ORDINANCE NO. 15318

FILE OF CITY COUNCIL

BILL NO. 52 - 2016

SEPTEMBER 7, 2016

AN ORDINANCE

Amending Article 307, Solicitors and Canvassers, of the Codified Ordinances of the City of Allentown by changing the license fee to an application fee, raising the fee from $25 to $50 to recoup the costs of process the application, changing the time from going door to door from 9am – 9pm, to 9 am to 7pm, and separating Solicitor's from Canvassers.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: Article 307, Solicitors and Canvassers, be amended to read as follows:

ARTICLE 307
SOLICITORS AND CANVASSERS

307.01 License Required; Exceptions
307.02 Canvasser ~~or~~ and Solicitor Defined
307.03 License Application
307.04 Application Investigation; Disapproval of License Issuance
307.05 License Fee; Determination and Exceptions
307.06 License Card Issuance and Contents
307.07 Exhibition of License
307.08 Police to Enforce
307.09 Records to Reflect Violations
307.10 License Revocation; Notice and Hearing
307.11 Appeal to Council; Notice and Hearing
307.12 Expiration of License
307.13 Severability
307.99 Penalty

307.01 LICENSE REQUIRED; EXCEPTIONS

No solicitor ~~or canvasser~~ as defined in Section 307.02 shall engage in the business of soliciting ~~or canvassing~~ within the corporate limits of the City without first obtaining a license therefore in compliance with the provisions of this Article, except:

1. Members or employees of firms possessing a Business Privilege License issued by the City pursuant to Article 333; (12766 §1 5/6/87)

2. Salesmen, manufacturers' representatives and agents, etc., selling goods to retail, wholesale, professional or industrial establishments. (12766 §1 5/6/87)

No solicitor ~~or canvasser~~ shall engage in the business of soliciting or canvassing before 9:00 A.M. or after ~~9:00 P.M.~~ 7:00 P.M. (12766 §1 5/6/87)

307.02 CANVASSER ~~OR~~ AND SOLICITOR DEFINED

"Canvasser" ~~or **"solicitor"**~~ means any individual, whether a resident of the City or not, who engages in the practice of going from dwelling unit to dwelling unit to conduct surveys for research purposes, to make analyses, to take opinion polls, to compile rating data, to obtain or seek contributions for any person, organization or cause connected with or in support of the canvasser's message or mission, to advance religious or political causes and proselytizing with regard thereto, to seek votes in any public election to disseminate non-commercial economic, political, religious or cultural information, or to conduct any similar work which, by its nature, involves door-to-door activity, including the distribution of circulars.

"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 take orders for sale of goods, wares and merchandise, books, magazines and periodicals, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such an individual has, carries or exposes for sale the subject of such sale, or a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. "~~Canvasser" or~~ "Solicitor" includes any person who, for themselves, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery. ~~"Canvasser" or~~ "Solicitor" also includes any person who for themselves or for another person, firm or corporation, employs the telephone followed by a personal call for the sole purpose of attaining a signed order or contract or to deliver goods. (11525 §2 12/3/68)

307.03 LICENSE APPLICATION

A. Applicants for a Solicitor license under this article shall file with the ~~Bureau~~ Department of Finance an application, in writing in duplicate, with the non-refundable application fee required by Section 307.05 to pay for the cost of the Application Investigation under Section 307.04 on a form to be furnished by the Finance Department officer, which shall give the following information:

1. The name and a description of the applicant;

2. The permanent home address and full local address of the applicant;

3. The motor vehicle registration, if any, and Social Security number

4. A brief description of the nature of the business and the goods or services to be sold or furnished;

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

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

7. 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;

8. 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;

9. A statement as to whether the customer is to receive a signed receipt if a down payment is made.

B. At the time of filing the application, the applicant shall submit copies of the receipt, contract and other forms that attend the sales transaction.

