

**Carson City  
Agenda Report**

**Date Submitted:** August 3, 2012

**Agenda Date Requested:** August 16, 2012

**Time Requested:** 5 minutes

**To:** Mayor and Board of Supervisors

**From:** Sheriff Kenny Furlong  
Randal Munn, Chief Deputy District Attorney

**Subject Title:** For Possible Action: to adopt Bill No. 109, on second reading, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.16 – SOLICITORS AND CANVASSERS, AMENDING SECTION 4.16.010 – PERMIT REQUIRED, TO ELIMINATE CANVASSERS AND OTHER NON-COMMERCIAL FIRST AMENDMENT SOLICITORS FROM THE TITLE AND PERMIT REQUIREMENT AND TO ADD PEDDLERS, AMENDING SECTION 4.16.020 – DEFINITION, TO CLARIFY AND EXPAND DEFINITIONS AND DELETE THE SHERIFF'S APPLICATION PROCESS FROM THE SECTION, AMENDING SECTION 4.16.040 – INVESTIGATION AND ISSUANCE, TO CHANGE THE SECTION NAME AND CREATE A NEW PERMIT REGISTRATION PROCESS AND DENIAL DUE PROCESS AND PERMIT FEE SCHEDULE, AMENDING SECTION 4.16.050 – BADGES, BY DELETING THE BADGE DEPOSIT AND REFUND PROCESS AND PROHIBITING USE OF AN EXPIRED BADGE, AMENDING SECTION 4.16.060 – REVOCATION OF PERMIT, TO ADD CLARIFICATION TO THE PERMIT REVOCATION DUE PROCESS, AMENDING SECTION 4.16.070 – APPEAL, TO CHANGE THE SECTION'S NAME AND DELETE THE APPEAL PROCESS AND REPLACE IT WITH A MISDEMEANOR PROHIBITION FOR ANY AND ALL TYPES OF SOLICITORS THAT VIOLATE A POSTED NO SOLICITING SIGN, AMENDING SECTION 4.16.080 – EXPIRATION OF PERMITS, TO MAKE EXPIRATION LANGUAGE CHANGES, AMENDING SECTION 4.16.100 – HOURS OF SOLICITING, TO DELETE THE SECTION, AMENDING SECTION 4.16.110 – CERTAIN SALESMEN EXEMPTED, TO CHANGE THE SECTION'S NAME AND TO CLARIFY AND EXPAND THE LIST OF PERSONS EXEMPT FROM THE PERMIT REQUIREMENT, AND OTHER MATTERS PROPERLY RELATED THERETO. *(Sheriff Kenny Furlong); (Randal Munn)*

**Staff Summary:** The existing solicitors' ordinance was adopted prior to current applicable case law and has not been previously updated. Compliance with current law has been accomplished by non-strict enforcement of the current ordinance under advice of the District Attorney's office. The applicable case law allows reasonable time, place and manner restrictions on "commercial speech" though it too is considered 1st Amendment speech. Door to door soliciting is either commercial speech or pure 1<sup>st</sup> Amendment speech (for example: political or religious speech). Generally, the restrictions that the law might allow to be

placed upon commercial speech are not allowed with regard to pure 1<sup>st</sup> Amendment speech. This amendment to the Carson City Municipal Code is necessary to bring the City's ordinance in compliance with current law on this subject.

