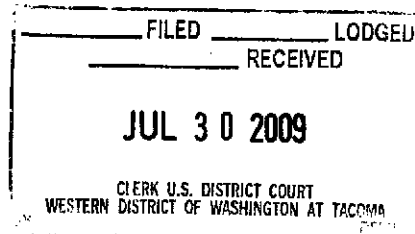


09-CV-05465-CMP

THE HONORABLE _____



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES MISSION
CORPORATION, d/b/a UNITED STATES
MISSION,

Plaintiff,

v.

CITY OF PUYALLUP; BARBARA J.
PRICE, in her official capacity as
City Clerk for the City of Puyallup,

Defendants.

No. _____

C09 5465 BHS

COMPLAINT

I. INTRODUCTION

1. The City of Puyallup has imposed broad and unconstitutional restrictions on the ability of plaintiff United States Mission Corporation (the "Mission") to exercise its well-established rights of free speech and religious exercise.

2. The City of Puyallup has criminalized religious solicitation by requiring the Mission to register under and comply with the provisions of Chapter 5.64 of the Puyallup Municipal Code ("Chapter 5.64" or the "Ordinance"). The Mission is a 501(c)(3), nonprofit religious organization recognized as a Church by the Internal Revenue Service of the United States and the State of Washington.

COMPLAINT (No.) – 1

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ORIGINAL

3. Chapter 5.64 criminalizes religious, charitable, and other forms of solicitation, both on public property and on the doorsteps of private residences, except in one narrow circumstance: when the individuals seeking to solicit have first registered with the City, disclosed their identities and a wide array of personal information, undergone intrusive criminal background checks, and regularly renewed the registrations. In many circumstances, even these intrusive and burdensome steps are not enough to avoid prosecution for the exercise of constitutional rights. If, for example, an individual wishes to solicit on public property, or has been convicted of a crime and recently released from probation, then Puyallup simply prohibits that speaker from speaking.

4. Puyallup's restrictions constitute unconstitutional prior restraints on speech, which are prohibited pursuant to both the First Amendment of the United States Constitution and article I, section 5 of the Washington State Constitution.

II. PARTIES

5. Plaintiff is a nonprofit religious corporation and interdenominational Christian-based organization dedicated to carrying out the Social Gospel inspired by the Book of Matthew, Chapter 25, of the Bible. The Mission operates residential facilities as a transitional program for homeless persons who are willing and able to work. Residents of the Mission engage in door-to-door religious solicitation on behalf of the Mission to practice the Social Gospel. The Mission also obtains funding for its social programs by door-to-door solicitation conducted by its residents.

6. Defendant City of Puyallup is a Washington noncharter code city governed by Chapter 35A.13 RCW. *See* PMC § 1.08.010.

7. Defendant Barbara J. Price is a party to this action in her official capacity as City Clerk for the City of Puyallup.

III. JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1343 (civil rights jurisdiction); and 28 U.S.C. § 1367 (supplemental jurisdiction over state law claims).

COMPLAINT (No.) - 2

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1 9. The Court has personal jurisdiction over defendants.

2
3 10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

4
5 **IV. FACTS**

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7 11. Chapter 5.64, titled "Solicitors," regulates door-to-door solicitation at residences and
8 places of business. A complete copy of Chapter 5.64 is attached to this Complaint.

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10 12. "Soliciting" is defined by Chapter 5.64 as "[s]eeking to obtain orders for, or the sale
11 of, goods, wares, merchandise, foodstuffs, or services of any kind, character, or description, for any
12 kind of consideration whatever," "[s]eeking to obtain prospective customers for application or
13 purchase of insurance of any type, kind or character," "[s]eeking to obtain subscriptions to books,
14 magazines, periodicals, newspapers, and every other type or kind of publications," or "[s]eeking to
15 obtain gifts or contributions of money, clothing, or other valuable thing for the support or benefit of
16 any charitable or nonprofit organization, association, or corporation." PMC § 5.64.010.