C. Any person, firm, corporation or organization subject to the provisions of this article may designate in writing one of his or its officers or employees to file the applications required herein. (11525 §3 12/3/68; 12689 §2 12/18/85)

D. EXEMPTION: The provisions of this section shall not apply to canvassers, as defined in Section 307.02.

307.04 APPLICATION INVESTIGATION; DISAPPROVAL OF LICENSE ISSUANCE

A. Upon receipt of an application and the non-refundable application fee required under Section 307.05, the original shall be referred to the Chief of Police or his designee, who shall cause such investigation of the applicant's business and moral character to be made as the Chief or his designee deems necessary for the protection of the public good.

B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police or his designee shall endorse on the application a disapproval and reasons for the same, and return the application to the ~~Bureau~~ Department of Finance, who shall notify the applicant that the application is disapproved and that no license will be issued. (12689 §2 12/18/85)

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or his designee shall endorse on the application an approval, ~~execute a license addressed to the applicant for the carrying on of the business applied for and~~ return ~~the license, along with~~ the application to the ~~Bureau~~ Department of Finance, ~~who~~ which shall, ~~upon payment of the prescribed license fee~~, issue a license to the applicant. The license shall contain the signature and seal of the issuing officer and shall show the name, photograph, business name and address, the date of issuance and expiration, license number and phone number for verification. ~~the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing~~. The Finance Department officer shall keep a permanent record of all licenses issued. (11525 §4 12/3/68; 12689 §2 12/18/85) ~~Replace with: the name, photograph, business name and address, date of issuance and expiration, permit# and phone number for permit verification~~.

307.05 LICENSE APPLICATION FEES; DETERMINATION AND EXCEPTIONS

A. The ~~license~~ application fee which shall be charged by the Department of ~~Administration and~~ Finance for such license shall be Fifty ($50.00) Dollars per calendar year and shall be non-refundable.~~, provided, however, where teams of solicitors or canvassers shall operate together, the license fee charged for all members of the team after the first shall be Twenty-five ($25.00) Dollars per year~~. (12689 §1 12/18/85)

B. None of the ~~license~~ application fees provided for by this Article shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a ~~license~~ application fee is believed by ~~a licensee or~~ an applicant for license to place an undue burden upon such commerce, he may apply to the

~~Bureau~~ Department of Finance for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed ~~license~~ application fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Finance Department officer may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Finance Department officer shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by this Article is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the ~~license~~ application fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the officer shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, ~~so long as the amount assessed on businesses of like nature~~, so long as the amount assessed does not exceed the fees as prescribed by subsection (a) hereof. Should the Finance Department officer determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City of Allentown or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefore, provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual ~~license~~ application fee as prescribed in subsection (a) hereof. (12689 §1 12/18/85)

C. EXEMPTION: ~~No fee shall be charged for a permit and license for non-commercial dissemination of economic, political, cultural or religious information. (12689 §1 12/18/85)~~ The provisions of this section shall not apply to:

(1) Canvassers, as defined in Section 307.02.; or

~~D. No fee shall be charged of~~ (2) any member of a chartered non-profit charitable service or youth organization. (12689 §1 12/18/85)

307.06 LICENSE CARD ISSUANCE AND CONTENTS

The ~~Bureau~~ Department of Finance shall issue to each licensee at the time of delivery of his license a card which shall contain the words "Licensed Solicitor", the period for which the license is issued and the number of the license. The card shall, during the time such license is engaged in soliciting, be carried constantly by the licensee. (11525 §6 12/3/68) (12689 §2 12/18/85)

307.07 EXHIBITION OF LICENSE

Solicitors ~~and canvassers~~ are required to exhibit their licenses at the request of any citizen. (11525 §7 12/3/68)

307.08 POLICE TO ENFORCE

It shall be the duty of any police officer of the City to require any person seen soliciting ~~or canvassing~~, and who is not known by such officer to be duly licensed, to produce his solicitor's ~~or canvasser's~~ license and to enforce the provisions of this article against any person found to be violating the same. (11525 §8 12/3/68)

