

CITY OF MONMOUTH, COUNTY OF POLK

STATE OF OREGON

An Ordinance Amending Monmouth)
City Code Chapter 60 Relating to)
Soliciting; and Repealing Prior)
Conflicting Ordinances)

ORDINANCE NO. 1330

THE CITY OF MONMOUTH DOES ORDAIN AS FOLLOWS:

Section 1. That Chapter 60 of the Monmouth City Code be amended and restated in its entirety as follows:

60.110. Policy and Purpose.

The City of Monmouth finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right of privacy that is caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The council has also been advised that, based upon actual experiences in Monmouth, and in the opinion of crime prevention specialists nationwide, there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable city officials and citizens of the city to become informed concerning the individuals and organizations who choose to solicit in the city. Sections 60.110 to 60.180 also provide a mechanism for discouraging those solicitors who avoid registration and provide a mechanism to identify and discourage those who would use solicitation as a front for criminal activity.

60.120. Definition.

For purposes of sections 60.110 to 60.180, the terms "solicit" and "solicitation" mean the entry onto real property, without the actual consent of the occupant to do so, by a person for the purpose of taking

orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise or services to merchants of this city, nor to newspaper vendors or minors selling goods, wares, merchandise or services on behalf of any public or private school or any nonprofit charitable organization that is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code of the United States, as it may be amended from time to time.

60.130. Prohibited Acts and Penalties.

- (1) No person shall:
 - (a) Solicit before 9:00 a.m. or after 8:30 p.m. when the local time is daylight savings time or after 7:00 p.m. when the local time is standard time.
 - (b) Solicit on a Sunday or legal holiday.
 - (c) Solicit at any premises where a "No Soliciting," "No Trespassing" or similar sign is prominently displayed, or remain at any premises after having been directed to leave.
 - (d) Fail to provide the information required to be given by door-to-door sellers under and in accordance with the provisions of ORS 646.611.
 - (e) Solicit without first having obtained a registration certificate if required to do so by sections 60.150 and 60.160.
 - (f) Violate the terms of a registration certificate issued under section 60.160.
 - (g) Solicit after a registration certificate has been revoked.
 - (h) Allow, suffer, or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

- (i) Provide false or fraudulent information on a registration statement.
- (j) Allow, suffer, or permit any person to solicit on their behalf after a registration certificate has been revoked.
- (2) Violation of any provision of subsection (1) of this section shall be a Class C misdemeanor.

60.140. Consent to Enter Onto Real Property, Exemptions.

(1) It shall be an affirmative defense to an alleged violation of section 60.130 (1)(a) that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter the real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(2) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(3) Officers, employees, or agents of a governmental entity, while performing activities within the scope of their office, employment, or agency are exempt from the requirements of sections 1 through 8.

60.150. Registration Statement.

(1) All persons intending to solicit at five or more dwelling units in the city during any eight-hour period shall pay the registration fee established by resolution of the City Council and file with the city manager a registration statement, on forms provided by the city manager, containing the following information:

- (a) The name of the person registering and desiring to solicit.
- (b) Whether the person registering is a natural person, partnership, corporation, limited liability company or association, and
 - (i) If a natural person, the business or residence address and telephone number of the person.

(ii) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(iii) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Willamette Valley area office of such corporation, and the registered agent of the corporation and the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.

(iv) If an association or limited liability company, the registration statement shall show the association or limited liability company's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association or limited liability company, unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association or managers of the limited liability company. If the association or limited liability company is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

(c) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation of the intended purpose of the solicitation.

(d) The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation and the names and addresses of all persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the city or the public concerning the solicitation activities.

(e) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

(f) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

(g) The names of any other cities in which the person registering has solicited within the past five years, but if the person registering has solicited in more than five other cities, the person registering may list the five cities located closest to Monmouth.

(h) A statement that if a certificate of registration is granted, the certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

(i) The names of any officer, director, trustee, partner, corporation, or any current agent or employee or any other person actually engaging in the solicitation who has signed a consent decree or order in the last five years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, and the nature of the offense or consent decree or order, the state where the conviction or consent decree or order occurred, and the year of the conviction or consent decree or order.

(j) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(k) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if the person registering is a corporation or an association, by an officer; if the person registering is a limited liability company, by a member or manager. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he or she has carefully read the registration statement and that all the information contained therein is true and correct.

(2) Submission of a registration statement under this section shall constitute the registrant's consent to conduct an investigation of the registrant's qualifications by the city, and consent to a criminal background check of the registrant under city ordinance. If the registrant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background

check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to engage in solicitation within the city of Monmouth under the registration.

(3) The registration statement and information submitted with the registration statement are public records available for public inspection during normal city business hours.

60.160. Issuance of Certificate of Registration.

(1) After a review of the registration statement to determine its compliance with section 60.150, and within ten working days of the receipt of the registration statement, the city manager shall either issue a certificate of registration, or notify the person registering that the registration statement does not comply with the requirements of section 60.150. The notice shall specifically point out what required information or explanation has not been furnished before a certificate of registration can be issued.

(2) If the person registering is engaged in an activity for which a business license is required by the city, proof of a valid business license shall be furnished prior to the issuance of the certificate.

60.170. Revocation of Registration.

(1) A certificate of registration shall be revoked by the city manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of two violations of section 60.130 occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred.

(2) The period of revocation shall be for six months, during which time the person may not receive a certificate of registration.

(3) Within five working days of receipt of notification that a registered person has been convicted or pleaded guilty or no contest to the second violation, the city manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five days prior to the effective date of the revocation.

(4) The person may appeal the manager's decision to the council by filing a notice of appeal with the city manager within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

60.180. Form of Certificate of Registration; Term.

(1) The city manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the city of Monmouth or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the city manager shall contain a termination date upon which the certificate shall expire. The termination date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by section 60.130.

Section 2. Ordinance No. 286, Ordinance No, 1406 and all prior and conflicting ordinances are hereby repealed.


Read for the first time: September 3, 2013

Read for the second time: September 17, 2013

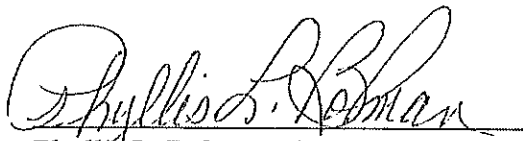
Adopted by the City Council: September 17, 2013

Approved by the Mayor: September 17, 2013

ATTEST:



John E. D. Oberst, Mayor



Phyllis L. Bolman, City Recorder