



***City Council
Legal Review Committee
Meeting Agenda***

**March 19, 2015
City Hall – City Manager’s Office
749 Main Street
4:00 pm**

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Public Comments on Items Not on the Agenda**
(Council requests that public comments be limited to 3 minutes.)
- 5. Approval of January 15, 2015 Minutes**
- 6. City Council Email Procedures**
- 7. Role & Liability of 501c3 Organizations Affiliated with the City**
- 8. Door-to-Door Sales Regulations**
- 9. Lawsuit Settlements/Litigation Updates**
- 10. Date of Next Meeting**
- 11. Potential Discussion Items for Next Meeting**
- 12. Adjourn**

City Council Legal Review Committee

Meeting Minutes

**January 15, 2015
City Hall
749 Main Street
4:00 PM**

Call to Order – Chairperson Sue Loo called the meeting to order at 4:00 PM.

Roll Call: The following members were present:

Committee Members: *Jeff Lipton, City Council
Chris Leh, City Council
Sue Loo, City Council*

Absent: *None*

Staff Present: *Malcolm Fleming, City Manager
Sam Light, City Attorney
Meredyth Muth, Public Relations Manager
Scott Robinson, Planner II
Troy Russ, Planning & Building Safety Director
(arrived 4:55 PM)*

Others: *None*

APPROVAL OF AGENDA

The agenda as presented was approved by all members in attendance.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None

APPROVAL OF MINUTES FROM SEPTEMBER 18, 2014

The minutes as presented were approved by all members in attendance.

DESIGNATION OF POSTING LOCATIONS FOR MEETING NOTICES

Members approved the 2015 posting locations as: City Hall, 749 Main Street; Police Department/Municipal Court, 992 West Via Appia; Recreation/Senior

Center, 900 West Via Appia; and Louisville Public Library, 951 Spruce Street; as well as on the City's web site at www.LouisvilleCO.gov.

CITY COUNCIL COMMUNICATION AND OPEN MEETINGS PROCEDURES

Members reviewed the Cherry Hills Village City Council email policy as an example of something Louisville could do.

Loo asked City Attorney Light if forwarding articles or constituent emails to fellow City Council members would violate the open government rules.

Light said forwarding such emails was fine as long as an email discussion didn't ensue. Forwarding information is fine but all City Council members should be careful not to prompt a dialogue of any kind that should be taking place at a public meeting.

Fleming asked if a good way to think if it is "one-way communication from one member to many is ok, any discussion among more than two members is not?"

Light responded yes that is a good way to think about. He added that all members need to be careful not to create a serial meeting by email. If it is a policy issue, the Council must be sure not to discuss or decide anything by email. That discussion should take place at the meeting. No one should come to a meeting to find the Council basically already made a decision via an email discussion.

Loo asked what happens if a member of the public meets with each councilmember individually and tells the others what each said.

Light responded that hearsay does not trigger the open government rules.

Lipton asked if it is ok for one member to respond to a citizen and cc the rest of the Council just so everyone knows that someone responded to the initial email.

Light stated that was fine, again as long as it does not trigger a broader email discussion.

Lipton asked if the same rules apply to all boards and commissions. Light said yes. Lipton asked if they know the rules. Light replied they all get the same information at Open Government Training.

Members concluded it would be a good idea to schedule email training for the City Council.

BACKGROUND ON THE ORIGIN OF THE LEGAL REVIEW COMMITTEE, ITS ROLES AND RESPONSIBILITIES, AND PAST ACTIVITIES

Muth reported the Legal Review Committee has been a standing City Council Committee since at least 1996 but has only meet as needed in that time. The Committee has discussed the following topics in the past 15 years:

- Review of Fees for City Attorney Fees
- Review of Water Attorney Fees
- Consideration of Increase for Salary for Municipal Judge, Associate Judge
- Review of Candidates for Judge or Association Judge
- Litigation Status Updates
- Legal Liability for Council Members and Staff

Lipton asked if the Committee should be disbanded.

Loo suggested keeping the Committee but only meet as necessary.

Leh suggested it is good to have the Committee to react to timely legal issues/concerns and to review any legal issues.

Members agreed to rearrange the agenda and have the Small Area Plan discussion as the next item.

LEGAL AND PRIVATE PROPERTY CONSTRAINTS FOR SMALL AREA PLANS

Loo suggested the City needs to do a better job of outlining the constraints of the Small Area Plan (SAP) process. She fears the process could raise the expectations of residents who don't understand the Plan itself does not change zoning or land use.

Leh noted that at a meeting he attended it was clear some people simply don't understand property rights. He worries the SAP gives people unrealistic expectations of what will happen to certain parcels. He encouraged people to ask the question of how we get to where we want to go and what does that involve, zoning changes, condemnation, rule changes, etc.

Russ noted the SAP process starts with "what do you want to see" and is followed by "what is allowed." That is the framework and the early stages are very much "blue sky planning." However the next phase is much more specific with what are the guidelines and how is a specific framework implemented.

Loo stated that in talking with people, many people think the City can do more and has a great deal more authority than it does. She fears many people will be disappointed in the end.

Lipton noted that the political decisions the City Council makes are key in the process. He stated the City Council needs to be clear and direct in the process and not equivocate.

POTENTIAL 2015 TOPICS OF INTEREST FOR LEGAL REVIEW COMMITTEE

The members identified the following topics for possible discussion in 2015:

- How the City and the various board's 501c3s interact and if there should be changes, and how best to protect the City's interests in these relationships. Specifically liability and staff time concerns
- Human Resources policies, specifically public records training.

2015 SCHEDULE FOR LEGAL REVIEW COMMITTEE

The group decided to meet quarterly the third Thursday of each month at 4:00 PM as needed. For March 19th the Committee will discuss the 501c3 issue.

LAWSUIT SETTLEMENTS/LITIGATION UPDATES

None

POTENTIAL DISCUSSION ITEMS FOR NEXT MEETING

Relationship of the City and the various board 501c3 organizations.

ADJOURN

The meeting adjourned at 5:58 PM.

DRAFT

SUBJECT: E-MAIL POLICIES AND OPEN MEETINGS LAW

DATE: MARCH 19, 2015

PRESENTED BY: SAM LIGHT, CITY ATTORNEY

SUMMARY:

The Legal Review Committee reviewed Colorado Open Meetings Law in regard to e-mail procedures for elected officials during the last Legal Review Committee meeting on January 15, 2015. Committee members suggested that a future Council discussion of the policies and bases for the e-mails rules, as well as a brief “dos and don’ts” list would be productive as part of any effort to adopt a Council policy or guidance document. In furtherance of this discussion, we have prepared an initial draft of a “Dos and Don’ts” list and have also included more samples of how other entities have approached this issue. With Committee feedback, staff will prepare materials for a future Council study session.

Staff will be available to answer any questions about these e-mail policies at the meeting.

FISCAL IMPACT:

n/a

RECOMMENDATION:

Discussion

ATTACHMENT(S):

1. Draft Email Dos and Don’ts List
2. Copy of January 15, 2015 Committee Packet Materials
3. Examples of e-mail policies and related materials from Boulder Valley School District, Lafayette, and Ouray County.

CITY OF LOUISVILLE E-MAIL GUIDELINES FOR ELECTED AND APPOINTED OFFICIALS

The use of e-mail by elected or appointed officials to discuss City business raises issues under both the Colorado Open Meetings Law (“OML”), C.R.S. § 24-6-401 et seq., and the Colorado Open Records Law (“CORA”), C.R.S. § 24-72-201 et seq. The OML recognizes that discussions by e-mail can trigger notice and openness requirements. Specifically, the OML and City Charter provide that any meeting of three or more members of Council or a City public body at which public business is discussed or at which formal action may occur must be preceded by proper notice and be open to the public. A meeting can include a discussion that occurs by phone or e-mail.