307.09 RECORDS TO REFLECT VIOLATIONS

The Chief of Police shall report to the ~~Bureau~~ Department of Finance all convictions for violations of this article and the Finance Department Officer shall maintain a record for each license issued and record the reports of violation therein. (11525 §9 12/3/68) (12689 §2 12/18/85)

307.10 LICENSE REVOCATION; NOTICE AND HEARING

A. Licenses issued under the provisions of this article may be revoked by the ~~Bureau of Finance of the City~~ Chief of Police or his designee; after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation, or false statement contained in the application for license;

2. Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor; ~~or as canvasser~~;

3. Any violation of the provisions of this article;

4. Conviction of any crime or misdemeanor involving moral turpitude; or,

5. 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.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. The notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing. (11525 §10 12/3/68) (12689 §2 12/18/85)

307.11 APPEAL TO COUNCIL; NOTICE AND HEARING

Any person aggrieved by the action of the Chief of Police or the Department of ~~Administration and~~ Finance in the denial of a license as provided in Section 307.04, ~~or~~, the action of the ~~Bureau~~ Department of Finance in the assessing of the fee as provided in Section 307.05(c) or the revocation of a license by the Police Chief or his designee under Section 307.10 shall have the right of appeal to Council. An appeal shall be taken by filing with Council, within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. Council shall set a time and place for a hearing on such appeal and notice of the hearing shall be given to the appellant in the same manner as provided in Section 307.10 for notice of hearing on revocation. The decision and order of Council on such appeal shall be final and conclusive~~.~~ and may be appealed pursuant to the provisions of the Local Agency Law. (11525 §11 12/3/68) (12689 §2 12/18/85)

307.12 EXPIRATION OF LICENSE

All annual licenses issued under the provisions of this article shall expire on December 31 in the year of issue. (11525 §12 12/3/68)

307.13 SEVERABILITY

The provisions of this article are declared to be severable and if any section, sentence, clause or phrase of this article shall, for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article, but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part. (11525 §14 12/3/68)

307.99 PENALTY

Any person violating any of the provisions of this article shall, upon conviction thereof, be fined not more than Three Hundred ($300.00) Dollars or imprisoned not more than ninety (90) days, or both. (11525 §13 12/3/68)

SECTION TWO: That this Ordinance will take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
Candida Affa	X	
Julio A. Guridy	X	
Daryl Hendricks, VP	X	
Roger MacLean	X	
David K. McGuire	X	
Cynthia Y. Mota	X	
Ray O'Connell, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on October 5, 2016 and signed by the Mayor on October 7, 2016.

Michael P. Hall

CITY CLERK

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

  The Dept. of Finance and the Police Dept. met to make improvements to the process to apply for a solicitor's license. During that we reviewed the current ordinance and realized it needed to be updated. The last amendment was in 1987.

- **Summary and Facts of the Bill**

  Both departments suggested changes to it including changing it from a license fee to an application fee and increasing the amount of the fee for additional members of a team from $25 to $50. It also changed the time that solicitors are allowed to go door to door from 9am-9pm to 9am-7pm. The Solicitor's Office then reviewed it and made other changes. The major change was separating Solicitors from Canvassers.

- **Purpose – Please include the following in your explanation:**
  - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
  - **What are the Benefits of doing this/Down-side of doing this**
  - **How does this Bill related to the City's Vision/Mission/Priorities**

  This will update the ordinance and allow the city to cover the costs associated with the processing of the applications. The police department has received complaints of solicitors knocking on doors up until 9pm. The updated ordinance only allows until 7pm and would allievate many citizens concerns.

- **Financial Impact – Please include the following in your explanation:**
  - **Cost (Initial and ongoing)**
  - **Benefits (initial and ongoing)**

  There are no costs associated with the revised ordinance. The application fee increase from $25 to $50 will cover the costs associated with processing the applications.

- **Funding Sources – Please include the following in your explanation:**
  - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**