**Type of Action Requested:**

- Resolution  Ordinance- Second Reading  
 Formal Action/Motion  Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Board Action:** I move to adopt Bill No. 109, on second reading ORDINANCE NO. \_\_\_\_\_, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.16 – SOLICITORS AND CANVASSERS, AMENDING SECTION 4.16.010 – PERMIT REQUIRED, TO ELIMINATE CANVASSERS AND OTHER NON-COMMERCIAL FIRST AMENDMENT SOLICITORS FROM THE TITLE AND PERMIT REQUIREMENT AND TO ADD PEDDLERS, AMENDING SECTION 4.16.020 – DEFINITION, TO CLARIFY AND EXPAND DEFINITIONS AND DELETE THE SHERIFF'S APPLICATION PROCESS FROM THE SECTION, AMENDING SECTION 4.16.040 – INVESTIGATION AND ISSUANCE, TO CHANGE THE SECTION NAME AND CREATE A NEW PERMIT REGISTRATION PROCESS AND DENIAL DUE PROCESS AND PERMIT FEE SCHEDULE, AMENDING SECTION 4.16.050 – BADGES, BY DELETING THE BADGE DEPOSIT AND REFUND PROCESS AND PROHIBITING USE OF AN EXPIRED BADGE, AMENDING SECTION 4.16.060 – REVOCATION OF PERMIT, TO ADD CLARIFICATION TO THE PERMIT REVOCATION DUE PROCESS, AMENDING SECTION 4.16.070 – APPEAL, TO CHANGE THE SECTION'S NAME AND DELETE THE APPEAL PROCESS AND REPLACE IT WITH A MISDEMEANOR PROHIBITION FOR ANY AND ALL TYPES OF SOLICITORS THAT VIOLATE A POSTED NO SOLICITING SIGN, AMENDING SECTION 4.16.080 – EXPIRATION OF PERMITS, TO MAKE EXPIRATION LANGUAGE CHANGES, AMENDING SECTION 4.16.100 – HOURS OF SOLICITING, TO DELETE THE SECTION, AMENDING SECTION 4.16.110 – CERTAIN SALESMEN EXEMPTED, TO CHANGE THE SECTION'S NAME AND TO CLARIFY AND EXPAND THE LIST OF PERSONS EXEMPT FROM THE PERMIT REQUIREMENT, AND OTHER MATTERS PROPERLY RELATED THERETO.

**Explanation for Recommended Board Action:** The 9<sup>th</sup> Circuit Court of Appeals has stated:

In *Central Hudson*, the [U.S.] Supreme Court announced a four-part test for assessing the constitutionality of a restriction on commercial speech: (1) if 'the communication is neither misleading nor related to unlawful activity,' then it merits First Amendment scrutiny as a threshold matter; in

order for the restriction to withstand such scrutiny, (2) '[t]he State must assert a substantial interest to be achieved by restrictions on commercial speech;' (3) 'the restriction must directly advance the state interest involved'; and (4) it must not be 'more extensive than is necessary to serve that interest. *Metro Lights v. City of Los Angeles*, 551 F.3d 898, 903 (9<sup>th</sup> Cir. 2009).

Therefore, limiting the access to a solicitor's permit to engage in commercial speech, or revoking such permit, must meet this test. While protecting privacy, preventing crime and protecting consumers are valid government interests, the modern case law finds that government restriction of hours/days of solicitation are not "narrowly tailored to serve a substantial government interest." The 9<sup>th</sup> Circuit has also held:

Privacy is easily served by prohibiting solicitation at households that have posted a sign or listed themselves in a registry; crime can be regulated by licensing, registration, and normal enforcement. Consumer protection, an interest the cities have not elaborated upon, can be served by providing for a period of free rescission of sale. *Project 80's v. City of Pocatello*, 942 F.2d. 635 (9<sup>th</sup> Cir. 1991).

In *Gaudiya Vaishnava Society v. City of San Francisco*, 952 F.2d 1059 (9<sup>th</sup> Cir. 1991), the court held San Francisco's peddler's permit ordinance was unconstitutional on its face because it permitted the denial or revocation of a permit on the basis of discretionary judgment of the chief of police. Under Carson City's current ordinance, the basis for granting a permit and suspending one by the Sheriff is not based upon objective standards and does not provide sufficient constitutional guidance to the Sheriff as the decision maker. Thus, this amendment will cure this defect.

In *Ohio Citizens Action v. City of Englewood*, 2012 U.S. App. LEXIS 1904 (6<sup>th</sup> Cir. 2012) another circuit court recently struck down a solicitation curfew between 6pm and 9am as unconstitutional and not narrowly tailored. The court affirmed that empowering citizens to control their privacy by posting "no soliciting" signs would be a constitutional means to meet the city's interest. Therefore, the City's current "hours of soliciting" ordinance is vulnerable to constitutional attack.

A homeowner, property owner, or a lessor/renter has the right to exclude or prevent trespassing upon their property to control and/or prevent unwanted solicitation that will disturb their privacy. This right may be applied against those that attempt either commercial speech or pure 1<sup>st</sup> Amendment speech. This amendment to the ordinance empowers the City's citizens to control their individual desires regarding solicitors, backed by government's enforcement of a misdemeanor violation. However, they must take affirmative steps to post an appropriate sign to empower government to lawfully enforce their privacy.