Additionally, CORA recognizes that public records can include e-mails of elected and appointed officials where the communications involve City business or City funds and are made, maintained or kept by the City as part of its operations. CORA specifically provides, for example, that public records can include correspondence of elected officials if concerning City business or funds, subject to certain exceptions. Under CORA e-mails may be public records even if they do not trigger open meetings rules.

Based on these rules, the following are e-mail “dos and don’ts:”

E-mail – Okay to Do

- Have a one-on-one discussion with another member of Council.
- Respond directly to an e-mail from a constituent.
- Correspond directly with staff.
- Copy other Councilmembers or staff on an e-mail as long as it is “fyi” only.
- E-mail to other Councilmembers “fyi” information on topics of current interest.
- However, in all of the above situations, the e-mail should not discuss the substance of any pending quasi-judicial matter.
- Use your City-assigned e-mail address and device whenever possible.

E-mail – Don’ts

- Do not use e-mail (or similar technology) to discuss policy with more than two other members, whether simultaneous and/or serial or not.
- Do not use e-mail as a substitute for open public meeting discourse.
- Do not use e-mail to discuss or disseminate information on any pending quasi-judicial matter.
- Do not use e-mail as a substitute for taking any official action.
- Do not “reply to all” on e-mails sent to more than two Councilmembers, excepting only e-mails that clearly have no policy purpose (e.g., acknowledgment of receipt, schedule availability).
- Do not send messages that discuss both personal matter and public business.

**SUBJECT: CITY COUNCIL COMMUNICATION AND OPEN MEETINGS
PROCEDURE**

DATE: JANUARY 15, 2015

PRESENTED BY: MEREDYTH MUTH, PUBLIC RELATIONS MANAGER

SUMMARY:

Attached is a memo from the City Attorney discussing the rules pertaining to open meetings and the use of email. Also attached is the Elected Official Email Policy from the City of Cherry Hills Village as an example of something the City Council could adopt if so desired. Feel free to bring any questions or specific examples to the meeting for further discussion.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Discussion

ATTACHMENTS:

N/A

OPEN MEETINGS & E-MAIL
Louisville Legal Review Committee
January 15, 2015
Prepared by LIGHT | KELLY, P.C.

I. INTRODUCTION

The following provides a brief overview of provisions of the Colorado Open Meetings Law, C.R.S. §24-6-401 et seq. (which is a portion of the Colorado Sunshine Act) of specific interest to City Councilmembers. Particular emphasis is placed on the meeting notice requirements and the use and handling of e-mail.

II. OVERVIEW OF THE OPEN MEETINGS LAW

1. Applicability. The Open Meetings Law (“OML”) applies to any “local public body,” which includes the City Council, City boards, committees and commissions, and other formal bodies that perform an advisory, policy-making or rule-making role. It does not apply to the administrative staff.
2. Basic Open Meeting Rules. There are two critical rules regarding open meetings:
 - All meetings of a quorum or three or more members of a local public body (whichever is fewer) at which any public business is discussed or at which any formal action may be taken are public meetings open to public.
 - Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation or formal action occurs or at which a majority or quorum of the body is in attendance, or is expended to be in attendance, shall be held only after full and timely notice to the public.

A “meeting” is defined by the OML as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.” In construing these provisions, the Colorado Supreme Court has held that if the meeting is rationally connected to the policy-making responsibilities of the public body holding or attending the meeting, then the meeting is subject to the OML. Bd. of Cnty. Comm’rs, Costilla Cnty. v. Costilla Cnty. Conservancy Dist., 88 P.3d 1188 (Colo. 2004).

3. Specific Louisville Rules. The Louisville Municipal Code is more comprehensive than the OML. City Code section 2.90.030 states: All meetings of three or more members of the City Council, or of three or more members of the same board or commission, at which any public business is discussed, at which any presentation pertaining to public business is made, or at which any official action may be taken, shall be public meetings open to the public at all times. Further, while the OML has a 24-hour notice posting requirement, the City Charter provides for posting of meeting agendas and agenda-related materials 72 hours in advance of the meeting.

EXAMPLES:

- A discussion among three Councilmembers about public business is an open meeting. Thus, a citizen may listen in on even an impromptu discussion of public business by three Councilmembers.
- If three Councilmembers show up at the coffee shop purely by chance, this is not an open meeting. More particularly, the OML does not apply to “any chance meeting or social gathering at which discussion of public business is not the central purpose.”
- A meeting of two Councilmembers is not subject to the OML and therefore need not be open and requires no notice. The threshold number for the City Council is three members. However, the threshold number for a smaller committee, such as the three-member finance committee, is two members.

III. E-MAIL

1. E-Mail Meetings. A meeting subject to the OML can be convened by e-mail or telephone. The OML states that if elected officials use e-mail to discuss pending legislation or other public business among themselves, the e-mail shall be subject to the requirements of the OML.

In a 2012 case, the Colorado Court of Appeals ruled that the PUC did not violate the OML during an e-mail exchange in which Commissioners suggested edits to language proposed for inclusion in a legislative bill. The court determined the e-mail exchanges were not part of the PUC’s policy-making function, as the PUC does not create law, and therefore commenting on and editing the bill was not a formal action. Intermountain Rural Elec. Ass’n v. Colorado Pub. Utilities Comm’n, 298 P.3d 1027, 1031 (Colo. App. 2012).

Even though Councilmember e-mail exchanges may not be contemplating policy-making action, they may still violate the City Code, which states that any “discussion” or “presentation” of public business must be in a meeting open to public.

2. E-Mail Suggestions. While e-mail is convenient, it can become a significant source of OML issues. A few suggestions to head off problems:
 - Conduct and discuss public business at duly-called and noticed regular and special meetings.
 - Do not use e-mail policy discussions and limit its use to non-policy discussions, or otherwise establish an open e-mail system which is readily accessible.
 - Further, do not use one-on-one e-mails (or meetings) to determine policy. As noted in the policy statement of the OML, its purpose is that the formation of public policy

is public business.¹

3. E-mail Risks. E-mail carries with it the risk of inadvertent or unintended “discussion” of public business. Though an e-mail may be sent from only one Councilmember to another, the sender cannot be certain that it will not be forwarded.
4. E-Mail Correspondence. E-mail to or from a constituent does not trigger the OML, but is subject to certain provisions of the Open Records Law. However, e-mail on quasi-judicial matters does implicate due process rights and therefore requires special attention.

EXAMPLES:

- An e-mail is sent to a Councilmember about a decision on a special use permit request. That e-mail should be made a part of the record and available for review, so that interested parties can review it as decisions on special use permits must be made based on the evidence presented at a hearing.
- A constituent e-mails a Councilmember, who replies, copying the other Ward Councilmember and the City Manager. This correspondence complies with OML, as the City Manager is not an elected official, but part of the administrative staff.
- A Councilmember replies to a constituent’s question, and copies all of the other Councilmembers, all of whom respond to Councilmembers with their own comments about what the City’s policy should be on the matter raised by the citizen. This type of exchange would violate OML to the extent three or more members are discussing/debating public policy outside of a public meeting.
- A Councilmember sends an e-mail to the other Councilmembers with a copy of an article from the CML magazine on a topic of current interest. That distribution itself does not implicate the OML. However, if there then ensues an e-mail discussion of what the City’s policy should be, the same issue as the above example arises.