17
18 13. Chapter 5.64 prohibits a person from engaging in soliciting at a residence or business
19 within Puyallup without a City-issued license. It is unlawful for any person to, among other things,
20 solicit "upon the city street, sidewalk or public right-of-way or any other public property either on
21 foot or from any cart, wagon, wheeled conveyance or other device" or solicit within 500 feet of a
22 legally licensed temporary stand, temporary event, or special event. PMC § 5.64.110(3).

23
24 14. To receive a license, an individual solicitor must fill out an application form that
25 provides the solicitor's name, address, present place of residence and length of residence at such
26 address, and current business address. The solicitor must identify all other addresses at which he or
27 she has resided in the past two years. The applicant must provide his or her date of birth, physical
28 description, social security number, and a statement of whether the solicitor has "ever" been
29 convicted of a felony. PMC § 5.64.050. The solicitor must provide the name and address of any
30 person, firm, or corporation the solicitor works for or represents, as well as the duration of such
31 employment or representation. The solicitor must provide a copy of a driver's license or picture
32 identification and complete a release allowing the City to conduct "necessary" background checks.

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COMPLAINT (No.) – 3

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1 *Id.* At the discretion of the police department, the solicitor "may" be required to submit to
2 fingerprinting or palm scanning. *Id.*
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5 15. The license fee is \$50.00 per year, and a license expires on December 31 of the year in
6 which the permit was issued, regardless of when during the year the license was obtained. In addition
7 to the license fee, a solicitor must pay the cost of conducting a background investigation.
8

9
10 16. Chapter 5.64 also authorizes the city clerk to issue "organizational certificates" to
11 "bona fide community-based organizations." PMC § 5.64.030. The appropriate official of such an
12 organization must comply with the application procedure described above and provide the city clerk
13 with the names and addresses of the solicitors. Organizational certificates are limited in time and
14 cannot be valid for more than 30 days in any calendar year.
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17 17. An application will be denied (a) if the facts set forth in the application are not true;
18 (b) if the applicant has been convicted of a felony and a period of less than five years has passed from
19 the termination of any court-ordered time served (including any probationary period); (c) "for
20 the . . . crimes" of larceny, assault, domestic violence, fraud, sex crimes, drug-related crimes or
21 crimes against children or vulnerable adults; or (d) if the applicant has previously had a license
22 revoked within the last 90 calendar days. PMC § 5.64.060(2).
23

24
25 18. A license may be revoked or suspended at the discretion of the city clerk, the chief of
26 police, or his or her designee if (a) the license was procured by fraud or "material" omission of fact;
27 (b) the solicitor fails to comply with any of the provisions of Chapter 5.64; (c) the licensee "violates
28 any applicable city, state or federal law"; (d) "the purpose for which the license was issued is being
29 abused to the detriment of the public"; or (e) the license "is being used for a purpose different from
30 that for which it was issued." PMC § 5.64.080 (emphasis added).
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33 19. Upon the denial or revocation of a license, the applicant may appeal to the Puyallup
34 City Council. No procedures or standards are specified for the appeal other than the requirement that
35 an applicant whose application is *denied* must be given written notice of the basis for the action and
36 that the applicant or solicitor must appeal in writing within 10 days of the denial or revocation.
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1 20. Solicitors must carry the license and photo identification at all times when "soliciting"
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3 in Puyallup. The license and identification must be displayed "whenever" and "wherever" the
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5 solicitor is requested to display it by any police officer, City official, or person solicited. PMC
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7 § 5.64.100. Where an organizational certificate has been issued, each individual solicitor must be
8
9 issued a photocopy facsimile of the organizational certificate, which must display the solicitor's name
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11 prominently, and it must contain the inclusive dates of validity.
12