Because it is not legal or possible to do criminal background checks on all types of solicitors that might enter the City's neighborhoods, the current permit system is amended from an application/investigation process to an affidavit/registration process for commercial speech solicitors and peddlers only, with some express exceptions. The current permit badge deposit/refund system is eliminated because it is not possible to recover the costs of administration. The Sheriff will continue to issue permit badges that must be worn while soliciting. Pursuant to NRS 248.320 the Sheriff cannot charge any fee that is not expressly provided for in NRS chapter 248.

**Applicable Statute, Code, Policy, Rule or Regulation:** CCMC chapter 4.16; Nevada Revised Statutes 248.320.

**Fiscal Impact:** Nominal loss of unclaimed badge deposit fees.




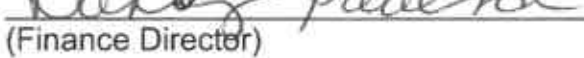
**Explanation of Impact:** N/A

**Funding Source:** N/A

**Alternatives:** 1) Refer back to staff and District Attorney's office for further review  
2) Do not adopt the ordinance

**Supporting Material:** Ordinance  
Existing Ordinance CCMC chapter 4.16

**Prepared By:** Randal Munn, Chief Deputy District Attorney, Civil Division

<b>Reviewed By:</b> 	Date: <u>8-7-12</u>
(Public Works)	
	Date: <u>8/7/12</u>
(City Manager)	
	Date: <u>8/7/12</u>
(District Attorney)	
	Date: <u>8/7/12</u>
(Finance Director)	

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
 2) \_\_\_\_\_ \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

ORDINANCE NO. \_\_\_\_\_

BILL NO. 109

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.16 – SOLICITORS AND CANVASSERS, AMENDING SECTION 4.16.010 – PERMIT REQUIRED, TO ELIMINATE CANVASSERS AND OTHER NON-COMMERCIAL FIRST AMENDMENT SOLICITORS FROM THE TITLE AND PERMIT REQUIREMENT AND TO ADD PEDDLERS, AMENDING SECTION 4.16.020 – DEFINITION, TO CLARIFY AND EXPAND DEFINITIONS AND DELETE THE SHERIFF'S APPLICATION PROCESS FROM THE SECTION, AMENDING SECTION 4.16.040 – INVESTIGATION AND ISSUANCE, TO CHANGE THE SECTION NAME AND CREATE A NEW PERMIT REGISTRATION PROCESS AND DENIAL DUE PROCESS AND PERMIT FEE SCHEDULE, AMENDING SECTION 4.16.050 – BADGES, BY DELETING THE BADGE DEPOSIT AND REFUND PROCESS AND PROHIBITING USE OF AN EXPIRED BADGE, AMENDING SECTION 4.16.060 – REVOCATION OF PERMIT, TO ADD CLARIFICATION TO THE PERMIT REVOCATION DUE PROCESS, AMENDING SECTION 4.16.070 – APPEAL, TO CHANGE THE SECTION'S NAME AND DELETE THE APPEAL PROCESS AND REPLACE IT WITH A MISDEMEANOR PROHIBITION FOR ANY AND ALL TYPES OF SOLICITORS THAT VIOLATE A POSTED NO SOLICITING SIGN, AMENDING SECTION 4.16.080 – EXPIRATION OF PERMITS, TO MAKE EXPIRATION LANGUAGE CHANGES, AMENDING SECTION 4.16.100 – HOURS OF SOLICITING, TO DELETE THE SECTION, AMENDING SECTION 4.16.110 – CERTAIN SALESMEN EXEMPTED, TO CHANGE THE SECTION'S NAME AND TO CLARIFY AND EXPAND THE LIST OF PERSONS EXEMPT FROM THE PERMIT REQUIREMENT, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 4, Chapter 16 of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

**Chapter 4.16 – SOLICITORS AND ~~CANVASSERS~~ PEDDLERS**

**Sections:**

4.16.010 – Registration Permit required.

4.16.020 - Definitions.

4.16.040 – ~~[Investigation]~~ Registration requirements and issuance.

- 4.16.050 - Badges.
- 4.16.060 - Revocation of permit.
- 4.16.070 - ~~[Appeal]~~ Posted no solicitors - unlawful violations.
- 4.16.080 - Expiration of permits.
- ~~[4.16.100 - Hours for soliciting.]~~
- 4.16.110 - Certain ~~[salesmen]~~ persons exempted from permit.

