

## **ORDINANCE NO 537**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIDNEY,  
MONTANA, AMENDING TITLE 5 CHAPTER 6 OF THE CITY CODE OF THE CITY  
OF SIDNEY.

WHEREAS, the City has been experiencing ever greater numbers of individuals and firms with no local connection soliciting local residents to purchase products or services; and

WHEREAS, the City bears a responsibility of providing protection for its citizens from victimization by fraudulent purveyors of products and services;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS by the City Council of the City of Sidney that Chapter 6 of Title 5 of the City Code of the City of Sidney is hereby amended as follows:

### **5-6-1: DEFINITIONS:**

A "solicitor" within the meaning of this chapter is defined to be any person who goes from house to house, or place to place, within the corporate limits of the city (or from a stand, wagon, railroad car, motor vehicle or upon any street or upon any public ground or from temporary quarters within the city, whether such license be conducted by personal contact and interview or by use of telephone for such purpose), selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, professional or personal services, or for the making, manufacturing or repairing of any article or thing whatsoever, except those selling to merchants for resale. (Ord. 176, 8-16-1954)

### **5-6-2: LICENSE REQUIRED:**

It shall be unlawful for any person to act as solicitor within the meaning and application of this chapter, unless said person shall have first secured a license therefore in the manner provided by this chapter. Each license shall be issued in the name of the applicant and if the applicant is an individual employing other solicitors, or is a partnership or corporation, the license shall also bear the name of one person soliciting as agent or employee for the applicant; and the license shall not be transferable to any other person or any other agent or employee of the applicant. (Ord. 207, 11-21-1960)

### **5-6-3: FEES:**

A. The license fee for solicitors hereunder shall be as follows: the sum of four hundred dollars (400.00) per year or sixty dollars (60.00) per month or twenty dollars (20.00) per day at the option of the applicant. For each additional license for agents or employees of the applicant, the license fee shall be two hundred dollars (200.00) per year, thirty dollars (30.00) per month or ten dollars (10.00) per day. Yearly licenses shall expire on December 31 of each year, monthly licenses on the last day of the month in which issued and daily licenses as set forth on the license. (Ord. 207, 11-21-1960)

B. In addition to said license fee, any person, firm or corporation so engaged in such occupation or business who, at the time of his application, shall not maintain an established place of business within the city shall pay an investigation fee of fifty dollars (50.00), which sum shall be used to investigate the ability of the applicant to qualify for a license under this chapter. The sum is payable at the time the application is filed. Where the applicant has been previously granted a license within a period of twelve (12) months prior to the date of application and there are no new employees or agents who were not listed on the previous year's application, the applicant shall not be required to pay the investigation fee. (Ord. 176, 8-16-1954; amd. Ord. 377, 5-5-1987)

### **5-6-4: APPLICATION:**

All persons or firms desiring to obtain a solicitor's license shall apply in writing on forms

provided by the City. Such form shall contain but is not limited to the following information and shall be signed by the person making application. Form must be completed truthfully and accurately with all required information, failure to do so may be grounds for denial of the application.

A. Name of person, firm or corporation; along with the current address and all applicable telephone and fax numbers. If licensed in any state or jurisdiction copies of the appropriate licenses must accompany the application unless waived by the City.

B.. Nature or character of, goods, wares, merchandise or services to be offered by each solicitor.

C. Name and address of person who will act as the supervising agent for the applicant also the names and addresses of all additional persons who act as solicitors for the applicant

D. Length of service of each supervising agent or solicitor with the applicant.

E. Place of residence and nature of employment of each supervising agent or solicitor during the last preceding year.

F. A personal description of each solicitor along with such credentials as may be reasonably required for identification. (Ord. 176, 8-16-1954)

G. The hours of operation during which goods or services are to be offered.

H. A clear and concise copy of a photo ID for each solicitor must be attached to the application.

#### **5-6-5: ISSUANCE OF LICENSE:**

If the Chief of Police shall determine after investigation that the facts set forth in the application are true, that the solicitor is of good moral character, and that he proposes to engage in a lawful and legitimate commercial or professional enterprise, the Chief of Police shall then approve the application and the City Clerk may issue the license applied for. Such license shall expire on December 31 of the year in which such license shall have been issued. Except as hereinafter provided, no license shall be issued until the conclusion of the investigation (Ord. 376, 5-5-1987)