13 21. Solicitors may operate only between the hours of 9:00 a.m. and dusk, defined as one
14
15 half hour after sunset.
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17 22. Failure to comply with any Chapter 5.64 requirement by any person, firm, or
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19 corporation constitutes a civil violation punishable by a fine of \$100. A second violation of Chapter
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21 5.64 constitutes a criminal offense under PMC § 9A.05.010, and it is punishable by fines in the
22
23 thousands of dollars and jail time. PMC § 5.64.170.
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25 23. Chapter 5.64 lists no purpose for the regulation of solicitors. Ordinance 2792, which
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27 created the current regime, states that the City Council had received "significant and compelling"
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29 input from residents and businesses seeking "appropriate" City regulations for solicitors and that the
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31 Ordinance was "necessary to promote the public health, safety and welfare." Ordinance 2792 does
32
33 not specify any input the City Council purportedly received or further identify or elaborate on the
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35 interests protected.
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37 24. Earlier this year, plaintiff planned and prepared to begin door-to-door religious
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39 solicitation in Puyallup.
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41 25. To this end, plaintiff has tried on repeated occasions to explain to the City that the
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43 restrictions imposed by Chapter 5.64 are inappropriate and unconstitutional.
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45 26. In response, City officials have offered a series of inconsistent promises to relax
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47 certain requirements while enforcing others, all apparently at the discretion of City officials.
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49 27. Due to the restrictions that Puyallup has imposed, the Mission has not been able to
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51 engage in door-to-door religious solicitation in Puyallup.

28. Door-to-door religious solicitation is the Mission's primary means of support for its social programs.

29. Door-to-door religious solicitation also is one of the essential means by which members of the Mission evangelize and practice the Social Gospel and thereby advance their personal and spiritual growth.

30. As a result of Chapter 5.64, the Mission and its members have been prohibited from engaging in solicitation-based speech in Puyallup and generally have been chilled in their efforts to evangelize and practice the Social Gospel.

31. In addition, the Mission has been unable to collect funds it otherwise would have been able to collect, and, as a result, the organization's efforts to advance its central purpose have been compromised.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Deprivation of Free Speech and Associational Rights

32. Plaintiff incorporates by reference paragraphs 1-31 of this Complaint.

33. By prohibiting and excessively limiting protected speech, defendants have violated (and continue to violate) plaintiff's constitutional rights under the First and Fourteenth Amendments of the United States Constitution and article I, section 5 of the Washington State Constitution. Denial of rights guaranteed by the First and Fourteenth Amendments is actionable under 42 U.S.C. § 1983.

34. Puyallup's adoption of Chapter 5.64, its enforcement of Chapter 5.64, and its threats to enforce Chapter 5.64 are unconstitutional due to deficiencies both on the face of the Ordinance and as it has been applied to plaintiff.

35. The definition of "soliciting" in the Ordinance is overbroad and impermissibly limits individuals engaged in religious discourse and similar speech. Under Chapter 5.64, any individual must obtain a City-issued permit before soliciting for gifts or contributions for the support of any

1 charitable or nonprofit organization, association, or corporation (and engaging in related speech
2 activities). An individual simply is precluded from engaging in such activity on public property.
3

4
5 36. Because solicitors are required to obtain the City's permission before engaging in
6 constitutionally protected speech, the Ordinance is an unlawful prior restraint. The prior restraint is
7 particularly burdensome for those seeking organizational licenses, which are valid for a maximum of
8 30 days each calendar year.
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12 37. Chapter 5.64 vests the City's agents with excessive discretion to approve, deny, or
13 revoke licenses without adequate guidance.
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16 38. Chapter 5.64 grants the City's agents excessive discretion to approve or deny appeals.
17 The appeal provisions are silent as to time for resolution of an appeal. Chapter 5.64 contains no
18 criteria or standards to guide the City's agents in their decision to approve or deny appeals. Chapter
19 5.64 provides insufficient procedural safeguards for those wishing to appeal a denial or revocation of
20 a license.
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24 39. Chapter 5.64 is not a reasonable time, place, and manner restriction because it is not
25 content-neutral, it is not narrowly tailored to advance significant or compelling City interests, and it
26 does not leave sufficient alternatives for expression.
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30 40. Chapter 5.64 violates both the federal and state constitutions and chills protected
31 speech by requiring individuals to disclose their names, home addresses, social security numbers,
32 physical descriptions, and other personal information as a condition to obtaining a license to speak.
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36 41. Through the enactment, enforcement, and threatened enforcement of Chapter 5.64,
37 defendants have, under color of state law, deprived plaintiff and its members of rights, privileges, or
38 immunities secured by the United States Constitution or laws of the United States, and they are
39 subject to liability pursuant to 42 U.S.C. § 1983.
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41