Section II: Title 4, Chapter 16, Section 4.16.010 of the Carson City Municipal Code is hereby amended as follows:

**4.16.010 – Registration Permit required.**

It is unlawful for any solicitor or ~~[canvasser]~~ peddler as defined in Section 4.16.020 to engage in such business within Carson City without first obtaining a registration permit therefor in compliance with the provisions of this chapter.

Section III: Section 4.16.020 of the Carson City Municipal Code is hereby amended as follows:

**4.16.020 - Definitions.**

As used in this chapter, ~~["canvasser" or]~~ "solicitor" or "peddler" means any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, selling or taking or attempting to sell or take orders for sale of a product of any nature whatsoever, except food from a food establishment as defined by NRS 446.020, for immediate or future delivery, or for services not requiring a professional license to be furnished or performed presently or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself or for another person, firm or corporation hires, leases, uses or occupies any building, structure, tent, hotel room, lodging house, apartment, shop, or any other place within Carson City for the purpose of exhibiting samples and taking orders for future delivery.

"Commercial traveler" means any person working as a sales representative for a corporation or other business entity authorized to do business in Nevada which is engaged in intrastate or interstate commerce.

"First Amendment solicitor" means any person whose solicitation is an exercise of pure political, religious or other First Amendment communication not involving the sale of goods or services.

"Local peddler or solicitor" means a permit applicant under this chapter whose primary residence or business is located within the boundaries of Carson City, Nevada.

"Peddle or solicit" means active or passive selling, offering for sale or soliciting orders for goods or services to any person (or distributing, disseminating or gathering commercial information to or from any person) upon the streets, sidewalks or alleys of the city, or by going from place to place or door to door whether by foot or by other means of transportation. Distribution, dissemination or gathering of written commercial information or electronic commercial information (or a packaged free product sample) upon private or public property not involving inter-person communication shall not be considered peddling or soliciting.

~~[1. An applicant for a permit under this chapter must file with the sheriff a sworn application in writing on a form to be furnished by the sheriff, which shall give the following information:~~

~~a. Name and description of the applicant;~~

~~b. Permanent home address and full local address of the applicant;~~

~~c. A brief description of the nature of the business and the goods to be sold;~~

~~d. If employed, the name and address of the employer, together with credentials establishing the exact relationship;~~

~~e. The length of time for which the right to do business is desired;~~

~~f. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;~~

~~g. Two (2) photographs of the applicant, taken within sixty days immediately prior to the date of thy filing of the application, which pictures shall be two inches by two inches showing front view of the head and shoulders of the applicant in a clear and distinguished manner;~~

~~h. The fingerprints of the applicant and the names of at least two reliable property owners of Carson City who will certify as to the applicants good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;~~

~~i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;~~

~~j. A statement by a reputable physician of the city, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious,~~

infectious, or communicable diseases.

2. ~~At the time of filing the application, a fee of ten dollars (\$10.00) shall be paid to the sheriff to cover the cost of investigation of the facts therein stated.]~~

Section IV: Section 4.16.040 of the Carson City Municipal Code is hereby amended as follows:

**4.16.040 – ~~[Investigation]~~ Registration requirements and issuance.**

1. No person shall solicit or peddle before obtaining a registration permit from the Carson City Sheriff's Office (sheriff). Registration shall be a sworn statement in writing on a form to be furnished by the sheriff, which shall give the following information:

a. Name and description of the solicitor or peddler;

b. Permanent home address and phone number and full local address and phone number of the solicitor or peddler;

c. A brief description of the nature of the business or activity, whether the solicitor or peddler will be a for profit or not for profit solicitor or peddler and any goods or services to be sold;

d. If employed in the capacity of a solicitor or peddler, the name, address, phone number and Carson City Business License number of the employer;

e. If an independent contractor, a listing of all companies the independent contractor is an agent for, the companies' addresses and their phone numbers.

f. The length of time not to exceed six (6) months for which the person intends to solicit or peddle in Carson City;

g. The place where any goods or property proposed to be sold, or orders taken for the sale thereof, are located at the time the registration is filed, and the proposed method of delivery;

h. A current photograph of the solicitor or peddler;

i. A statement that within the past five (5) years the applicant has not been convicted of, nor released from jail or prison for conviction of, any crime of burglary, theft, embezzlement, fraud, robbery, rape, assault, battery, manslaughter, murder, sale of a controlled substance, prostitution or any other crime of moral turpitude and is not currently required to register as a sex offender; and



j. A statement the applicant is currently free of contagious, infectious, or communicable diseases that may be passed by casual business contact with other individuals.