#### **5-6-6: MUST CARRY LICENSE:**

Such license with attached personal description shall be carried at all times by each solicitor for whom issued when soliciting or canvassing in the city and shall be exhibited by such solicitor when requested to do so by any police officer or person solicited. (Ord. 176, 8-16-1954)

#### **5-6-7: REVOCATION:**

License may be revoked by the Chief of Police or the City Clerk for any violations of federal, state, county or city laws or ordinances, if committed by either the solicitor or his employer or whenever such solicitor shall, in the judgment of the council, cease to possess the character and qualification required by this chapter for the issuance of such permit. (Ord. 176, 8-16-1954)

#### **5-6-8: BOND:**

A. Any applicant wishing to apply for a solicitor's license under this act should take all necessary steps to insure that they are in compliance with all state laws regarding registration with the appropriate Montana State agencies. Applicant must produce proof of current bond or liability insurance issued by a company licensed to do business in the State of Montana. Such liability insurance or bond must be in the amount of at least ten (10) times the value of the goods or services to be delivered.

- B. In cases of food products either fresh, frozen or prepared which are offered by solicitors going door to door or operating from fixed locations, applicants must have a current and valid license issued by the proper agency of the Montana Department of Public Health and Human Services and possess proof of current liability insurance in the minimum amount of two hundred fifty thousand (250,000.00) dollars is required. Such insurance must remain valid and in effect for at least one hundred eighty (180) days from the date of application.
- C. If the applicant for a license, including solicitor or his employer, shall be unwilling to receive a license only upon the conclusion of the investigation called for by section [5-6-5](#) of this chapter, and he desires the issuance of a license by the clerk immediately upon application, he may deposit with the clerk a cash or surety bond in the sum of not less than fifty thousand dollars(50,000.00) said surety bond to be executed by a company authorized to write such bonds in the state, which bond shall be in the favor of the city, covering the period for which such license is issued, plus a period of one hundred eighty(180) days thereafter and conditioned that the business will be conducted in a lawful and proper manner and that all goods, wares, merchandise or personal or professional services sold by the solicitor will be delivered in accordance with the terms of the written order, or, failing therein, that the advance payment made by the buyer on such order shall be refunded; thereupon, such license or licenses may immediately issue. Any person aggrieved by the action of such solicitor shall have a right of action on the bond for the recovery of the money or damages or both. Such remaining cash bond will be returned at the termination of the license plus a period of one hundred eighty(180) days without interest. (Ord. 376, 5-5-1987)

**5-6-9: ORDERS:**

All orders taken by licensed solicitors shall be in writing, in duplicate, stating the name as it appears on the license and address of both the solicitor and his employer, the terms thereof and the amount paid in advance. One copy shall be given the purchaser. (Ord. 176, 8-16-1954)

**5-6-10: HOURS OF OPERATION**

Door to door sales by solicitors offering goods or services are prohibited after 8:00 pm unless prior arrangements have been made with the prospective customer. Sales by solicitors from fixed sites which are conducted after 8:00pm must be located in areas that do not disturb or disrupt the peace and quiet of any residential area.

**5-6-11: EXCEPTIONS:**

Provisions of this chapter do not apply to the following individuals or groups;

- A. Any person using a vehicle owned by him whether operated by him or his agent, for the transportation of farm produce raised or produced by him on his own or leased premises, when the entire course of such transportation extends not more than the confines of the territorial limits of the state of Montana;
- B. Any regularly licensed auctioneer in pursuit of his profession;
- C. Any local religious, charitable or social institution when the solicitors so engaged are bona fide residents of the city, employed without compensation or remuneration, to further and advance the aims and purposes of such institutions;
- D. Any regularly established and recognized charitable or welfare institutions or organization of and within the state of Montana and whose benefits are available to any person within the state of Montana;
- E. Any wholesalers calling upon established newspapers or radio stations situated in and publishing in or broadcasting from an established place of business within the state of Montana;
- F. Any salesperson, wholesaler or distributor calling upon any established business located within the city limits.

- G. Any class and yearbooks sponsored by the public and parochial schools of the state of Montana.
- H. Any citizen of Sidney or Richland County, Montana, qualified to vote in regular elections who have had an established place of business within the corporate limits of the city or Richland County for at least three (3) months immediately proceeding the date upon which they commence business regulated by this chapter. (Ord. 176, 8-16-1954)
- I. Any organized special event conducted within the city limits.
- J. Any request made in writing at least two (2) weeks prior to a regular meeting and granted by the Sidney City Council after being deemed to be in the best interest of the community.