¹ While “serial meetings” have not been directly addressed by the Colorado appellate courts, one recent case demonstrates the legal ramifications of public body members using e-mail and telephone to discuss policy changes. In Colorado Off-Highway Vehicle Coal. v. Colorado Bd. of Parks & Outdoor Recreation, 292 P.3d 1132, 1137-38 (Colo. App. 2012), the Board admitted that it violated the OML when Board members (i) discussed program changes via e-mail; (ii) held a closed phone conference followed by e-mails; and (iii) held a noticed meeting that was open to some persons but not all citizens. While the Court held the Board was able to “cure” the violations by holding additional open meetings at which all parties could testify on the substantive policy change being made, the Court emphasized that the focus of the OML is openness in the decision-making process.

Elected Official Email Policy

BACKGROUND

Elected officials of the City of Cherry Hills Village each have a City email account with which to conduct City business, including correspondence with other elected officials, residents, staff, and the City Attorney. Use of email communications has implications under both the Colorado Open Meetings Law and the Colorado Open Records Act. This policy has been established in order to ensure that the management of elected officials' email communications complies with the statutory requirements of the Colorado Open Meetings Law and the Colorado Open Records Act, as well as the City's Records Retention Schedule.

ADMINISTRATIVE POLICY

All emails related to City business should be addressed to elected officials' City email accounts. Personal email accounts may be included in addition to City email accounts if requested, but no emails related to City business should be addressed solely to personal email accounts.

Permitted Email Communications

Email deliberation between three or more elected officials concerning public business and/or pending legislation are declared to be a public meeting under the Colorado Open Meetings Law and are prohibited.

The following email communications from or to an elected official or officials are permitted:

1. Communication or deliberation from or to a staff person, the City Attorney, residents or community members.
2. Deliberation between fewer than three elected officials in which other elected officials are not copied and which are not forwarded to other elected officials.
3. Communication between elected officials that does not include deliberation related to pending legislation or other public business.

As used in this policy, “deliberation” means the discussion and/or exchange of viewpoints and opinions on a subject. It specifically does not include the distribution, but not discussion, of information.

Retention Policies Applicable to Email Communications

1. Email communications of elected officials may be considered public records under the Colorado Open Records Act. The City’s Records Retention Schedule applies to email communications in the same manner as other records.
2. Certain types of correspondence are expressly not a public record, including that which is a “work product,” as well as correspondence that is “without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds”. Examples include drafts and worksheets, desk notes, copies of materials circulated for informational “read-only” purposes, and other records with preliminary or short-term informational value. These emails should be deleted as soon as they are read and are no longer useful.
3. Correspondence of elected officials designated as a public record fall into one of two categories:
 - a. Enduring Long-Term Value: Documentation or correspondence with enduring and long-term administrative, policy, legal, fiscal, historical or research value; records that relate to policy issues and actions or activities in which an important precedent is set; records of historic events relating to the municipality or the community; and other similar records and documentation. The retention period for these records is permanent.
 - b. Routine Value: Operating documentation that is routine and contains no significant administrative, legal, fiscal, historical, information or statistical value. Includes routine communications sent and received, communications containing duplicates of information that is filed elsewhere, routine requests for information, transmittal documents, etc. The retention period for these records is two years.

Email Management Policy

In order to ensure that the emails of elected officials are properly managed, the following email management policy should be followed:

1. All emails sent to or from an elected officials' email account will be automatically archived.
2. Archived emails will be managed according to the City's retention policy by the City Clerk
3. Original emails in the elected officials' email accounts may be saved or deleted as the elected official finds most useful.



MEMORANDUM

TO: Members of BVSD Committees
FROM: Melissa Mequi, Legal Counsel
RE: Guidelines for the Use of Email
DATE: August 2011

The use of electronic mail by public employees, elected officials, and citizen members of School District committees may implicate both public records and public meetings laws. This Memorandum is intended to assist committee members in understanding these laws and to provide guidance regarding the proper use of email to discuss School District business.

Colorado Open Records and Open Meetings Laws

Colorado's General Assembly has declared that the process of government is public business and should not be conducted in secret. In furtherance of this policy, the General Assembly enacted the Colorado Open Records Act and the Colorado Open Meetings Law to ensure public access to the process of government.

The Open Records Act

The Colorado Open Records Act mandates that unless otherwise privileged, all "writings" made, maintained, or kept by the School District for use in the exercise of functions required by law or involving the receipt or expenditure of public funds are "public records" open to public inspection. C.R.S. § 24-72-203(1)(a). The term "writings" is broadly defined and expressly includes electronic mail. C.R.S. § 24-72-202(7). The term "public records" specifically includes the electronic mail correspondence of elected officials. C.R.S. § 24-72-202(1), (6).

Accordingly, emails discussing School District business that are maintained on the School District's email servers are subject to disclosure under the Open Records Act. Similarly, email communications regarding School District officials between private citizens involved in School District committees and maintained or kept by the School District are also public records subject to inspection.

The Open Meetings Law

The Colorado Open Meetings Law declares that "[a]ll meetings of a quorum or three or more members of any local public body, whichever is fewer, at which public business is discussed or at which any formal action may be taken" are "public meetings open to the public at all times."

C.R.S. § 24-6-402(2)(b). A "meeting" is "any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication." C.R.S. § 24-6-402(1)(b).

Consequently, electronic mail communication among three or more members of a local public body, whether simultaneous and/or serial or not, regarding the business of that local public body constitutes a public meeting which must comply with the applicable provisions of the Open Meetings Law. One notable exception to this rule is for the one-way transmission to and solitary review by members of background materials relating to an agenda item.

The Interaction of the Open Records Act and the Open Meetings Law

Though the Open Records Act and Open Meetings Law further the same policy of open government, there are instances in which electronic communications are governed by one and not the other. For example, an electronic communication between two or fewer public officials would not constitute a public meeting under the Open Meetings Law. However, such electronic communication would be a "writing" subject to the inspection provisions of the Open Records Act if generated in the exercise of functions authorized by law or involving the receipt or expenditure of public funds.

The Open Records Act, the Open Meetings Law, and School District Committees

To the extent that members of School District committees send or receive electronic communication discussing committee business over School District servers and/or to School District email accounts, such electronic communication is a public record open to inspection under the Open Records Act. Even if electronic communication discussing School District business is between non-elected, private citizen members of School District committees, such electronic communication may be a public record subject to the Act if it is kept or maintained by the School District in some form or another. Members of School District committees should, therefore, err on the side of caution and assume that any electronic communication regarding School District business is a public record.

With respect to the Open Meetings law, absent certain exceptions, advisory School District committees are not "local public bodies" subject to the Law's provisions. Nonetheless, the District encourages transparency in committee business and public access to committee meetings. As such, the District expects all School District committees, unless otherwise noted, to comply with the spirit of the Open Meetings Law. Therefore, emails among committee members to discuss current or future committee business are discouraged.

Guidance Regarding the Use of Electronic Mail

With these principles in mind, School District committee members should conduct business at the regularly scheduled and noticed public committee meetings and should avoid using electronic mail as a medium for discussing current and future agenda items. If, due to specialized time constraints or unique circumstances, members must communicate on a particular issue through the use of electronic mail, they should exercise care and discretion in crafting such communication so as to avoid any suggestion of impropriety if the email is subsequently disclosed. If questions arise concerning this or other matters in conducting the business of a specific committee, please contact the School District Legal Counsel for guidance.



