

**COUNCIL BILL NO. 3027**

**ORDINANCE NO. 2545**

**AN ORDINANCE PROHIBITING DOOR-TO-DOOR SOLICITATION AT RESIDENCES WITH POSTED "NO SOLICITING" SIGNS; REGULATING HOURS; PROVIDING FOR PROCEDURES AND PENALTIES; REPEALING ORDINANCE 1187; AND DECLARING AN EMERGENCY**

**WHEREAS**, Ordinance 1187 currently requires peddlers and solicitors to provide certain information to the City, pass a background check and, in some instances, post a bond; and

**WHEREAS**, Oregon and federal courts have invalidated similar ordinances on the grounds that they violate the Oregon and United States Constitutions; and

**WHEREAS**, these judicial decisions have found that constitutional protections afforded to free speech and the free exercise of religion outweigh the City's interest in the regulation of peddlers and solicitors; and

**WHEREAS**, the City Council and all City officials have the legal obligation to maintain constitutional ordinances and to conform to judicial rulings;

**WHEREAS**, the City Council still desires to address public safety concerns of City residents and combat against nuisance, harassment, and invasion of individuals' privacy; and

**WHEREAS**, City enforcement of "No Soliciting" signs will substantially accomplish the City's objectives but will not impinge on constitutional protections, **NOW, THEREFORE**,

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Definition.** For the purposes of this Ordinance, the terms "solicit" and "solicitation" shall mean the entry onto real property used for residential purposes by a person for the purpose of communicating with an occupant of the property, whether the communication is verbal, visual or in writing.

**Section 2. Prohibited Acts.** It is unlawful for any person to:

- A. Solicit before 9:00 a.m. or after 9:00 p.m. without the consent of the occupant to do so.

- B. Leave written materials upon real property where a "No Solicitation" sign conforming to the requirements of this Ordinance is posted.
- C. Solicit where a "No Solicitation" sign conforming to the requirements of this Ordinance is posted.
- D. Allow or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

**Section 3. Consent to Enter Real Property.**

- A. It shall be an affirmative defense to an alleged violation of this Ordinance that the person charged received actual or constructive consent of the occupant prior to entering the real property. Constructive consent may be implied from the circumstances of each instance, the relationship of the parties and actual or implied contractual relationships.
- B. The occupant of real property shall be considered to have given constructive consent to enter real property for the purpose of solicitation between the hours of 9:00 a.m. and 9:00 p.m. if they have not posted a "No Solicitation" sign, pursuant to this Ordinance.

**Section 4. No Solicitation Sign.**

- A. If an occupant of real property chooses to not invite solicitors onto their property the occupant may post a "No Solicitation" sign pursuant to this section. The effect of posting a sign stating "No Solicitation," or similar words to that effect, is to express the refusal of the occupant to grant consent to any person to enter their real property to solicit.
- B. Signs posted pursuant to this section shall be posted on or near the boundaries of the property at the normal points of entry.
- C. For real property possessing no apparent barriers to entry at the boundaries of the property that limit access to the primary entrance of a structure located on the property, placement of the sign at the primary entrance to the structure constitutes compliance with this section.

**Section 5. Violation – Penalty.**

- A. A first violation of any provision of this Ordinance constitutes a Class 5 Civil Infraction.

- B. A second violation of this Ordinance by the same person within a twelve (12) month period constitutes a Class 3 Civil Infraction.
- C. All violations of this Ordinance that are filed in the Woodburn Municipal Court as Civil Infractions shall be processed according to the procedures contained in the Woodburn Civil Infraction Ordinance.
- D. Each day that a violation of this Ordinance is committed or permitted to continue shall constitute a separate Civil Infraction.
- E. The remedies provided for in this Section are cumulative and not mutually exclusive.


**Section 6. Repeal of Prior Ordinance.** Ordinance 1187 is repealed in its entirety.

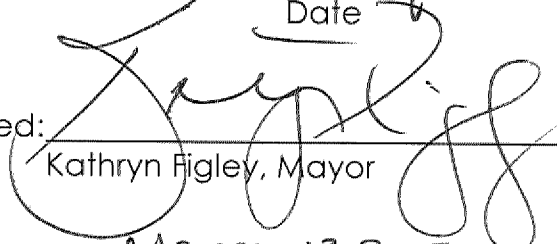
**Section 7. Compatibility.** Nothing in this Ordinance shall relieve any person or entity who solicits and conducts business in the City from compliance with Ordinance 2399, the Business Registration Ordinance.

**Section 8. Severability.** The sections and subsections of this Ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

**Section 9. Savings.** The repeal of any ordinance by this Ordinance shall not preclude any action against any person who violated the ordinance prior to the effective date of this Ordinance.

**Section 10. Emergency Clause.** This Ordinance being necessary for the immediate preservation of the public peace, health and safety so the City is in compliance with court rulings, an emergency is declared to exist and this ordinance shall take effect immediately upon passage and approval by the Mayor.

Approved as to form:  3/9/2017  
 City Attorney Date

Approved:   
 Kathryn Figley, Mayor

Passed by the Council March 13, 2017  
 Submitted to the Mayor March 14, 2017  
 Approved by the Mayor March 15, 2017

Filed in the Office of the Recorder

March 15, 2017

ATTEST: Heather Pierson  
Heather Pierson, City Recorder  
City of Woodburn, Oregon