42
43 42. The injuries suffered by plaintiff cannot be fully compensated by monetary damages.
44 If enforcement of Chapter 5.64 is not enjoined, plaintiff and its members will suffer irreparable
45 injury, including, but not limited to, the chilling of free speech rights.
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COMPLAINT (No.) – 7

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SECOND CAUSE OF ACTION

Deprivation of Due Process Rights

43. Plaintiff incorporates by reference paragraphs 1-42 of this Complaint.

44. Chapter 5.64 deprives plaintiff and its members of their due process rights by imposing restrictions that are impermissibly vague, in violation of the Fourteenth Amendment of the United States Constitution and article I, section 3 of the Washington State Constitution.

45. Chapter 5.64 violates the Fourteenth Amendment guarantee of due process, which is actionable under 42 U.S.C. § 1983.

46. Through the enactment, enforcement, and threatened enforcement of Chapter 5.64, defendants have, under color of state law, deprived plaintiff and its members of rights, privileges, or immunities secured by the United States Constitution or laws of the United States, and they are subject to liability pursuant to 42 U.S.C. § 1983.

47. The injuries suffered by plaintiff cannot be fully compensated by monetary damages. If enforcement of Chapter 5.64 is not enjoined, plaintiff and its members will suffer irreparable injury, including, but not limited to, the chilling of free speech rights.

THIRD CAUSE OF ACTION

Deprivation of Liberty Interests Without Due Process of Law

48. Plaintiff incorporates by reference paragraphs 1-47 of this Complaint.

49. Plaintiff's rights to free speech and association are rights protected under the United States Constitution. The procedures established by the Puyallup City Council are not sufficient to meet the stringent requirements for the denial of these fundamental rights.

50. For example, Chapter 5.64 does not provide for a predeprivation hearing, and it does not provide for a hearing even after a license is denied or revoked.

51. Chapter 5.64 deprives plaintiff and its members of their speech and liberty interests in conducting lawful business, including preaching the Social Gospel and engaging in solicitation within

1 the City limits, without due process of law, in violation of the Fourteenth Amendment of the United
 2 States Constitution and article I, section 3 of the Washington State Constitution.

3
 4 52. Chapter 5.64 violates the Fourteenth Amendment guarantee of procedural due process,
 5 which is actionable under 42 U.S.C. § 1983.
 6

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 8 53. Through the enactment, enforcement, and threatened enforcement of Chapter 5.64,
 9 defendants have, under color of state law, deprived plaintiff and its members of rights, privileges, or
 10 immunities secured by the United States Constitution or laws of the United States, and they are
 11 subject to liability pursuant to 42 U.S.C. § 1983.
 12

13 54. The injuries suffered by plaintiff cannot be fully compensated by monetary damages.
 14 If enforcement of Chapter 5.64 is not enjoined, plaintiff and its members will suffer irreparable
 15 injury, including, but not limited to, the chilling of free speech rights.
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17 **FOURTH CAUSE OF ACTION**

18 **Deprivation of Rights of Religious Exercise**

19 55. Plaintiff incorporates by reference paragraphs 1-54 of this Complaint.
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21 56. Plaintiff's rights of religious exercise and liberty are protected under the United States
 22 Constitution.
 23