~~[4.]~~ 2. Upon receipt of such [application] registration containing satisfactory responses, the sheriff shall [cause such investigation of the applicant's product, business and moral character to be made as he deems necessary for the protection of the public good.] issue a permit. Any denial of the permit shall be in writing and set forth the reason(s) for the denial. Upon receipt of notice of denial the applicant may appeal to the Board of Supervisors as set forth in this section.

3. A notice of denial shall be deemed received three (3) calendar days following regular mail of notice to any disclosed address in the registration. Any denial by the sheriff may be appealed to the Board of Supervisors provided a written appeal setting forth the basis of the appeal is received by the sheriff within fifteen (15) calendar days of the date of the denial notice. The board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 4.16.060(2) for notice of hearing on revocation. The decision and order of the board on such appeal shall be final and conclusive.

~~[2. If as a result of such investigation the applicant's product, character or business responsibility is found to be unsatisfactory, the sheriff shall endorse on such application his disapproval and his reasons for the same, and shall notify the applicant that his application is disapproved and that no permit will be issued.~~

~~3. If as a result of such investigation the product, character and business responsibility of the applicant are found to be satisfactory, the sheriff shall endorse on the application his approval, and shall issue a permit addressed to the applicant for the carrying on of the business applied for and deliver the permit to the applicant.]~~

Section V: Section 4.16.050 of the Carson City Municipal Code is hereby amended as follows:

#### **4.16.050 – Badges.**

1. The sheriff shall issue to each permittee at the time of delivery of his permit a badge which shall contain the words "solicitor's permit" and the number of the permit.
2. Such badge shall, during the time such permittee is engaged in soliciting or peddling, be worn constantly by the permittee on the front of his outer garment in such a way as to be conspicuous.
3. ~~[The permittee shall pay a deposit of \$10.00 for such badge; said deposit for the badge to be refunded upon request or termination of the period for which the permit is issued and as a prerequisite to the payment of the refund the badge issued must be~~

~~returned.]~~ A permittee shall not solicit or peddle while wearing an expired badge.

~~[4. The request for the return of the deposit must be made within 60 days after expiration of the permit, and if not so made the deposit shall revert to the general fund of Carson City.]~~

Section VI: Section 4.16.060 of the Carson City Municipal Code is hereby amended as follows:

**4.16.060 – Revocation of permit.**

1. Permits issued under the provisions of this chapter may be revoked by the board after notice and hearing, for any of the following causes:

- a. Fraud, misrepresentation, or false statement contained in the ~~[application]~~ registration for permit;
- b. Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or ~~[as canvasser]~~ peddler;
- c. Any violation of this chapter;
- d. Conviction of any crime or misdemeanor of burglary, theft, embezzlement, fraud, robbery, rape, assault, battery, manslaughter, murder, sale of a controlled substance, prostitution or any other crime or misdemeanor involving moral turpitude; or
- e. Conducting the business of soliciting, or ~~[of canvassing]~~ peddling, 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, or general welfare of the public.

2. Notice of the hearing for the revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall either be served personally upon the permittee or shall be mailed, postage prepaid, to the permittee at ~~[his last known address]~~ any disclosed address in the registration at least 5 days prior to the date set for hearing.

3. The sheriff may suspend any such permit until the board conducts such hearing when immediate action is necessary to protect the health, safety or welfare of the public.

4. The decision and order of the board on such revocation hearing shall be final and conclusive.

Section VII: Section 4.16.070 of the Carson City Municipal Code is hereby amended as follows:

#### **4.16.070 – [Appeal] Posted no solicitors - unlawful violations.**

~~[1. Any person aggrieved by the action of the sheriff in the denial of a permit as provided in Section 4.16.040 shall have the right to appeal to the board.~~

~~2. Such appeal shall be taken by filing with the board, within 14 days after notice of the action complained of, a written statement setting forth the grounds for the appeal.~~

~~3. The board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 4.16.060(2) for notice of hearing on revocation.~~

~~4. The decision and order of the board on such appeal shall be final and conclusive.]~~

