

**CITY OF MARCO ISLAND  
ORDINANCE NO. 03-01**

**AN ORDINANCE TO ESTABLISH CITY OF MARCO ISLAND SOLICITATION REGULATIONS TO SUPERSEDE, REPLACE AND/OR SUPPLEMENT STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY CODE; ESTABLISHING INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; IDENTIFYING PROHIBITED ACTS; PROVIDING PERMIT REQUIREMENTS AND FEES; PROVIDING PENALTIES; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes, provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 1.01 of the Marco Island City Charter empowers the city to adopt, amend, or repeal ordinances, resolutions, and codes as may be required for the good governing of the City; and

**WHEREAS**, the residents of the City of Marco Island have been subjected to uninvited solicitations by persons acting on behalf of businesses or other organizations; and

**WHEREAS**, many of these solicitations have been associated with complaints of improper conduct or suspicious activity; and

**WHEREAS**, the residents of the City of Marco Island have an interest in protecting themselves from fraud and other crime; and

**WHEREAS**, this Ordinance is intended to regulate certain solicitations within the City to protect the residents of the City of Marco Island.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Marco Island, Florida that:

## **Section 1. Intent and purpose.**

The intent and purpose of this ordinance is to require any solicitor to establish the solicitor's identity to safeguard the interests of residents of the City of Marco Island in the prevention of fraud and prevention of other crime. This ordinance is also intended to protect the privacy of the residents of the City of Marco Island by limiting solicitation to reasonable hours.

## **Section 2. 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:

*Solicitation* means going to a residential property or dwelling unit without the express consent of or invitation from the owner or occupant for either (i) the sale or offer for sale of any goods, wares, merchandise, real estate (including timeshares), subscriptions, or services, or (ii) the offer of money for services of any kind, or other consideration, or the enticement or importunity thereof.

*Solicitor* means any person who engages in solicitation.

## **Section 3. Exception.**

The permit requirement of this ordinance shall not apply to Collier County residents under the age of 18 engaging in solicitation for any civic, charitable, or governmental organization. Any parent or legal guardian accompanying any such individual shall not be required to obtain a permit.

## **Section 4. Acts prohibited.**

No person shall:

1. Enter into or upon residential premises in the city under false pretenses to engage in solicitation for any purpose.
2. Enter upon any residential premises to engage in solicitation, when the owner or occupant has displayed a "No Soliciting" or "No Peddlers" sign on such premises.
3. Remain in or on any residential premises to engage in solicitation after the owner or occupant has requested any such person to leave.
4. Engage in solicitation in the city without a permit as provided in this Article.
5. Engage in solicitation prior to 9:00 a.m. or after 5:00 p.m.

6. Engage in solicitation in the city with a permit issued in another's name.
7. Engage in solicitation without a permit visibly displayed.
8. Fail to produce photo identification upon request when engaged solicitation.

#### **Section 5. Permit application; contents.**

Except as otherwise provided in Section 3, all persons before entering into or upon a residential premises within the city to engage in solicitation, shall file an application for a permit with the police chief or the police chief's designee and include with such application the following information:

1. The name, local and permanent addresses, age, race, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the applicant.
2. A color photo identification.
3. The nature or purpose for which solicitations will be made, including a description of any goods, wares, merchandise, real estate, subscriptions, or services to be offered for sale.
4. The name, address and phone number of the business for which the solicitor will be soliciting, which customers can contact with questions and complaints.
5. A current copy of the Collier County occupational license applicable to the solicitor.
6. A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor.
7. A complete set of fingerprints of the person registering, such fingerprints to be taken by the city manager or the city manager's designee.

#### **Section 6. Issuance**

Upon furnishing the information required under Section 5, the applicant shall be issued a permit, unless the information furnished in compliance with this Article shows that the applicant has been:

1. Convicted of a violent felony crime, or;

2. Three or more convictions for crimes involving theft, fraud, violence or moral turpitude, or;
3. Two convictions for crimes involving theft, fraud, violence or moral turpitude if less than ten years have passed since released from any court ordered incarceration or supervision, or;
4. One conviction for a felony crime involving theft, fraud, or moral turpitude if less than five years have passed since released from any court ordered incarceration or supervision, or;
5. One conviction for a misdemeanor crime involving theft, fraud, violence or moral turpitude if less than three years have passed since released from any court ordered incarceration or supervision.

#### **Section 7. Duration, renewal.**

A permit issued under this Article shall be valid for 30 days from the date of issuance. Renewals for like periods may be granted, unless earlier revoked as provided in this Article. A maximum of 2 renewals will be granted without submission of a new permit application and payment of the applicable permit fee. Prior to issuing a renewal, the individual shall attest to the accuracy of the information provided in the original permit application and disclose any changes to the information previously provided therein.

#### **Section 8. Duty to carry, exhibit permit.**

Every solicitor shall carry the solicitor's permit and photo identification at all times while engaged in solicitation. The permit shall be visibly displayed while engaged in solicitation and the photo identification shall be shown upon request.

#### **Section 9. Fees.**

A permit application fee, which fee shall be fixed by resolution of the city council, shall be paid to the city manager or the city manager's designee when the application is filed. The fee shall cover the costs of a background investigation of the applicant and processing of the application.

#### **Section 10. Revocation authorized; grounds.**

Permits issued as provided by this Article may be revoked by the city manager or the city manager's designee after notice and hearing for any of the following offenses:

1. Fraud, misrepresentation or a false statement in the application.

2. Fraud, misrepresentation or a false statement in the conduct of the solicitation.
3. Violation of any condition, provision or qualification provided in the application.
4. Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law involving theft, fraud, violence or moral turpitude.
5. Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or menace to public health, safety or welfare.
6. Failure to comply with any provision of this Article.

#### **Section 11. Notice of revocation.**

Written notice of revocation of a permit issued under this Article and the grounds therefor shall be mailed or delivered to a permittee at the address listed in permittee's application.

#### **Section 12. Appeal.**

Any person aggrieved by the denial of a permit or revocation of a permit shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city manager, within 14 days after notice of the action complained of has been mailed or delivered to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant at least five days before the date of said hearing. The decision and order of the city council on such appeal shall be final.

#### **Section 13. Penalties.**

1. Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of any section of this chapter shall be punished by a fine not exceeding \$500.00 or imprisonment not exceeding 60 days or by both such fine and imprisonment.
2. In addition to the penalties provided in subsection (a) of this section, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated by the city as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

**Section 14. Incorporation, Conflict and Severability.**

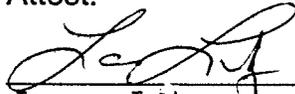
1. It is the intention of the City Council and it is hereby ordained that the provision of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.
2. If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

**Section 15. Effective Date.**

This ordinance shall take effect immediately upon adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 21st day of January, 2003.

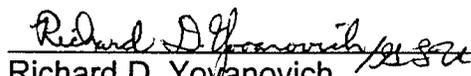
Attest:

  
\_\_\_\_\_  
Laura Litzan  
City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY:   
\_\_\_\_\_  
E. Glenn Tucker, Chairman

Approved as to form and  
legal sufficiency:

  
\_\_\_\_\_  
Richard D. Yovanovich  
City Attorney