City of Lafayette, Colorado
Administrative Policy Manual

Policy Number: AP-600

Approved: December 2005

SUBJECT: NOTIFICATION OF PUBLIC MEETINGS

PURPOSE: To comply with the Colorado Open Meetings Law regarding notification of public meetings.

- I. All meetings of a quorum of three or more members of any local public body (City Council, boards, Committees and commissions) at which public business is discussed, or which any formal action may be taken, are declared to be public meetings and shall be held only after full and timely public notice.
- II. Full and timely notice is sufficient if notice of the meeting is posted in a designated public place within the City at least 24 hours before the meeting. If notice is not given, any formal action (adoption of a rule, regulation, resolution or ordinance) taken at such meeting is deemed invalid.
- III. The official place for posting notices of public meetings is at the entrance to the City Council Chambers, Lafayette City Hall, 1290 S. Public Road, Lafayette, Colorado. Council also designates the City's website as an additional posting location unless technical difficulties prevent such posting.
- IV. Miscellaneous Meetings Attended by Elected Officials
 - A. According to the Colorado Open Meetings Law, if three or more Councilors attend or are expected to attend a meeting, it must be posted as a public meeting. Examples of these types of meetings may include conferences, school board meetings, neighborhood/HOA meetings, seminars, business meetings, classes, and focus groups.
 - B. Social gatherings and events are exempt from the public notification requirement. Examples may include Chamber of Commerce socials, ribbon cuttings, fundraisers, parades, awards or annual dinners, ground breaking ceremonies, and seasonal observations or parties.
 - C. Employees and City Councilors are advised to alert the City Clerk regarding meetings that require public notification. The Clerk will post notices in the City's designated posting places.
- V. Communication Among Councilors
 - A. According to the Colorado Open Meetings Law, Council to Council communication may qualify as a public meeting under certain circumstances and require proper notification.
 - B. Communication among Councilors relating to public business that is conducted in chat rooms, via group e-mail, or on conference telephone calls can be considered a meeting and require public notice if three or more Councilors participate.
 - C. One-on-one communication by telephone, e-mail or in person is the best way to avoid problems.

Guide to the Open Meetings Law

The intent behind this law is to make government business as transparent and accessible to the public as possible. Someone who might be interested in your group's business should be able to follow what you're doing, and know how and when your decisions get made. Listed below are some clarifications about this law.

Meetings Agendas

Which meetings need to have an agenda posted?

1. If there will be 3 or more members expected at the meeting OR
2. If it is an official subcommittee of the group (even if the subcommittee has only 2 members)

When does the agenda need to be posted?

At least 24 hours before the meeting OR earlier if the group's bylaws include a different requirement

Where does the agenda get posted?

1. It must be posted in the official agenda posting place that the group designates annually.
2. In addition to this place, the agenda should get posted on the city's web site.
3. If the group has designated other official places, it must be posted in all those places.

What changes can be made to the agenda at the meeting?

1. Rearrange the order of the agenda
2. Table items to a future date or indefinitely
3. Decide not to address an item
4. Add items that are discussion items
5. You can't add an item if you want to make a decision about it

Group Communications

The open meetings law covering conversations that may happen among group members, even when they are not sitting in the same room at the same time. A meeting is any conversation that involves more than 2 group members, or involves an official subcommittee regardless of the number. Conversations via email, chat room, instant messaging, text messaging, conference calls, etc. are considered meetings. They must be noticed, and the public allowed to participate.

Emails

OK To Do

1. Send an email to one other group member
2. Respond directly to an email sent from an individual group member

Not OK To Do

1. Reply to an email that was sent to more than one person in the group that contains any group business or is related to group business

Safest Way To Communicate With The Group

1. Don't respond to emails that are sent to more than one person
2. Send emails via the staff liaison – the staff person sends out the email, group members reply to her, she cuts and pastes the replies into one email that is then sent out to the group. Group members are not talking directly with each other, and a meeting is avoided
3. Use a scheduling web site such as doodle.ch to find dates and times for special meetings

RESOLUTION No. 2013-005

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF COUNTY COMMISSIONERS**

**Adopting an Email Policy for
County Officials, Boards, Commissions and Committees**

WHEREAS, the Board of County Commissioners believes that email is a useful tool that is used by the public extensively and that can be used productively in making county government more efficient; and

WHEREAS, the Board of County Commissioners wants to ensure compliance by all officials, boards, commissions and committees in Ouray County with the requirements of both the Colorado Open Meetings Law ("COML"), C.R.S. §§ 24-6-401 to 402 and the Colorado Open Records Act ("CORA"), C.R.S. §§ 24-72-201 to 206, and with the spirit of these statutes that provide for transparency in the conduct of public business; and

WHEREAS, case law interpreting the applicability of both COML and CORA to email correspondence is evolving, causing the potential for confusion as to the appropriate procedures and uses for emails among county officials, boards, commissions and committees.

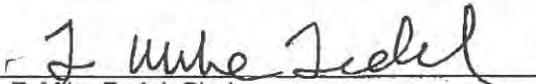
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

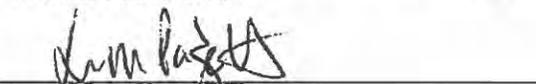
1. The Board of County Commissioners hereby adopts the Email Policy for Elected Officials, Appointed Boards, Commissions and Committees attached hereto as Exhibit A.
2. The County Attorney is instructed to make this email policy available to all officials, boards, commissions and committees, and to provide an explanation or training as necessary in order to assure understanding and compliance with the policy.
3. This policy may be further amended as additional case law or statutory amendments require.

APPROVED AND ADOPTED THIS 5th DAY OF FEBRUARY 2013.

Voting for: Commissioners Fedel, Padgett and Batchelder
Voting against: None

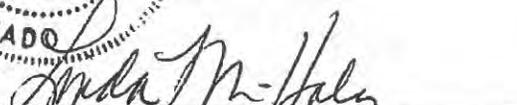
BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO


F. Mike Fedel, Chair


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Don Batchelder, Commissioner




Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

Ouray County Email Policy for Elected Officials, Appointed Boards, Commissions, and Committees

Adopted February 5, 2013

The use of email is permitted by elected officials, boards and commissions, as well as county staff, but its use requires careful consideration to ensure compliance with both the Colorado Open Meetings Law (“COML”) C.R.S. 24-6-401 to 402 and the Colorado Open Records Act (“CORA”) C.R.S. 24-72-201 to 206. This policy, with accompanying explanation, is adopted by the Board of County Commissioners to ensure compliance with the spirit and intent of the statutes, and is consistent with Colorado judicial decisions through the date of adoption.

Use of email potentially results in a “meeting” under COML. A meeting is defined by statute, C.R.S. 24-6-402(1)(b) as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communications.” All meetings “of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken” must be open to the public, with notice provided. C.R.S. 24-6-402(2)(b). “Local public body” is defined as “any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision, or an official thereof,” but does not include administrative staff.

Not all emails qualify as a “meeting” even if the requisite number of commissioners, board members or officials (“requisite group”) is included as recipients of the email. As with other gatherings of the requisite group, the gathering must also be for the purpose of discussing “public business” or at which “formal action may be taken”. Thus, social events, professional or association conventions, seminars, casual lunches and similar gatherings are not “meetings”. A 2012 Colorado Court of Appeals case addressed the topic of email communications as a “meeting” and discussed both the intent of the statute as well as the nuances of various situations that meet the definition of “meeting” and those that do not.