24 57. By prohibiting and excessively limiting plaintiff's religious exercise and liberty rights,
 25 defendants have violated (and continue to violate) plaintiff's constitutional rights under the First and
 26 Fourteenth Amendments of the United States Constitution and article I, section 11 of the Washington
 27 State Constitution. Denial of rights guaranteed by the First and Fourteenth Amendments is actionable
 28 under 42 U.S.C. § 1983.
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30 58. Through the enactment, enforcement, and threatened enforcement of Chapter 5.64,
 31 defendants have, under color of state law, deprived plaintiff and its members of rights, privileges, or
 32 immunities secured by the United States Constitution or laws of the United States, and they are
 33 subject to liability pursuant to 42 U.S.C. § 1983.
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1 59. The injuries suffered by plaintiff cannot be fully compensated by monetary damages.
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3 If enforcement of Chapter 5.64 is not enjoined, plaintiff and its members will suffer irreparable
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5 injury, including, but not limited to, the chilling of the rights of religious exercise.
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7 **VI. PRAYER FOR RELIEF**
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9 Plaintiff seeks the following relief:
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11 A. Preliminary and permanent injunctive relief enjoining defendants from enforcing or
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13 threatening to enforce the Ordinance;
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15 B. A declaratory judgment that Chapter 5.64 is unconstitutional on its face and as
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17 applied;
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19 C. Attorney's fees and costs pursuant to 42 U.S.C. § 1988, or such other authority as may
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21 authorize such an award; and
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23 D. Such other further relief as this Court deems proper.
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s/ Lisa Manheim # 40198

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ATTACHMENT A:
Chapter 5.64 of the Puyallup Municipal Code

Chapter 5.64 SOLICITORS

Sections:

<u>5.64.010</u>	Definitions.
<u>5.64.020</u>	Solicitor's license – Required.
<u>5.64.030</u>	Certificate – Organizational.
<u>5.64.040</u>	License fee.
<u>5.64.050</u>	Solicitor's license – Application.
<u>5.64.060</u>	Investigation of applicants.
<u>5.64.070</u>	Issuance of license – Expiration date.
<u>5.64.080</u>	Denial, revocation or suspension of license.
<u>5.64.090</u>	Suspension or revocation procedure.
<u>5.64.100</u>	Carrying of license required.
<u>5.64.110</u>	Prohibited practices.
<u>5.64.120</u>	Notice regulating soliciting.
<u>5.64.130</u>	Uninvited solicitors – Prohibited – Violation a nuisance.
<u>5.64.140</u>	Uninvited solicitors – Departure from premises required.
<u>5.64.150</u>	Time restrictions.
<u>5.64.160</u>	Exemptions – License fee.
<u>5.64.170</u>	Violation – Penalty.

5.64.010 Definitions.

Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

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

(2) "Registered solicitor" means and includes any person who has obtained a valid solicitor's license as provided in this chapter, which certificate is in the possession of the solicitor while engaged in soliciting.

(3) "Soliciting" means and includes one or more of the following activities:

(a) Seeking to obtain orders for, or the sale of, goods, wares, merchandise, foodstuffs, or services of any kind, character, or description, for any kind of consideration whatever; or

(b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publications; or

(d) Seeking to obtain gifts or contributions of money, clothing, or other valuable thing for the support or benefit of any charitable or nonprofit organization, association, or corporation. (Ord. 2792 § 2, 2004).

5.64.020 Solicitor's license – Required.

Every person desiring to engage in soliciting, as defined in PMC 5.64.010, from persons in residences or businesses within the city is required to make written application for and receive a solicitor's license as provided in this chapter. (Ord. 2792 § 2, 2004).

5.64.030 Certificate – Organizational.

Recognizing that bona fide community-based organizations engage in annual fund raising with volunteer solicitors, the city clerk is authorized to grant an organizational certificate to an appropriate official of the organization, who shall comply with the application procedure and provide the city clerk with the names and addresses of the solicitors. The organizational certificate shall be limited in time, and in no event for more than 30 days in any calendar year. Each individual solicitor shall then be issued a photocopy facsimile of the organizational certificate, which shall contain the solicitor's name in prominent letters, and shall contain the inclusive dates of validity. (Ord. 2792 § 2, 2004).

5.64.040 License fee.

The license fee for a solicitor shall be \$50.00 per year per person. A background investigation is required for each solicitor. The cost shall be separate from the solicitor's application fee, and as set forth in the fees schedule adopted by resolution by the city council. Licenses issued are not transferable. (Ord. 2792 § 2, 2004).