It is unlawful for any person, solicitor, peddler, commercial traveler or First Amendment solicitor as defined in CCMC Section 4.16.020 without prior invitation to knock upon or about any door, gate, window, wall, fence, entrance way, or to ring any door bell, or to activate any notification device, or to otherwise enter and interact with any person on private property in any uninvited type of solicitation or peddling, at any residence or commercial establishment where at least one (1) sign or written warning such as "No Peddlers", "No Peddling", "No Solicitors", "No Soliciting", "No Trespassing", or "Day Sleeper" is clearly posted for anyone entering the residence's or commercial establishment's relevant access entrance(s), entranceway(s), door(s), doorway(s), gate(s), gateway(s), walkway(s) or driveway(s). A posted sign or written warning may also set forth the hours and/or days when soliciting and peddling are not prohibited, for example "No Soliciting between 5:00 pm and 9:00 am". The mere placement of any written or electronic information or any free product sample upon private property in the accessible area adjacent to a posted sign or written warning authorized under this section shall not constitute a violation of this section.

Section VIII: Section 4.16.080 of the Carson City Municipal Code is hereby amended as follows:

#### **4.16.080 - Expiration of permits.**

All permits issued under the provisions of this chapter shall be for ~~[a stated daily, weekly or monthly period to beset forth in the permit, but in no case for a period of more than 6 months]~~ 180 days from issuance, after which they shall automatically expire.

Section IX: Section 4.16.100 of the Carson City Municipal Code is hereby deleted:

#### **~~[4.16.100 – Hours for soliciting.~~**

~~The permit of the applicant shall contain the authorization for the applicant to make solicitations in Carson City on all days except Sundays and holidays and only between~~



\_\_\_\_\_  
\_\_\_\_\_

NAYS: SUPERVISORS: \_\_\_\_\_

\_\_\_\_\_

ABSENT: SUPERVISORS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Robert Crowell, Mayor

ATTEST:

\_\_\_\_\_  
ALAN GLOVER  
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the \_\_ day of the month of \_\_\_\_\_ of the year, 2012.

Carson City, Nevada, Code of Ordinances >> Title 4 - LICENSES AND BUSINESS REGULATIONS >>  
Chapter 4.16 - SOLICITORS AND CANVASSERS >>

## Chapter 4.16 - SOLICITORS AND CANVASSERS

### Sections:

- 4.16.010 - Permit required.
- 4.16.020 - Definition.
- 4.16.040 - Investigation and issuance.
- 4.16.050 - Badges.
- 4.16.060 - Revocation of permit.
- 4.16.070 - Appeal.
- 4.16.080 - Expiration of permits.
- 4.16.100 - Hours for soliciting.
- 4.16.110 - Certain salesmen exempted.

### 4.16.010 - Permit required.

It is unlawful for any solicitor or canvasser as defined in Section 4.16.020 to engage in such business within Carson City without first obtaining a permit therefor in compliance with the provisions of this chapter.

### 4.16.020 - Definition.

As used in this chapter, "canvasser" or "solicitor" means any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, selling or taking or attempting to sell or take orders for sale of a product of any nature whatsoever for future delivery, or for services to be furnished or performed presently or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself or for another person, firm or corporation hires, leases, uses or occupies any building, structure, tent, hotel room, lodging house, apartment, shop, or any other place within Carson City for the purpose of exhibiting samples and taking orders for future delivery.

1. An applicant for a permit under this chapter must file with the sheriff a sworn application in writing on a form to be furnished by the sheriff, which shall give the following information:

- a. Name and description of the applicant;
- b. Permanent home address and full local address of the applicant;
- c. A brief description of the nature of the business and the goods to be sold;
- d. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- e. The length of time for which the right to do business is

desired;

f. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

g. Two (2) photographs of the applicant, taken within sixty days immediately prior to the date of thy filing of the application, which pictures shall be two inches by two inches showing front view of the head and shoulders of the applicant in a clear and distinguished manner;

h. The fingerprints of the applicant and the names of at least two reliable property owners of Carson City who will certify as to the applicants good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

j. A statement by a reputable physician of the city, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious, infectious, or communicable diseases.

2. At the time of filing the application, a fee of ten dollars (\$10.00) shall be paid to the sheriff to cover the cost of investigation of the facts therein stated.