In *IREA v. PUC*, 2012 COA 123, No. 11CA1398 (July 19, 2012) the Court found that an email chain relating to pending legislation and discussion of potential revisions to the legislation among the PUC Commissioners did not violate COML because the emails did not contain a discussion of “public business”. The court reasoned that, while “public business” is not defined in the statute, the phrase had been interpreted by the Supreme Court as relating to the public body’s policy-making function. “A meeting must be part of the policy-making process to be subject to the requirements of the OML. A meeting is part of the policy-making process if it concerns a matter related to the policy-making function of the public body holding or attending the meeting.” *Board of County Commissioners v. Costilla County Conservancy District*, 88 P.3d 1188 (Colo. 2004).

The Court of Appeals reasoned, using *Costilla County* as guidance, that “...to prevail on a claim under the OML, a party must point to a pending action by the public body holding the meeting with regard to a rule, regulation, ordinance, or formal action by that public body that has a meaningful connection to the gathering in question.” Thus, while a topic might be a matter “of concern” to the public, if there is no pending policy-making decision or action, it is not a “meeting convened to discuss public business.” The court found that while the legislation was of interest to the PUC, the PUC “does not engage in policy-making by providing input on proposed legislation, because passing legislation falls exclusively under the policy-making functions of the General Assembly and the Governor.” Even though the PUC eventually presented formal comments on the legislation based upon its particular agency expertise, because passing legislation is not within the PUC’s statutory duties, this was not a “formal action” of the PUC. Therefore, in this instance, the email chain did not constitute a meeting subject to public notice and participation requirements. Note that this decision was by the Court of Appeals and not the Supreme Court, so this conclusion may not be the last word on the subject of emails as “meetings.”

Emails for the purpose of scheduling, relaying articles in the media, providing information about upcoming events and so on are not meetings under the *IREA v. PUC* ruling. An email chain that does not constitute a “meeting” may be subject to a request for public disclosure under CORA, however. Emails that meet the test of being a “public record” or “correspondence” pertaining to the performance of public functions may be requested for disclosure under CORA. If the email meets the definitions, and is not otherwise exempted as work product, deliberative process, or one of the other exemptions provided by statute and case law interpretation, it is subject to disclosure regardless of whether the email account is a public entity account or whether the computer utilized is owned by a governmental agency or political subdivision. Having less than the requisite group for purposes of a “meeting” involved in an email similarly does not preclude applicability of CORA if it otherwise is subject to disclosure.

The Board of County Commissioners believes that the intent of COML and CORA are to ensure transparency in government and to facilitate participation by the public in policy decisions. It shall be the policy of the county to avoid the appearance of conducting policy-making discussions “behind closed doors” through the use of emails in which policy decisions or positions are debated, discussed or regulations are formulated, even if fewer than the statutory requisite group are included in a given email or chain of emails. This policy also considers that when email chains involve less than an entire appointed board, commission or committee, the benefits of differing perspectives which may be expressed in a public meeting can be lost. Recognizing that the exemptions for work product, executive sessions, personnel matters, and other exempted, privileged and confidential discussions are also valid and allow the Board and other officials to conduct business in the best interests of the county, the Board of County Commissioners is in no way waiving the right to claim such exemptions from either COML or CORA.

The Board of County Commissioners requests all appointed and elected officials, board, commission and committee members in Ouray County to carefully consider in drafting, responding or participating in an email chain whether the content is more properly or appropriately addressed in a noticed and public meeting, whether members of the public could perceive that policy decisions are being made without the transparency provided by law, whether all members of a board or commission are being involved in discussion of policy decisions in a way that ensures full debate of differing ideas and perspectives, and whether the emails are public records or correspondence which may be subject to CORA. The Board requests that when in doubt, reserve the deliberation or conversation for a noticed public meeting to comply with both the spirit and the letter of the law, and to ensure public confidence in the transparency of policy decisions in Ouray County.

More detailed training and guidance materials are available to all officials, appointed boards, commissions and committees through the County Attorney.

**SUBJECT: ROLE AND LIABILITY OF 501c3 ORGANIZATIONS AFFILIATED
WITH THE CITY**

DATE: MARCH 19, 2015

PRESENTED BY: MEREDYTH MUTH, PUBLIC RELATIONS MANAGER

SUMMARY:

The following five 501c3 non-profit entities are affiliated with the City, either through a board or commission or through a facility. These boards raise funds that are spent directly on City programs or facilities.

- Cultural Council
- History Foundation
- Friends of the Arboretum
- Seniors of Louisville
- Library Foundation

Of these five, three (Library, Seniors, History) are distinct boards that act separately from a City board, one (Arboretum) has a majority of members who sit both on the 501c3 and the Horticulture & Forestry Advisory Board (HFAB), and one (LCC) for which all members appointed to the City board are then also members of the 501c3.

Bylaws and articles of incorporation are attached for all of the boards except the LCC as staff has not been provided a copy. Each of the bylaws lists City buildings as the location of their principal office.

While staff agrees these organizations do good work and they clearly benefit the City, there are concerns about what liabilities the City may be exposed to related to the 501s and questions about how closely the City should or should not support the groups.

Staff agrees with comments made by the Mayor that we want to make it easy for the 501s to do business. That said, any affiliation with the City does come with rules and regulations designed to protect both the City and our residents.

Background:

LCC and HFAB members are appointed by the City Council as advisory board members. For the LCC, public body (advisory board) membership is also then considered the same leadership of the 501c3. For HFAB they have a slightly different membership but it is made up of a significant number of current HFAB members.

Generally LCC members are considered board members for both the public body and the 501c3 (even if they have not been officially listed on the 501s paperwork with the Secretary of State or the group's by-laws). Some board members are then also specifically listed on bank paperwork so they can sign checks for the 501.

The LCC's meetings are meetings of both the advisory board and the 501, there is no distinction between the two. HFAB is starting to have their 501 and advisory board meet separately.

This raises the question: What differentiates a member's role with the public body from his role with 501c3?

The History Foundation board has a specific requirement that no more than two members of the City's Historical Commission can serve on the History Foundation. This is meant to allow for a certain amount of information sharing, without the boards being too intertwined.

The Library Foundation and History Foundation each hold their own meetings separate from any advisory board.

Liability:

Currently all members appointed to a City board are listed as "public officials" on the City's liability insurance. They are covered as long as they are acting within their "scope of work" for the board.

For the LCC, and to a certain extent HFAB, there is little to no differentiation for a board member regarding his work as a City board member or as a member of the 501c3. Are members representing the City or the 501c3 when signing contracts, fund raising, hosting events, etc.? If that is the case, what does the City's liability insurance cover and what does it not cover?

None of the 501c3s have their own liability insurance that staff is aware of.

Some boards have had an interest in getting liquor licenses for special events in the past. What is the liability to the City if a 501c3 gets a liquor permit but does not get separate liquor liability insurance? Secondly, even if they have their own liability insurance, would the City still be liable if there is an incident? To date the City has told the 501s they cannot apply for liquor permits even though as a 501 they can apply for a special license.

What is the City's liability for issues that might arise from a member that is a "public official" and a member of the 501c3?

The Friends of the Arboretum bylaws state “all board members shall be approved by the Horticulture and Forestry Advisory Board.” If appointed City officials have final say over the membership of the 501, where does liability rest?

Staff time:

Departments already give the 501s a certain amount of staff time and a meeting place at no charge. It varies, but some departments do not want to offer additional staff time to the 501s and would actually like to lessen the amount of work they do on their behalf. What is the expectation for staff time and the use of City facilities?

Should City staff be working 501c3 fund raising events? This is a particularly big issue for the Seniors Heat Relief event which could not be held without Rec Center staff supporting the event.

