

**ARTICLE III.
SOLICITING AND DOOR-TO-DOOR SALES**

DIVISION 1. GENERALLY

Sec. 24-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Door-to-door sales permit means the written authorization to act as a door-to-door seller within the city as regulated by this article.

Door-to-door seller means any person who goes uninvited from residence to residence or to only one residence within the city selling or offering to sell any type of service or any type of personal property; provided, that no payment in part or in full is accepted by the seller until the service has been provided or until the tangible personal property has been delivered; and provided further, that other requirements in this article have been met.

Identification card means the card issued to any individual in accordance with provisions of this article, under a specific permit.

Nonprofit permit means the written authorization to act as a nonprofit door-to-door seller.

Nonprofit seller means any organization operated exclusively for educational, religious, charitable, public service, fraternal or other nonprofit purposes which goes uninvited from residence to residence or to only one residence within the city selling or offering to sell any type of service or any type of tangible personal property. The term shall also cover any individual who is or who purports to be a member, officer, representative or agent of such a nonprofit organization.

Person means any individual, proprietor, partner, employee, agent, company, organization, partnership, business trust or corporation whose activities are subject to provisions of this article.

Resident means any individual occupying a residence at the time activities regulated by this article occur.

Solicitor means any person who goes uninvited from residence to residence or to only one residence within the city selling or offering to sell any type of service or any type of tangible personal property and who cannot or will not meet the requirements for a door-to-door seller.

Solicitor's permit means the written authorization to act as a solicitor within the city as regulated by this article.

Sec. 24-57. Purposes.

The purposes of this article shall be to protect the health, safety and welfare of residents of the city by means of reasonable investigation and regulation of door-to-door sellers, nonprofit sellers and solicitors and their employees and agents, and to levy fees for identification cards and permits required under this article.

Secs. 24-58—24-70. Reserved.

DIVISION 2. PERMITS AND IDENTIFICATION CARDS

Sec. 24-71. Required authorizations and fees.

(a) It shall be unlawful for any person (other than a representative, agent or employee of a holder of a solicitor's permit) to act as a solicitor in the city without first obtaining a permit authorizing such activity. The nonrefundable application fee for a calendar year or portion thereof shall be established by the city council, except that on or after the first day of July the application fee shall be prorated for the remainder of the calendar year (see Appendix A).

(b) It shall be unlawful for any person (other than a representative, agent or employee of a holder of a door-to-door sales permit) to act as a door-to-door seller in the city without first obtaining a permit authorizing such activity. The nonrefundable application fee shall be for a calendar year or portion thereof established by the city council, except that on or after the first day of July, the application fee shall be prorated for the remainder of the calendar year (see Appendix A).

(c) It shall be unlawful for any person to act within the city as a nonprofit seller without first obtaining a permit authorizing such activity. The permit may be issued for any specific period within a calendar year, and no fee shall be required.

(d) It shall be unlawful for any individual to act within the city as a door-to-door seller or solicitor, or as employee, dealer, representative or agent of the same, without first obtaining an identification card covering a calendar year or portion thereof. The fee for each identification card shall be established by the city council (see Appendix A). It shall be unlawful for any individual acting as a door-to-door seller or solicitor to fail to exhibit a valid identification card upon the request of any police officer, finance and technology director or any of his authorized agents, or upon the request of any resident of the city.

(e) It shall be the responsibility of any person receiving a nonprofit permit to have the original permit suitably copied or duplicated and to distribute such copies to the individuals acting as members, employees or agents of the nonprofit seller in making

sales calls. It shall be unlawful for any such member, employee or agent to fail to exhibit a copy of a valid permit upon the request of any police officer or upon the request of any resident.

Sec. 24-72. Exemptions, fee waivers.

(a) Any person whose activities are regulated exclusively by the state shall be exempted from the provisions of this article.

(b) Any person selling subscriptions for delivery of newspapers to the door of a residence on a regular daily or weekly schedule shall be exempted from the provisions of this article.

(c) Any person providing or offering to provide scheduled delivery of food products to the door of any residence within the city at least once every seven (7) consecutive days shall apply for a permit as a door-to-door seller but the application fee shall be waived. However, the application fee of two dollars (\$2) for each identification card shall not be waived.

(d) Any person showing proof that he is under the age of fifteen (15) years may request that the door-to-door seller permit fee, identification card fee and required posting of bond be waived; provided, that his parents or guardians certify in writing that he will sell only in the neighborhood of his own city residence and that such parents or guardians will supervise such activities and will hold the city harmless against any claims or causes of action for property damages or personal injuries caused by or related to such activities.

Sec. 24-73. Application procedure.

