jail for a period not exceeding six months or be both so fined and imprisoned; and a promoter who carries on any fund-raising campaign or solicits contributions within the city without first having obtained a license therefor shall be fined not less than \$100.00 nor more than \$500.00 or be imprisoned in the county jail for not more than six months or be both so fined and imprisoned.

Any soliciting organization or promoter who violates any of the other provisions of this chapter or knowingly files or causes to be filed a false statement in connection with the application as provided in Sections 5.18.040 and 5.18.120 hereof shall be fined not less than \$100.00 nor more than \$500.00 or be imprisoned in the county jail for not more than six months or be both so fined and imprisoned.

Any soliciting organization, solicitor, promoter, or any agent or representative thereof who represents in any way that any permit or license granted hereunder is an endorsement of such solicitation shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Any solicitor who fails to carry a copy of the permit or fails to display the same when so required under Section 5.28.040 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars. (Ord. 15461 §13; March 5, 1990: P.C. §2.49.160: Ord. 11285 §1; February 24, 1975).