

TOWN OF GOLDEN BEACH, FLORIDA

ORDINANCE NO. 531.08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, CREATING CHAPTER 63 ENTITLED "SOLICITING" OF THE TOWN CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, solicitors and/or peddlers have recently become prevalent within the Town of Golden Beach (the "Town"); and

**WHEREAS**, the Town Council finds that it is necessary to regulate such solicitors and/or peddlers by requiring a permit for operating within the Town, providing for time limitations, and providing for age limits; and

**WHEREAS**, the Town Council further finds that it is appropriate to prohibit door-to-door solicitation or peddling where a homeowner posts written notice upon or near the main entrance door to his or her residence providing that such types of businesses are not allowed; and

**WHEREAS**, the Town Council finds this Ordinance to be in the best interest and welfare of the residents of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:**<sup>1</sup>

**Section 1. Recitals Adopted.** That each of the above recitals is hereby adopted

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<sup>1/</sup> Proposed additions to existing Town Code text are indicated by underline; proposed deletions from existing Town Code text are indicated by ~~strikethrough~~. Highlighted text indicates proposed amendments made between first and second reading.

and confirmed.

**Section 2. Creation of Chapter 63 of the Town Code of Ordinances.**

Chapter 63 entitled "Soliciting" is hereby created to read as follows:

**Chapter 63 SOLICITING**

**Sec. 63-1. Definitions.**

For purposes of this Chapter, the following words shall be considered to have the following meanings:

(a) *Soliciting* shall mean and include any one or more of the following activities:

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

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

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

(4) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project or for any other purpose; or

(5) Selling or attempting to sell merchandise or services or both while carrying such merchandise or the materials necessary to provide services.

(b) *Solicitor* shall mean: (1) a person, whether or not registered, who for a fee or other compensation solicits on behalf of others; or (2) a person, whether or not registered, who solicits for purposes of engaging a person in a commercial transaction.

Notwithstanding the foregoing, a person under the age of 18 who resides in the Town and solicits on the behalf of any charitable or nonprofit association shall not be considered a solicitor.

**Sec. 63-2. Permit required.**

(a) Every person desiring to engage in soliciting as a solicitor is required to make written application for a permit as provided below. Such permit shall be carried by the solicitor.

(b) Any person desiring to engage in soliciting as a solicitor shall obtain a permit by filing an application with the Town Clerk which contains the following information:

- (1) The name and age of the applicant or, in the case of a business entity, the names and ages of its principals and officers.
- (2) The type of permit desired.
- (3) The type or types of products or services which the applicant will sell or attempt to sell.
- (4) A statement that the applicant will observe and comply with the requirements of this Chapter.
- (5) A statement that the application is made under the penalties of Section 837.06, Florida Statutes, as amended, and that the giving of false or misleading information in the application is recognized as grounds for the suspension or revocation of the permit.
- (6) If food is to be sold or distributed, proof of a health permit must be shown to the Town.
- (7) Proof of payment of appropriate occupational license taxes.

(8) The names and ages of all employees who will work under the permit.

(9) Proof of insurance (where required).

**Sec. 63-3. Notice regulating soliciting.**

(a) Town residents that do not want soliciting by a solicitor on their property shall post a clearly legible sign near the front door of their residence providing that soliciting is prohibited.

(b) The posting of such a sign shall constitute sufficient notice to any solicitor that soliciting by any person is prohibited at such residence.

**Sec. 63-4. Duty of solicitors.**

(a) Prior to soliciting on any residential property within the Town, a solicitor shall examine whether or not there is a sign prohibiting soliciting. In the event there is such a sign, the solicitor shall immediately depart from the premises.

(b) Any solicitor who is permitted to solicit on a property shall immediately depart from the property when requested to do so by the occupant.

**Sec. 63-5. Uninvited soliciting prohibited.**

It shall be unlawful for any solicitor ~~person~~ to ring the doorbell upon or near any door or to create any sound in any other manner to attract the attention of the occupant of a residential property, for the purpose of engaging in or attempting to engage in soliciting, if a sign prohibiting soliciting, as provided for in this Chapter, has been posted on the property.

**Sec. 63-6. Time limit on soliciting.**

It shall be unlawful for any solicitor ~~person~~ to ring the doorbell upon or near any door or to create any sound in any other manner to attract the attention of the occupant

of a residential property, for the purpose of engaging in or attempting to engage in soliciting, prior to 9:00 a.m. or after 9:00 p.m. of any weekday or weekend.

**Sec. 63-7. Age limitations.**

(a) It shall be unlawful for any solicitor ~~person~~ under the age of 14 to engage in solicitation.

(b) It shall be unlawful for any solicitor ~~person~~ under the age of 18 to engage in solicitation without direct supervision by a person at least 18 years of age. Direct supervision means the supervising solicitor ~~person~~ shall at all times have the minor in sight and shall in no event be more than 100 feet away from the minor.

**Sec. 63-8. Restrictions on methods of solicitation.**

It shall be unlawful for a solicitor to do any of the following:

(a) Falsely represent, directly or by implication, that the solicitor is acting on behalf of a governmental organization, a charitable organization or any person other than the person for whom the solicitor is actually acting.

(b) Fail to identify herself or himself as a solicitor for that in which the solicitor is permitted.

**Sec. 63-9. Violations of this chapter.**

Any solicitor ~~person~~ violating the provisions of this Chapter shall be subject to a \$500 fine and may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a facility as authorized by law.

**Section 3. Severability.** That if any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent

jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. Inclusion in the Code.** That the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Golden Beach, Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Conflict.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall become effective immediately upon adoption on second reading.

**Sponsored by** Town Administration.

The Motion to adopt the foregoing Ordinance was offered by Council Member Einstein, seconded by Vice Mayor Bernstein, and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye</u>
Councilmember Amy Rojas	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

**PASSED AND ADOPTED** on first reading this 15<sup>th</sup> day of January, 2008.

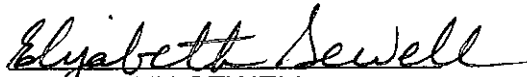
The Motion to adopt the foregoing Ordinance was offered by Vice Mayor Rojas, seconded by Councilmember Lusskin and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Amy Rojas	<u>Absent</u>
Councilmember Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED on second reading this 19<sup>th</sup> day of February, 2008.

ATTEST:

  
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MAYOR GLENN SINGER

  
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ELIZABETH SEWELL  
TOWN CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
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STEPHEN J. HELFMAN,  
TOWN ATTORNEY