

622 Regulation of Solicitors

622.100 Purpose. This ordinance is enacted to protect residents against unwanted solicitors by providing residents a way to opt-out of receiving solicitations. In addition, this ordinance is enacted to protect residents who choose to hire these solicitors by providing a complaint and license revocation procedure.

622.200 Definitions. As used in this chapter, the terms defined in this section shall have the following meanings.

622.202 “Solicitor” A person acting on behalf of a commercial entity who markets goods or services by visiting residents at their homes.

622.204 “Solicitation” A visit by a solicitor to a resident at their homes to market commercial goods or services.

622.300 Exclusion List. The City Administrator will maintain a list of residences that do not wish to receive solicitors. The resident may specify that no solicitors are welcome-or that solicitors providing certain types of services are not welcome.

622.400 License Required. A company that engages in solicitation is required to obtain a license annually with the City prior to engaging in solicitation. Solicitors are required to carry their license during the solicitation and are required to show a resident the license upon request. The license should include the information provided by the licensee under 622.402(2). The information under 622.402(2) shall also be posted to the City’s website.

622.402 License Conditions. The following are required to obtain a license:

- 1.) payment of the required fee indicated in the fee schedule.
- 2.) completion of a form provided by the City Administrator providing the name and address of the Applicant; the type of service provided; a name, address, and phone number of a person responsible for handling resident complaints; a list of the names of solicitors soliciting on behalf of the entity; and a certification that the solicitor, and any person soliciting on behalf of them will abide by the exclusion list of 622.300.
- 3.) if the solicitor is soliciting work that would require a building, plumbing, or electrical permit, the solicitor must provide proof that the company for which the solicitor solicits work is licensed to perform such work.
- 4.) the applicant is not in a license revocation period under 622.410.

622.403 License Denial. The City may deny a license under 622.402 if the license conditions listed therein are not satisfied, but may not otherwise deny a license.

622.404 Complaints. Any resident may file a written complaint against a solicitor by delivering the complaint to City Hall for the following reasons:

- 1.) contact from the solicitor in violation of 622.300.
- 2.) aggressive or overly rude sales practices.
- 3.) disputes as to poor service or billing practices.

- 4.) failure to show the license upon request under 622.400.
- 5.) any violation or suspected violation of Birchwood ordinances, state law, or federal law, including federal and state regulations.

622.406 Complaint Procedure. Upon receiving a complaint under 622.404, the City Administrator will forward the complaint to the person specified at 622.402. The City may, but has no obligation to, investigate complaints, but instead shall place the complaint in a file of the licensee. After three (3) complaints within a 24-month period the City Council will hold a license revocation hearing in accordance with 622.408. A revocation hearing may also be triggered by the City Council or City Administrator upon fewer complaints than three (3) complaints if, in the sole discretion of the City Council or City Administrator, the licensee has committed a serious violation potentially warranting revocation.

622.408 Revocation Hearing. The City Council will hold a revocation hearing in which the licensee will have notice and an opportunity to respond to the complaints received. The City Council may then revoke the licensee's license, dismiss one or more complaints (leaving the license valid), or impose restrictions or conditions on the licensee's use of the license that are, in the discretion of the City Council, reasonably related to protecting the public's interests. Interested residents may also provide testimony. The City will provide written reasons for the decision to the licensee.

622.410 License Revocation Period. If the licensee's license is revoked under 622.408, the City Council will set a period for which the license is revoked. A licensee or anyone working on behalf of the licensee whose license is revoked may not obtain a license under 622.400 during the revocation period.

622.412 Solicitation without a License Prohibited. Solicitation without a license, or with a revoked or expired license, or solicitation in violation of conditions given by the Council in section 622.408 is prohibited and constitutes a misdemeanor.

622.414 Solicitations to residents on exclusion list. Each solicitation to a resident on the exclusion list under 622.300 who has indicated the desire not to receive that type of solicitation constitutes a misdemeanor. For licensed solicitors, this also constitutes a complaint under 622.404.

622.416 Separate Offenses. Each prohibited act of solicitation constitutes a separate offense.

622.418 Persons Liable. Misdemeanor citations may be issued to both the person soliciting residents and to the owner of the commercial entity on whose behalf the person soliciting residents is working.

622.420 License is not an endorsement. No licensee may state or imply that the City of Birchwood Village has endorsed their work by acquiring a license under this section.

622.430 Non-commercial solicitation allowed. Nothing in this section is intended to limit the ability of non-commercial solicitation such as for religious, political, charity, or fundraising.

622.440 License Fee non-refundable. License fees under this section are non-refundable for any reason, including suspension or termination of the license.

622.450 Severability. If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this article. The City Council hereby declares that it would have adopted this article in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.
Adopted by the City of Birchwood Village City Council this 9th day of August 2024.