



Town of Southern Shores

"A Town of Volunteers"

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Ordinance #03-01-025

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES

BE IT ORDAINED, by the Town Council for the Town of Southern Shores that Chapter 6, Article II **Nuisances**, Sec. 6-26(7) of the Southern Shores Town Code is hereby amended to read as follows:

(7) *Solicitation, etc.* The following acts are considered a public nuisance and are not permitted within the corporate limits: Peddling, begging, soliciting or collecting.

a. This paragraph shall not apply to:

- i. The delivery of goods or services which have been ordered before delivery;
- ii. The circulation of petitions for signature or lawful distribution of advertising materials, flyers, or materials expressing views on political, social or religious matters;
- iii. The lawful promotion or expression of views concerning political, social, religious and other like matters;
- iv. The sale or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, or fraternal organizations which are exempt from the payment of privilege licenses, and who receive no compensation of any kind for their services, and such sale or offering by children under the age of eighteen (18) years who are students in a public or private school for school activities;
- v. The sale or delivery of goods to business establishments.

b. It is unlawful for any person, firm or corporation to solicit charitable contributions by going from door-to-door within the town without having first secured a solicitor's permit from the town as provided below. Additionally, it is unlawful to solicit for charitable contributions unless the following requirements are met:

i. Solicitation of charitable contributions shall be permitted only between the hours of 9:00 a.m. and 6:00 p.m. during Eastern Daylight Time and 9:00 a.m. to 5:00 p.m. during Eastern Standard Time.

ii. The solicitor permit issued for that person shall be carried and displayed at all times while conducting such solicitations in such a manner as to be clearly visible to a reasonable person of adequate vision.

iii. All other permits or licenses required by law shall have been obtained.

c. *Permit applications.* Applications for permits to solicit charitable contributions shall be submitted to the police department during normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m. Eastern Time) on a form provided by the police department, under oath, and shall include, but not be limited to, the following information:

i. The full name of the applicant;

ii. The permanent residence address of the applicant;

iii. The applicant's temporary address in or in the vicinity of the town, if applicable;

iv. The name and address of the applicant's employer or the organization with which the applicant is associated in connection with the solicitation of charitable contributions;

v. The period for which the application is sought, which shall not exceed sixty (60) consecutive calendar days; provided that the permit may be renewed for sixty-day periods without limit, upon proper application therefor;

vi. A record of any and all crimes of which the applicant has been convicted or has pleaded no contest in the ten (10) years preceding the submittal of the application;

vii. The age, height, weight, and any other additional information which the town may reasonably require for identification, including a copy of the document(s) used by the applicant to verify personal identification (e.g. driver's license, passport, picture I.D.);

viii. A complete listing of and information concerning all other permits or licenses, such as privilege licenses, which were obtained by the applicant.

ix. Documentation that the organization for which charitable contributions are to be solicited is a nonprofit and tax exempt entity.

If an application is filed by an employer, there shall also be filed separate applications for each solicitor giving the information set forth above for each solicitor and signed and sworn to by each solicitor, and a separate permit shall be issued for each applicant.

d. *Procedures for considering applications.*

i. Upon receipt of a complete application, the police chief or designee (hereafter "police chief") shall make or cause to be made such investigation as reasonably necessary to verify the information in the application and to assure compliance with the provisions of this section and shall issue a permit unless the applicant:

- (1) Has not submitted a completed application;
- (2) Is not permitted by law to engage in such activity due to age;
- (3) Has been convicted of, or has pleaded no contest to, a felony charge within the ten (10) years preceding the submittal of the application;
- (4) Has been, within the previous five (5) years, convicted of, or pleaded no contest to, a misdemeanor charge involving theft, fraud, forging, uttering, or other crimes of like nature or any crime involving moral turpitude;
- (5) Does not have valid driving privileges in the state in those case where the applicant will be operating a vehicle

in the course and scope of the soliciting for charitable contributions; or

(6) Has not obtained the necessary licenses.

ii. The police chief shall approve or deny an application and issue a permit as soon as possible and, except in the case of extraordinary circumstances, as when a number of applications are submitted within a short period of time, should act within seventy-two (72) hours of receipt of the completed application. Such issued permit shall be nontransferable.

iii. *Permit renewal.* A permit for solicitation of charitable contributions may be renewed for an unlimited number of sixty-day periods, provided an application for renewal is made on such form as provided by the police chief no later than the expiration date on the current valid permit. Applications received after that date shall be processed as new applications. The police chief shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this section. If the police department finds that the application meets the above requirements, the renewal permit shall be issued.

iv. *Appeals.* The appeal of a refusal to issue a permit or the revocation of a permit shall be made to the town manager by filing a written notice of appeal, specifying with particularity the grounds upon which the appeal is made, no later than ten (10) days from the date of the refusal to issue a permit or the revocation of a permit. The town manager or designee ("town manager") shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties, and shall render a decision within a reasonable time. The order or decision of the town manager shall be final municipal action.

v. *Revocation of permit.* Permits issued under this section may be revoked where evidence is presented that the applicant has been arrested for a felony or a misdemeanor involving theft, fraud, forgery, moral turpitude, criminal trespass, or a threat to the public safety during the solicitation period, or has otherwise violated the provisions of this section. A permit which has been revoked shall be immediately surrendered to the police department. Appeals of revocations may be made pursuant to the same process as for denied permits.

e. Licenses or permits; refusal to issue, suspension, revocation; notice, hearing.

i. The town may refuse to issue a license or permit, or the licenses or permits issued pursuant to this Code, unless otherwise provided hereunder, may be suspended or revoked by the town manager or other authorized official, department, board or agency where applicable, after notice and hearing for any of the following causes:

(1) Any fraud, misrepresentations or false statements contained in the application for permit or license;

(2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, merchandise and services;

(3) Any violation of this section and/or any ordinance of the town;

(4) Conviction of the applicant, licensee or permittee of any crime or misdemeanor involving moral turpitude or a violation of any act of this state, or any law of the United States having a reasonable relationship to the purpose and scope of the permit or license;

(5) Conducting the activity under this Code and/or any ordinance of the town in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public.

ii. Notice of hearing for the suspension or revocation of a license or permit shall be in writing given by the town clerk, setting forth specifically the grounds of the complaint and the time and place of the hearing. Service of such notice shall be made either by personal service or by certified mail, return receipt requested, to the applicant, licensee or permittee at the last known address, at least five (5) days prior to the date set for the hearing.

iii. In case of refusal to issue a permit or license or the suspension or revocation of a license or permit as herein provided, no portion of the application, license or permit fee shall be returned to the applicant, licensee or permittee unless otherwise provided in this section and/or any ordinance of the town.

iv. Any suspension or revocation hereunder shall not be considered a recovery or penalty so as to bar any other penalty from being enforced.

v. The order of the town manager or other authorized official, department, board or agency where applicable, shall be the final municipal action for the purpose of judicial review.

ATTEST:

Carrie Gordin
Carrie Gordin, Town Clerk

Paul Sutherland
Paul Sutherland, Mayor

Vote: 5 Aye 0 Nay

APPROVED AS TO FORM:

Donald I. McRee, Jr.
Donald I. McRee, Jr., Town Attorney

Motion by Councilman Campbell
Second by Councilman Sutherland (Mayor)

Adopted: 1-7-03