#### **4.16.040 - Investigation and issuance.**

1. Upon receipt of such application, the sheriff shall cause such investigation of the applicant's product, business and moral character to be made as he deems necessary for the protection of the public good.
2. If as a result of such investigation the applicant's product, character or business responsibility is found to be unsatisfactory, the sheriff shall endorse on such application his disapproval and his reasons for the same, and shall notify the applicant that his application is disapproved and that no permit will be issued.
3. If as a result of such investigation the product, character and business responsibility of the applicant are found to be satisfactory, the sheriff shall endorse on the application his approval, and shall issue a permit addressed to the applicant for the carrying on of the business applied for and deliver the permit to the applicant.

#### **4.16.050 - Badges.**

1. The sheriff shall issue to each permittee at the time of delivery of his permit a badge which shall contain the words "solicitor's permit" and the number of the permit.
2. Such badge shall, during the time such permittee is engaged in soliciting, be worn constantly by the permittee on the front of his outer garment in such a way as to be conspicuous.
3. The permittee shall pay a deposit of \$10.00 for such badge; said deposit for the badge to be refunded upon request or termination of the period for which the permit is issued and as a prerequisite to the payment of the refund the badge issued must be returned.
4. The request for the return of the deposit must be made within 60 days after expiration

of the permit, and if not so made the deposit shall revert to the general fund of Carson City.

#### **4.16.060 - Revocation of permit.**

1. Permits issued under the provisions of this chapter may be revoked by the board after notice and hearing, for any of the following causes:
  - a. Fraud, misrepresentation, or false statement contained in the application for permit;
  - b. Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or as canvasser;
  - c. Any violation of this chapter;
  - d. Conviction of any crime or misdemeanor involving moral turpitude; or
  - e. Conducting the business of soliciting, or of canvassing, 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, or general welfare of the public.
2. Notice of the hearing for the revocation of a permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall either be served personally upon the permittee or shall be mailed, postage prepaid, to the permittee at his last known address at least 5 days prior to the date set for hearing.
3. The sheriff may suspend any such permit until the board conducts such hearing.

#### **4.16.070 - Appeal.**

1. Any person aggrieved by the action of the sheriff in the denial of a permit as provided in Section 4.16.040 shall have the right to appeal to the board.
2. Such appeal shall be taken by filing with the board, within 14 days after notice of the action complained of, a written statement setting forth the grounds for the appeal.
3. The board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 4.16.060 (2) for notice of hearing on revocation.
4. The decision and order of the board on such appeal shall be final and conclusive.

#### **4.16.080 - Expiration of permits.**

All permits issued under the provisions of this chapter shall be for a stated daily, weekly or monthly period to be set forth in the permit, but in no case for a period of more than 6 months.

#### **4.16.100 - Hours for soliciting.**

The permit of the applicant shall contain the authorization for the applicant to make solicitations in Carson City on all days except Sundays and holidays and only between the hours of 9:00 a.m. and 5:00 p.m. Solicitations at any other time or on any other day than as herein stated is expressly declared to be a violation of this chapter.

#### **4.16.110 - Certain salesmen exempted.**

This chapter shall not apply to commercial travelers selling goods to retail or wholesale stores or places of business.