5.64.050 Solicitor's license – Application.

(1) Applications for a solicitor's license shall be made to the city clerk upon forms provided by the city. The applicant shall attest to the truthfulness of the application, and shall complete the application in full, providing the following information:

- (a) Name, prior name(s) and aliases; address; present place of residence and the length of residence at such address; and business address if other than the present address;
- (b) Address or place of residence during the past two years if other than present address;
- (c) In the event the name or address of the applicant has changed within the last two years, each name and address used over the last two-year period;
- (d) Applicant's date of birth;
- (e) Name(s) and address(es) of any person, firm, or corporations whom the applicant is employed by or represents; and the length of time of such employment or representation;
- (f) A description of the item(s) being solicited and/or a description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;
- (g) Period of time for which the license is applied;
- (h) Whether the applicant has ever been convicted of a violation of a felony under the laws of this state or any other state or federal law of the United States;
- (i) Signature of applicant;
- (j) Social Security number of applicant;
- (k) Physical description of the applicant.

(2) The applicant:

- (a) Shall complete an "authorization to release information," form allowing the police department to conduct necessary background checks;
- (b) May be required to submit to fingerprinting or palm scanning by the police department, in connection with the application for the license;
- (c) Shall provide a copy of a valid driver's license or picture I.D. for identification purposes. (Ord. 2792 § 2, 2004).

5.64.060 Investigation of applicants.

(1) It shall be the duty of the chief of police to investigate each application made under PMC 5.64.020. In his investigation, the chief of police shall determine:

- (a) The genuineness of all credentials presented by the principal applicant and/or the individual applicant;
- (b) If the principal applicant and/or the individual applicant has a criminal record; and
- (c) The truth of the facts set forth in the application.

(2) The chief of police shall endeavor to complete such investigation within seven to 10 working days after receipt of the application. Should the chief of police determine that a denial of a license is in order, the applicant shall have the right to appeal that decision to the city council. No license shall be issued to any person who has been convicted in the commission of a felony under the laws of the state, or any other state or federal law of the United States, within five years from the termination of any court-ordered time served and including any probationary period ordered; nor to any person whose license issued under this chapter has previously been revoked. The chief of police has the authority to deny or revoke any license for the following crimes:

- (a) Larceny;
- (b) Assault;
- (c) Domestic violence crimes;
- (d) Fraud;
- (e) Sex crimes;
- (f) Drug-related crimes;
- (g) Crimes against children and/or vulnerable adults. (Ord. 2792 § 2, 2004).

5.64.070 Issuance of license – Expiration date.

If, after the completion of the investigation, the chief of police determines that the facts set forth in the application are true, then the chief may approve the application, and the city clerk shall issue the license. The license shall not be transferable. No license shall be issued until the conclusion of the police chief's investigation of the application. All licenses expire December 31st of the year in which issued. (Ord. 2792 § 2, 2004).

5.64.080 Denial, revocation or suspension of license.

In addition to the other penalties provided by law, any license issued under the provisions of this chapter may be denied, revoked or suspended at any time, where the same was:

(1) Procured by fraud, false representation or material omission of fact, or for the violation of or failure to comply with any of the provisions of this chapter by the person holding such license; or

(2) If the licensee violates any applicable city, state or federal law, or if the purpose for which the license was issued is being abused to the detriment of the public, or if such license is being used for a purpose different from that for which it was issued;

(3) Upon revocation, the individual shall not be granted a license upon any new application that may be made for a period of 90 calendar days from the date of revocation;

(4) It is unlawful for any person whose license has been revoked or suspended to continue in the business of solicitor or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the city clerk, the chief of police or his/her designee;

(5) Upon denial of a license, the city clerk shall give written notice of such action to the applicant, stating the basis for such action. A copy of this letter shall become part of the original application, and kept on file in the city clerk's office. (Ord. 2792 § 2, 2004).

5.64.090 Suspension or revocation procedure.

Any license may be revoked by the city clerk, the chief of police or his/her designee for any violations of city ordinances or any state or federal law. The revocation of the license shall entitle the holder thereof to appeal the revocation to the city council in writing within 10 days of the revocation or denial of their license. (Ord. 2792 § 2, 2004).

5.64.100 Carrying of license required.

The license required by this chapter and photo identification shall be carried at all times by the solicitor for whom it was issued when soliciting in the city. The license and photo identification shall be exhibited by the solicitor whenever and wherever he or she shall be requested to do so by any police officer, city official or person solicited. (Ord. 2792 § 2, 2004).