Bylaws for some of the groups include specific references where City staff time is required: filing paperwork, reviewing financials, publishing meeting announcements, etc.

Meeting practices

City boards are required to meet all of the Open Government rules. Can the 501 (comprised of all the same members as the advisory board) choose to not follow those rules? Most all of the bylaws for the five groups allow for limited or no posting of meetings, allow for telephone meetings, and require limited record keeping. However, asking them all to meet the City’s open government rules would require a fair amount of staff time.

Money/purchasing policies/fund raising:

Are those 501s comprised of City-appointed members required to adhere to the City’s purchasing policies when spending the 501’s money?

Some possible options moving forward:

- Identify what the City sees as the role of the 501s and determine if that is the same role the members see.
- Require all 501c3s to be entirely separate in membership from City boards, or place specific limitations on how many members they may share.
- Clearly identify the difference in roles between a City board member and a 501 member (perhaps this is only needed for the LCC and Arboretum).
- Have departments identify how many hours per week staff may spend on 501c3 projects with an understanding that the 501s need to be generally self-sustaining.

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- Require 501c3s affiliated with the City and using City facilities to have liability insurance.
- Continue with current practices.

FISCAL IMPACT:

Unknown at this time.

RECOMMENDATION:

Discussion

ATTACHMENT(S):

1. Articles of Incorporation of Friends of the Louisville Arboretum
2. Bylaws of the Friends of the Louisville Arboretum
3. Bylaws of the Louisville Public Library Foundation
4. Constitution/By laws for the Seniors of Louisville
5. Articles of Incorporation of the Louisville Historical Commission (Changing Name to Louisville History Foundation)
6. Bylaws of the Louisville History Foundation

ARTICLES OF INCORPORATION OF
FRIENDS OF THE LOUISVILLE ARBORETUM

KNOW ALL BY THESE PRESENTS, that the undersigned, a person over the age of eighteen, hereby organizes a nonprofit corporation pursuant to the laws of the State of Colorado for the objects and purposes set forth hereunder.

ARTICLE 1.0
NAME AND DURATION

The name of the Corporation is: Friends of the Louisville Arboretum. The Corporation shall have perpetual existence.

ARTICLE 2.0
REGISTERED OFFICE

The location of the initial registered office of the Corporation is the City of Louisville Parks and Recreation Office at 717 Main Street, Louisville, Colorado, 80027, and the name of the Registered Agent at such address is the current President of the Board of Directors, Mike Frontczak.

ARTICLE 3.0
PRINCIPAL OFFICE

The location of the principal office of the Corporation is 717 Main Street, Louisville, Colorado, 80027. The Corporation's books shall be kept at such office. The Corporation may conduct all or part of its business in any part of Colorado or the United States and may from time to time establish and maintain such other offices as may be determined by the Board of Directors.

ARTICLE 4.0
PURPOSES

4.1 This Corporation is organized exclusively for charitable, educational and scientific purposes within the meaning of Sections 501 (c)(3) and 509 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws, and in this connection, subject to the restrictions set forth below, the objects and purposes of the Corporation and the nature of the business to be carried on by it are as follows:

- (A) Provision of services, programs, assistance, education and activities to citizens of the City of Louisville including but not limited to planting trees, shrubs and other botanical species within the Louisville Arboretum.
- (B) Education and information dissemination concerning issues affecting trees, shrubs and other botanical species within the City of Louisville;

(C) To do and engage in all lawful activities, and to exercise all powers, privileges, and rights that are necessary or advisable, that further or are consistent with the preceding objects and purposes of the Corporation.

4.2 The Corporation shall support and assist, and make grants and gifts in aid and support and assistance of, solely the charitable, educational and scientific purposes set forth in Section 4.1. The entire income and principal of the endowment and assets of the Corporation shall be held and distributed solely for such purposes, except for the modest amounts needed for the expenses of administration of this Corporation in order to effectuate the said purposes.

4.3 This Corporation is not organized for the pecuniary profit of its directors, officers, or any other private individual; nor may it issue stock nor declare nor distribute dividends, and no part of its net income shall inure, directly or indirectly, to the benefit of any director, officer, or any other private individual (except that reasonable compensation and expenses may be paid for services rendered); and any balance of money or assets remaining after the full payment of corporate obligations of all and any kinds shall be devoted solely to the charitable, educational and scientific purposes of the Corporation.

4.4 No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE 5.0
STATEMENT OF NONDISCRIMINATORY POLICY

The Corporation's services shall be available to all persons regardless of race, color, creed, national origin, sex or handicap, and the Corporation shall not discriminate against anyone on these grounds.

ARTICLE 6.0
POWERS

6.1 The Corporation shall have the power to do everything and anything reasonable and lawfully necessary, proper, suitable, or convenient for the achievement of the purposes above stated, or for any of them, or for the furtherance of the said purposes.

6.2 The Corporation shall have all powers available to a nonprofit corporation organized in accordance with the Colorado Revised Nonprofit Corporation Act, Colorado Revised Statutes 7-121-101 *et seq.*, or any amendment thereof or supplement thereto or substitute therefore ("Act"), and as available to an entity qualified as a 501 (c)(3) organization.

6.3 The Corporation shall have the power to pay out of the funds of the Corporation all costs and expenses of and incidental to the incorporation and organization of the Corporation.

ARTICLE 7.0

LIMITATIONS

7.1 Nothing herein contained shall be deemed to authorize or permit the Corporation to carry on any activities, or to exercise any power, or to do any act that a Corporation formed under the Act, may not at the time lawfully carry on or do.

7.2 Notwithstanding any of the provisions of these Articles of Incorporation, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

7.3 The provisions of this Article 7.0 shall not be changed by any Bylaws or amendments to these Articles of Incorporation except to reflect further changes and requirements of the Internal Revenue Code.

7.4 This Corporation is intended to be a “public charity” as defined in Section 509 (a)(1) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws. Notwithstanding this intention, the Corporation’s activities are restricted by the following:

- (A) The Corporation must distribute its income so as not to be subjected to the tax on undistributed income;
- (B) The Corporation must not engage in acts of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax law (such as sales and loan transactions with major contributors, managers, and persons and entities affiliated with them);
- (C) The Corporation must not retain excess business holdings;
- (D) The Corporation must avoid investments that jeopardize the carrying out of exempt purposes; and
- (E) The Corporation must avoid making taxable expenditures (such as a grant of money for carrying on propaganda or influencing legislation).

ARTICLE 8.0 **MEMBERSHIP AND BYLAWS**

8.1 The Corporation shall be a nonmember corporation.

8.2 The Bylaws shall be the code of rules adopted for the regulation or management of the affairs of the Corporation and shall not be inconsistent with applicable laws or these Articles of Incorporation, as may from time to time be amended.

8.3 The Board of Directors of this Corporation shall make, adopt, alter, amend, and repeal such Bylaws of the Corporation for the conduct of business of the Corporation and the carrying out of its purposes as such Directors may deem necessary from time to time. The Bylaws may be altered, amended or repealed at any meeting of the Board of Directors of the Corporation in the manner provided in the Bylaws.

ARTICLE 9.0
THE BOARD OF DIRECTORS

9.1 The control and management of the affairs of the Corporation, the selection of the Board of Directors, their term of office and the manner of selection shall be determined according to the Bylaws of the Corporation.