(a) Any person desiring a permit to act as a door-to-door seller within the city shall submit application in triplicate, together with application fee, to the finance and technology director or his authorized representative. The form of application shall be as prescribed by the finance and technology director and shall require the applicant furnish character or business references and, as to corporate applicants, the names of the principal officers and state of incorporation or, as to other applicants, the names and residence addresses of all owners, partners or managers. The application shall be referred to the police chief or his authorized representative for investigation. The applicants and agents shall submit a full set of fingerprints to the Tempe Police Department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee. Approval or disapproval shall be reported within thirty (30) days on the basis of the best information available as to the reputation of the applicant. The finance and technology director or his authorized agent shall issue the permit requested when satisfied as to the accuracy and completeness of information set forth in the application.

(b) No application for door-to-door seller shall be accepted unless the applicant or his authorized employee or representative certifies in writing that no payment will be asked or accepted before the service offered has been provided or the tangible personal property offered for sale has been delivered. In addition, the applicant shall file a surety bond or provide satisfactory evidence of a surety bond in the amount of one thousand dollars (\$1,000) times the number of individuals, agents and representatives to be at any time engaged in door-to-door selling in the city on behalf of the applicant, which bond shall guarantee to the city and its residents that all services or tangible personal property represented in its advertising or sales literature are as orally represented by the seller, and that no payment of any kind will be required or accepted until the service or tangible personal property offered has been delivered. Action on any bond filed may be brought in the name of the city to the use or benefit of any aggrieved resident of the city.

(c) Any person unable or unwilling to meet the requirements for door-to-door seller in respect to either posting of bond or not accepting payment in advance may submit an application for a permit as a solicitor. A solicitor may participate in any activity permissible for a door-to-door seller and may also accept partial or full payment before the service or tangible personal property offered has been provided, providing that no element of fraud or deceit is present in the offer to sell.

(d) Any person desiring a permit to act as a solicitor within the city shall submit application in triplicate, together with application fee, to the finance and technology director or his authorized representative. Required information shall be that deemed necessary by the police chief for complete and thorough investigation of business references and of the personal background of the general manager or other responsible agent signing the application. The applicants and agents shall submit a full set of fingerprints to the Tempe Police Department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee. The application and fingerprint card shall be submitted to the police chief or his authorized representative for investigation. A report of approval or disapproval shall be returned within thirty (30) days, but no permit shall be issued without specific police approval.

(e) Any individual desiring an identification card under a door-to-door seller permit shall submit to the finance and technology director or his authorized representative application in triplicate in form prescribed by the finance and technology director, together with application fee and two (2) photos of the applicant.

(f) Any individual desiring an identification card under a solicitor's permit shall submit application in triplicate together with application fee, to the finance and technology director or his authorized representative. Required information shall include the individual's name and mailing address, name and mailing address of the permit holder, three (3) character references, a statement of any prior felony conviction and any prior misdemeanor conviction involving moral turpitude, and any other information

which the police chief deems necessary for thorough investigation of character and reputation. The individual applicant shall also provide two (2) satisfactory identification photos and shall be fingerprinted at regularly scheduled times by the police department.

(g) No identification card under a solicitor's permit shall be issued without police approval in writing. The police chief may, at his discretion, approve the issuance of an identification card despite the conviction of a felony or misdemeanor involving moral turpitude; provided, that such conviction occurred more than two (2) years prior to date of application and was listed by applicant on his application.

(h) If the individual applying for an identification card provides satisfactory evidence that he is under eighteen (18) years of age, fingerprinting shall be waived and the identification card stamped "juvenile".

(i) All permits for door-to-door seller and for solicitor and all identification cards issued under such permits shall expire at the end of the calendar year, and completely new applications shall be required for any subsequent year.

(j) Any person desiring a permit as a nonprofit seller shall submit application in triplicate to the finance and technology director or his authorized representative at least fifteen (15) days in advance of intended activity as such within the city. Required information shall be that deemed necessary by the police chief for possible investigation of history and reputation and shall include a statement as to activities and membership of the organization, the purpose for which proceeds are to be used and period for which the permit is desired. The application shall also include background information and three (3) character references of the manager, director, leader or other responsible agent signing the application. The applicants and agents shall submit a full set of fingerprints to the Tempe Police Department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee. The permit may be issued if the finance and technology director or his authorized agent is satisfied with the information provided on the application and may be limited to a shorter period than that requested by the applicant.

(k) It shall be unlawful for any individual to omit required information from any application or to provide false information on any application submitted. Failure to provide required information or falsification of information shall be grounds for disapproval or revocation of any permit or identification card.

Sec. 24-74. Revocation of permits and identification cards.

Any permit or identification card issued under this division may be revoked by the finance and technology director or his authorized representative upon the recommendation of the police chief for furnishing false information, conviction of a

felony or misdemeanor involving moral turpitude, or for a violation of this article. Identification cards issued under a revoked permit shall automatically be revoked at the same time as the permit. Any identification card shall be revoked upon notification from the permit holder that the identification card holder is no longer associated with the permit holder. Revocation shall be effective on the second working day after notice is mailed to the last-known mailing address of the applicant by certified or registered mail.

Sec. 24-75. Fees in addition to transaction privilege tax.