**FEES; COMMISSIONS; COMPENSATION; MILEAGE**

**NRS 248.275 Collection and deposit of fees; amount of commissions and mileage; entitlement to compensation.**

1. The sheriff of each county in this State may charge and collect the following fees:

- For serving a summons or complaint, or any other process, by which an action or proceeding is commenced, except as a writ of habeas corpus, on every defendant \$17
- For traveling and making such service, per mile in going only, to be computed in all cases the distance actually traveled, for each mile..... 2
  - If any two or more papers are required to be served in the same suit at the same time, where parties live in the same direction, one mileage only may be charged.
- For taking a bond or undertaking in any case in which the sheriff is authorized to take a bond or undertaking..... 5
- For a copy of any writ, process or other paper, if demanded or required by law, for each page 3
- For serving every rule or order..... 15
- For serving one notice required by law before the commencement of a proceeding for any type of eviction..... 26
- For serving not fewer than 2 nor more than 10 such notices to the same location, each notice 20
- For serving not fewer than 11 nor more than 24 such notices to the same location, each notice 17
- For serving 25 or more such notices to the same location, each notice... 15
- For mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2
  - But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.
- For serving a subpoena, for each witness summoned..... 15
- For traveling, per mile in serving subpoenas, or a venire, in going only, for each mile 2
  - When two or more witnesses or jurors live in the same direction, traveling fees must be charged only for the most distant.
- For serving an attachment on property, or levying an execution, or executing an order of arrest or order for the delivery of personal property, together with traveling fees, as in cases of summons 15
- For making and posting notices and advertising for sale, on execution or any judgment or order of sale, not to include the cost of publication in a newspaper..... 15
- For issuing each certificate of sale of property on execution or order of sale, and for recording the original certificate with the county recorder, which must be collected from the party receiving the certificate 5
- For drawing and executing every sheriff's deed, to be paid by the grantee, who shall in addition pay for the acknowledgment thereof..... 20
- For serving a writ of possession or restitution, putting any person into possession entitled thereto 21
- For traveling in the service of any process, not otherwise provided in this section, for each mile necessarily traveled, for going only, for each mile..... 2
- For mailing a notice of a writ of execution..... 2

↪ The sheriff may charge and collect \$2 per mile traveled, for going only, on all papers not served, where reasonable effort has been made to effect service, but not to exceed \$20.

2. The sheriff may also charge and collect:

- (a) For commissions for receiving and paying over money on execution or process, where lands or personal property have been levied on, advertised or sold, on the first \$500, 4 percent; on any sum in excess of \$500, and not exceeding \$1,000, 2 percent; on all sums above that amount, 1 percent.
- (b) For commissions for receiving and paying over money on executions without levy, or where the lands or goods levied on are not sold, on the first \$3,500, 2 percent, and on all amounts over that sum, one-half of 1 percent.
- (c) For service of any process in a criminal case, or of a writ of habeas corpus, the same mileage as in civil cases, to be allowed, audited and paid as are other claims against the county.
- (d) For all services in justice courts, the same fees as are allowed in subsection 1 and paragraphs (a), (b) and (c) of this subsection.

3. The sheriff is also entitled to further compensation for his or her trouble and expense in taking possession of property under attachment, execution or other process and of preserving the property, as the court from which the writ or order may issue certifies to be just and reasonable.

4. In service of a subpoena or a venire in criminal cases, the sheriff is entitled to receive mileage for the most distant only, where witnesses and jurors live in the same direction.

5. The fees allowed for the levy of an execution, for advertising and for making and collecting money on an execution or order of sale, must be collected from the defendants, by virtue of the execution or order of sale, in the same manner as the execution is directed to be made.

6. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, all fees collected by a sheriff must be paid into the county treasury of his or her county on or before the fifth working day of the month next succeeding the month in which the fees are collected.

(Added to NRS by 1969, 182; A 1973, 784, 1680; 1985, 1006; 1987, 649; 1989, 1144; 1991, 406; 1993, 1351; 1997, 1206; 2001, 1743, 3210; 2003, 227)

**NRS 248.285 Fees of sheriff of Carson City.** The provisions of NRS 248.275 apply to the sheriff of Carson City. (Added to NRS by 1969, 323)

**NRS 248.300 Sheriff to keep fee book.** Each sheriff shall keep in his or her office a fee book in which the sheriff shall enter in detail the title of the matter, proceeding or action, and the fees charged therein. The fee book shall be open to public inspection.

[Part 18:49:1883; BH § 2359; C § 2483; RL § 2020; NCL § 2951]

**NRS 248.310 Quarterly financial statements.**

1. On the first Monday of January, April, July and October, each sheriff who receives fees under the provisions of this chapter shall make out and file with the boards of county commissioners of their several counties a full and correct statement under oath of all fees, percentages or compensation, of whatever nature or kind, received in their several official capacities during the preceding 3 months. In the statement they shall set forth the cause in which, and the services for which, such fees or compensation were received.

2. Nothing in this section shall be so construed as to require personal attendance in filing statements, which may be transmitted by mail or otherwise directed to the clerk of the board of county commissioners.

[Part 19:49:1883; BH § 2360; C § 2484; RL § 2021; NCL § 2952]

**NRS 248.320 No other fees to be charged.** No other fees shall be charged by sheriffs than those specifically set forth in this chapter, nor shall fees be charged for any other services than those mentioned in this chapter.

[Part 17:49:1883; BH § 2358; C § 2482; RL § 2019; NCL § 2950]