9.2 The number of Directors constituting the initial Board of Directors of the Corporation is five (5). The Board of Directors will include five (5) citizens of the City of Louisville. The (5) citizens can include members of the Horticulture and Forestry Advisory Board (HFAB). All members of the Board of Directors shall be approved by the HFAB. The names and addresses of the persons who are to serve as the initial Board of Directors, and who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

Mike Frontczak, President – 643 Fairfield Lane, Louisville CO. 80027
Fred Banta, Vice President – 370 W. Spruce Lane, Louisville CO. 80027
Phil Barton – 516 Orchard Way, Louisville CO. 80027
Theresa Rounds, Secretary/Treasurer – 315 S. McKinley Court., Louisville CO. 80027
Ellen Toon – 404 Eisenhower Drive, Louisville CO. 80027

ARTICLE 10.0
NONLIABILITY AND INDEMNIFICATION

10.1 Directors and officers of the Corporation shall not be personally liable for acts performed in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner the director or officer reasonably believes to be in the best interests of the corporation.

10.2 The Corporation shall indemnify the members of its Board of Directors, officers, agents and employees against any and all expenses, including attorney’s fees and liability expenses sustained by them, or any of them, in connection with any suit or suits that may be brought against said member of the Board of Directors, officers, agents and employees involving or pertaining to any of their acts or duties performed for this Corporation in good faith and where the person reasonably believed that the conduct was either in the Corporation’s best interest, or at least not opposed to the Corporation’s best interest and in the case of any criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful. This provision shall not be deemed to prevent the compromises of such litigation where the compromise is deemed advisable in order to prevent greater expense or cost in the defense or prosecution of such

litigation. The terms of indemnification shall be as set forth in the Bylaws and in accordance with applicable Colorado State law.

ARTICLE 11.0
DISSOLUTION

11.1 Upon the dissolution of the Corporation, or the winding-up of its affairs, the assets of the Corporation not used to carry out the objects enumerated above, or any other objects not inconsistent therewith, shall be distributed exclusively to charitable, scientific, literary, or educational organizations that would then qualify under the provisions of Section 501 (c)(3) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws, or any qualifying governmental organization or political subdivision for a public purpose. The organization to receive such distribution shall be designated by the Board of Directors. None of the assets will be distributed to any director or officer of the Corporation or to any private individual.

11.2 No distribution of property of the Corporation shall be made until all legitimate debts are paid, and then only upon its final dissolution and surrender of the Corporation’s name.

ARTICLE 12.0
AMENDMENT

Except as expressly restricted, the Corporation, acting through its Board of Directors, reserves the right from time to time amend, alter, change or repeal these Articles of Incorporation. The provisions of Article 7.0 shall be considered as express restrictions.

ARTICLE 13.0
INCORPORATOR

The name and address of the Incorporator is: Mike Frontczak, President of the Board of Directors, Friends of the Louisville Arboretum – 643 Fairfield Lane, Louisville CO 80027

THE UNDERSIGNED has signed and acknowledged these Articles of Incorporation this _____ day of _____, 2008.

ACKNOWLEDGEMENT

STATE OF COLORADO)
)ss
COUNTY OF BOULDER)

The above and foregoing signature of _____ was subscribed and sworn to before me this _____ day of _____, 2008.

Witness my hand and official seal.

(SEAL)

Notary Public

My commission expires: _____

Address

BYLAWS OF
FRIENDS OF THE LOUISVILLE ARBORETUM

Article I. Organization

These Bylaws shall regulate and govern the affairs of the Friends of the Louisville Arboretum (“Corporation”), a nonprofit corporation organized exclusively for charitable, educational and scientific purposes within the meaning of Section 501 (c) (3) and 509 of the Internal Revenue Code of 1986 and in accordance with the Colorado Revised Nonprofit Corporation Act, Articles 121-137 of Title 7, C.R.S. (“Act”).

Article II. Purposes and Powers

1. **PURPOSES.** Friends of the Louisville Arboretum is formed to foster interest in, promote, improve and expand the activities of the Louisville Arboretum, in Louisville, Colorado. The objects and purposes of the Corporation include, but are not limited to the provision of services, programs, assistance and educational or other activities to citizens of the City of Louisville regarding the planting trees, shrubs and other botanical species within the Louisville Arboretum; education and dissemination of information regarding issues affecting botanical species within the City; and to raise, receive or otherwise acquire revenues and gifts, which are to be used in a manner which will facilitate the charitable, educational and scientific activities of the Friends of the Louisville Arboretum.

2. **POWERS.** The Corporation shall have all powers not inconsistent with its Articles of Incorporation, including all powers available to an entity qualified as a 501(c)(3) organization. The Corporation shall have the power to do everything and anything reasonable and lawfully necessary, proper, suitable, or convenient for the achievement of the purposes above stated, or for any of them, or for the furtherance of the said purposes, including, without being limited to the following:

- (a) To acquire, hold or dispose of property, real or personal, as may be given, devised, or bequeathed to the Corporation, or entrusted to its care and keeping, and to purchase, acquire, and dispose of such property as may be necessary to carry out the purpose of the Corporation.
- (b) To borrow money for corporate purposes.
- (c) To employ persons as deemed necessary.
- (d) To exercise all powers privileges, and rights necessary or advisable to carry out the objects and purposes for which the Corporation is created, it being the intent that the Corporation shall have all the privileges, rights, immunities and powers created, extended, or conferred by the provisions of all applicable laws of the State of Colorado pertaining to nonprofit corporations, and any amendments thereto.

Article III. Board of Directors and Their Responsibilities

“Board of Directors,” hereinafter referred to as “Board,” means the body of designated individuals selected to control and manage the affairs of the Corporation.

1. DESIGNATION. The management of the Corporation shall be vested in the Board of five (5) persons who shall each have one vote in the conduct of affairs of the Corporation. Directors shall serve for terms of four (4) years or until their successors are appointed.

2. ELIGIBILITY. The Board shall consist of five (5) current residents of the City of Louisville. Members of the Horticulture and Forestry Advisory Board of the City of Louisville may be appointed board members. All board members shall be approved by the Horticulture and Forestry Advisory Board.

3. POWERS OF THE BOARD. The Board shall have and exercise all the powers necessary to control the work and policy of the Corporation. No contract, debt, or obligation shall be binding unless contracted under the authority of the Board.

4. COMPENSATION. No Director shall receive any salary or compensation for his or her services nor shall any Director, nor any person from whom the Corporation may receive any property or funds receive from the Corporation any pecuniary profit from the operations of the Corporation; provided however, that (a) reasonable compensation may be paid to agents and employees hired by the Corporation for services rendered in effecting one or more purposes of the Corporation, and (b) any Director may be reimbursed for his or her actual and reasonable and necessary expenses incurred in connection with the administration of the Corporation.

Article IV: Meetings of the Board of Directors.

1. MEETINGS AND QUORUM. The Board shall meet no less than quarterly, at such time and place as it shall determine. A simple majority (50% + 1) of the membership of the Board shall constitute a quorum. The act of the majority of the Board present when there is a quorum shall be the act of the Board, except that an affirmative vote of four-fifths of the Board of Directors shall be required for the amendment of the Articles of Incorporation.

2. ATTENDANCE. Any Director who misses three consecutive meetings will not be considered to be in good standing unless such absences are approved by the Board. Any such Director may be removed from the Board by a majority vote and the Board may request the Horticultural and Forestry Advisory Board appoint a replacement for same.

3. ANNUAL MEETING. The annual meeting of the Board shall be held at its first meeting of each year. The meeting will be held for the purpose of electing officers, appointing committees and for the transaction of any other business as may properly come before the Board. No notice shall be required for the annual meeting of the Board.

4. SPECIAL MEETINGS. Special meetings of the Board may be called by the President or may be called upon the written request of a Director. The call for a special meeting shall specify the purpose of the meeting and shall give three (3) days notice thereof to the remaining Directors.