Application fees levied in this division shall be in addition to the transaction privilege tax which may be required by chapter 16 of this code. Failure of an applicant or permit holder to comply with that chapter shall be sufficient grounds for denial or revocation of any permit and all identification cards associated with such application or permit.

Sec. 24-76. Temporary identification cards.

The finance and technology director or his authorized representative may issue, at his discretion, a temporary identification card as a solicitor for a period of not over sixty (60) days pending full police department clearance under the following circumstances:

- (1) The individual is applying for a renewal of an identification card approved for any portion of the prior calendar year and never revoked; or
- (2) After thirty (30) days from the date of application, if the police department has been unable during that period to complete its investigation of the individual applicant.

Secs. 24-77—24-90. Reserved.

**ARTICLE IV
CHARITABLE SOLICITATIONS**

DIVISION 1. GENERALLY

Sec. 24-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nonprofit organization means an organization formed and carried on solely for an educational, religious or public service purpose and not for the private profit of its officers, members or owners.

Permit means the written authorization to carry on soliciting for donations as

regulated by this article.

Soliciting for donations means asking for gifts or donations of any type on public right-of-way, at any place of business or any residence within the city.

Sec. 24-92. Purpose.

The purpose of this article shall be to protect the health, safety and welfare of people living or working within the city and of people visiting the city by means of reasonable investigation and regulation of soliciting for donations within the city.

Secs. 24-93—24-105. Reserved.

DIVISION 2. PERMIT

Sec. 24-106. Required authorizations.

(a) It shall be unlawful for any individual or organization to carry on the activity of soliciting for donations within the city except under permit from the finance and technology director or his authorized representative to do so.

(b) It shall be unlawful for any individual to solicit for donations except as authorized agent or representative of a bona fide nonprofit organization as defined in § 24-91 of this code.

(c) It shall be unlawful for any individual soliciting for donations within the city to fail or to refuse to show authorization for such activity upon the request of a police officer, resident or businessman within the city.

Sec. 24-107. Application procedure.

(a) Any organization desiring a permit to solicit for donations within the city shall submit application at least fifteen (15) days in advance of the requested starting date to the finance and technology director or his authorized representative. Required information shall be that deemed necessary by the police chief to investigate the background, history and reputation of the applicant and of the responsible official or agent submitting the application. The application and its references may be submitted to the police department for investigation. The applicants and agents shall submit a full set of fingerprints to the Tempe Police Department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee. The authorized representative of the finance and technology director may issue a permit upon his own judgment or upon recommendation of the police chief or his authorized representative. However, no permit shall be issued if disapproved in writing by the

police chief. No permit shall cover a period greater than one year from date of issuance.

(b) It shall be unlawful for any individual to omit required information from any application or to provide false information on any application submitted. Failure to provide required information or falsification of information shall be grounds for disapproval or revocation of any permit.

Sec. 24-108. Personal identification.

Every individual soliciting for donations shall carry a copy of the permit authorizing such soliciting. It shall be the responsibility of the permit holder to make photographic copies or photostats or other suitable copies and to distribute them to responsible individuals doing the actual soliciting.

Sec. 24-109. Revocation.

Any permit is subject to revocation by the authorized representative of the finance and technology director upon the recommendation of the police chief, based on false information provided in the application, violation of any portion of this article, or any facts deemed by the police chief to show reasonable danger to the health, safety or welfare of those residing or working within the city. Such revocation shall be effective on the second working day after notice has been mailed by certified or registered mail to the last-known mailing address of the applicant.

Secs. 24-110—24-114. Reserved.

**ARTICLE V
AGGRESSIVE SOLICITATIONS**

Sec. 24-115. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggressive manner means:

- (1) Intentionally, knowingly or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (2) Approaching or following a person before, during or after soliciting if that conduct is intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;

- (3) Continuing to solicit from a person after the person has given a negative response to such soliciting;
- (4) Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited or requiring the person to take evasive action to avoid physical contact with the person making the solicitations. Acts authorized as an exercise of one's constitutional right to picket or protest shall not constitute obstructing passage; or
- (5) Intentionally, knowingly or recklessly using obscene, abusive or threatening language or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Bank means a bank, credit union or other similar financial institution.

Public transportation vehicle means any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.

Public area means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, schools and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

Solicit means to request an immediate donation or exchange of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. Soliciting shall include using the spoken, written, or printed word, bodily gestures or any other means of communication. Soliciting does not include requesting or accepting payment of the fare on a public transportation vehicle by the operator of the vehicle.

Sec. 24-116. Prohibited acts.

It shall be unlawful for any person to solicit any money or other thing of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) Within fifteen (15) feet of any entrance or exit of any bank or within fifteen (15) feet of any automated teller machine; or

- (3) In any public transportation vehicle or from persons waiting within fifteen (15) feet of a sign designating a bus stop.

Sec. 24-117. Penalty.

A violation of this section is a class 1 misdemeanor. In addition to any other penalties authorized by law, the court may order a person sentenced under this section to perform community service work.