5.64.110 Prohibited practices.

It shall be unlawful for any person, while engaged or attempting to engage in soliciting within the city, to:

(1) Enter upon any other person's private property, home, residence, apartment complex or business that prominently displays a "No Peddlers" or "No Solicitors" sign, or any other similar sign that communicates the occupant's desire not to be contacted by solicitors.

(2) Persist or continue in any solicitation or attempted solicitation of any particular member or members of the general public if such person or persons do not wish or desire any further solicitation efforts.

(3) Solicit or sell merchandise upon the city street, sidewalk or public right-of-way or any other public property either on foot or from any cart, wagon, wheeled conveyance or other device.

(4) Solicit or sell merchandise within 500 feet of a legally licensed temporary stand, temporary event, or special event. (Ord. 2792 § 2, 2004).

5.64.120 Notice regulating soliciting.

Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this chapter shall comply with the directions contained in this section.

(1) Notice of the determination by the occupant(s) of the refusal of an invitation to solicitors to a residence, business, or development shall be given in the manner following:

(a) A sign posted in a conspicuous place, at, near or posted on the door, or upon any gated and fenced property, that reads "no solicitors allowed."

(b) In single-family or multifamily residential developments served by a readily identifiable entrance, notice may be given by posting at each entrance a sign of an appropriate size placed at a location which will give reasonable notice to any person entering the development that solicitors are not allowed, and containing language such as "no solicitors allowed." (Ord. 2792 § 2, 2004).

5.64.130 Uninvited solicitors – Prohibited – Violation a nuisance.

It is unlawful and constitutes a nuisance for a person to go upon a premises and ring the doorbell upon or near a door, or create a sound in any other manner calculated to attract the attention of the occupant of such residence or business for the purpose of securing an audience with the occupant thereof and engage in soliciting as defined in PMC 5.64.010, in defiance of the notice exhibited at the residence, business, or development in accordance with the provisions of PMC 5.64.120. (Ord. 2792 § 2, 2004).

5.64.140 Uninvited solicitors – Departure from premises required.

It shall be the duty of every solicitor upon going onto any premises or development in the city upon which a residence, as defined in this chapter, or a business is located to determine if the notice provided for in PMC 5.64.120 exists, and to be governed by the statement contained on the notice by immediately and peacefully departing from the premises.

A solicitor who has gained entrance to a residence, business, or development, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. (Ord. 2792 § 2, 2004).

5.64.150 Time restrictions.

No person shall engage in soliciting within the city, except between the hours of 9:00 a.m. and dusk, or one-half hour after sunset. (Ord. 2792 § 2, 2004).

5.64.160 Exemptions – License fee.

This chapter shall not apply to the following groups:

(1) Any person selling personal property at wholesale to dealers in such articles or commodities; shall not apply to newspaper couriers; shall not apply to bona fide candidates, campaign workers or political committees campaigning on behalf of candidates or ballot issues, and persons soliciting signatures of registered voters or petitions to be submitted to any governmental agency; shall not apply to persons who have been invited to call upon that other person for the purpose of displaying for possible purchase goods, literature or giving information about any article, thing, product or service.

(2) Farmers, gardeners, or other persons who deliver or sell any agricultural, horticultural, or farm products which they have actually grown, harvested, or produced; provided, that this exemption does not apply to the sale of firewood.

(3) This chapter shall not apply to casual sales of seasonal articles such as produce, holiday items, handmade gift articles, etc., or services such as lawn care, snow removal and other household jobs.

(4) Nothing in PMC 5.64.010 through 5.64.150 shall be construed so as to require licensing of any person or persons engaged in the business of selling through the United States mail. (Ord. 2792 § 2, 2004).

5.64.170 Violation – Penalty.

The person, firm or corporation who violates or fails to comply with any of the provisions of this chapter shall be guilty of a civil violation. A second violation of the provisions of this chapter shall constitute a criminal offense, as outlined in PMC 9A.05.010. (Ord. 2792 § 2, 2004).