5. NOTICE OF MEETINGS. Except for the annual meeting of the Board, notice of the time and place of any meeting of the Board shall be provided to the Directors, either written or orally, not later than three (3) days prior to such meeting. Neither the business to be transacted nor the purpose of any regular or special meeting need be specified in the notice of such meeting.

6. TELEPHONE MEETINGS. Notwithstanding any other provision of these Bylaws, the Board may conduct any meeting by telephone conference call or any means of communication by which all persons participating in the meeting can hear each other at the same time. Any Director participating in a meeting by this means is deemed to be present in person at such meeting.

7. RECORD OF MEETINGS. All meetings of the Board shall be open to the public, except as otherwise provided by Colorado statutes. The Board shall keep records of all its meetings, which shall be available for inspection by any interested person at reasonable times, and upon reasonable notice, during regular office hours.

8. ACTION WITHOUT MEETING. Notwithstanding any other provision of these Bylaws, all of the Directors may, in substitution for any meeting, execute written consents setting forth any action of the Board, and such action (not inconsistent with law or the Articles of Incorporation) evidenced by such a written consent shall be the valid action of the Board.

9. RULES OF ORDER. The Board may by resolution adopt rules of order or procedure supplemental to these bylaws.

Article V. Officers and their Election

1. OFFICERS. The officers of the Corporation shall consist of a President, Vice President, Secretary and a Treasurer; however, the position of Secretary and Treasurer may be combined.

2. ELECTION AND TERM OF OFFICE. Officers shall be elected by the Board at its first meeting each year. A notice of election of officers shall appear on the agenda. Each elected officer shall serve a maximum of three, one-year terms. Officers shall assume their official duties following the close of the meeting in which they are elected to office and shall serve for a period of one year and until the election and qualification of their successors. Officers shall deliver to their successors all official material not later than ten days following the election thereof.

3. DUTY OF OFFICE. All Officers shall perform the duties prescribed in these Bylaws and any other duties as assigned from time to time.

(a) The President shall preside at all meetings of the Board and shall be chief presiding officer of the Board in all matters. The President shall have the authority to sign all contracts and other instruments on behalf of the corporation, except as such authority may be restricted by resolutions of the Board adopted from time to time.

(b) The Vice President shall have such duties as the Board or the President may delegate to him from time to time. In the absence of the President or inability of the President to act, the duties and powers of the office shall be performed and exercised by the Vice President.

(c) The Secretary shall perform all duties usually incident to the office of the secretary, such as keeping meeting minutes and sending meeting notices. The Secretary shall act as secretary of all meetings of the Board, perform those duties specified by the bylaws, and such other duties as may be assigned by the Board or required by the President. The Secretary shall exercise the functions of the Vice President in the absence or incapacity of the Vice President. The Secretary shall be the custodian of the corporate records.

(d) The Treasurer shall have general supervision over the custody of corporate funds and shall deposit the same in the name of the Corporation in such banks as the Board may designate. The Treasurer shall keep full and accurate accounts of all receipts and disbursements of the Corporation and whenever required by the Board, shall render financial statements of the Corporation and present said statements at every regularly scheduled Board meeting.

4. CORPORATE SIGNATURE. All checks, drafts, bills of exchange, notes or other obligations or orders for the payment of money shall be signed in the name of the Corporation by such officers or persons as provided by these Bylaws or as the Board may from time to time designate by resolution. All officers shall have the authority to sign obligations or orders for the payment of money.

Article VI. Indemnification

1. INDEMNIFICATION. To the extent permitted by law, the Corporation shall indemnify any director, officer, employee or former director, officer, or employee of the Corporation, against expenses actually and reasonably incurred by him or her in connection with the defense of any action, suit, or proceedings, civil or criminal, or for any loss or claim resulting from any such action, suit, or proceeding, in which he or she is made a party by reason of being or having been a director, officer or employee of the Corporation; provided that in regards to the liability incurred, the person's conduct was in good faith and the person reasonably believed that the conduct, made in official capacity with the Corporation, was in the best interests of the Corporation or if the conduct was not in the person's official capacity, was at least not opposed to the best interest's of the Corporation.

2. INSURANCE. The Board is authorized to obtain a policy or policies of insurance for the purpose of providing such indemnification of the directors, officers and employees of the Corporation.

Article VII. Committees

1. STANDING COMMITTEES. The Board may establish standing committees of the Corporation. The Chairperson of each Standing Committee shall be appointed annually by the President of the Board.

2. OTHER COMMITTEES. The President of the Board shall have the authority to appoint such other Committees, and Chairpersons for the Committees, as shall be necessary for the conduct of the business of the Corporation.

3. COMMITTEE REQUIREMENTS AND POWERS. All Committees must be chaired by a Director of the Board. The Board of Directors shall prescribe the duties, powers, and functions of each Committee herein authorized. It shall have the power to appoint such Committees for carrying on the work under its direction, as it may deem necessary.

Article VIII. Financial Provisions

1. FINANCIAL AUTHORITY. The Corporation is specifically empowered to conduct or otherwise participate in and to accept grants, funds, gifts, or services from any federal, state, or local government or its agencies or instrumentally thereof, and from private and civic sources, and to expend funds received therefrom, under such provisions as may be required of and agreed on by the Board, in connection with any program or purpose for which the Corporation exists.

2. FINANCIAL RECORDS. The Corporation shall arrange for a systematic and continuous recordation of its financial affairs and transactions and may obtain an audit of its financial transactions and expenditures if deemed appropriate.

3. ANNUAL REVIEW. The City of Louisville Finance Director shall annually review the Financial Records and file appropriate forms as required by Federal and State Agencies.

Article IX. Adoption and Amendment of Bylaws

1. EFFECTIVE. These Bylaws shall become effective upon their adoption by the Board of Directors.

2. AMENDMENT. These Bylaws may be amended at any regular meeting of the Board by an affirmative vote of four-fifths of the Board, provided that written notice of the proposed revisions were provided to each of the Board of Director's at least seven (7) days prior to the meeting.

The above Bylaws are approved and adopted by the Board of Directors of the Louisville Arboretum this _____ day of _____, 2008.

FRIENDS OF THE LOUISVILLE ARBORETUM,
a Colorado nonprofit corporation

By: _____
President

ATTEST:

Secretary

Bylaws of the Louisville Public Library Foundation

Amended and Restated August 16, 2012

Article I

Offices, Purposes and Powers

Section 1. The principal office of this non-profit Corporation, the Louisville Public Library Foundation, shall be at 951 Spruce Street, Louisville, Colorado, 80027.

Section 2. The Corporation may also have offices at such other places as the Board of Directors may from time to time determine, or the business of the Corporation may require.

Section 3. The purpose of the Corporation shall be the advancement of the Public Library of the City of Louisville ("Louisville Public Library"), including all branches thereof, or any successor institution with the same or similar cultural, educational, literary, scientific, and civic purposes.

Section 4. The Corporation shall have all powers necessary to fulfilling the purpose, including:

4.1 Collection and solicitation of gifts, bequests, grants and devises of property of any kind, whether real or personal and wherever situated, for the use and benefit of said Library;

4.2 Holding, managing, operating, selling, exchanging, investing, and generally dealing with property which may come into its possession for the use and benefit of said Library;

4.3 Applying, expending, and using any or all of its assets, no matter how received, principal and income or either, to the use and benefit of the Louisville Public Library or any of its branches, with or without restriction;

4.4 Qualifying for tax exempt status under Federal and other applicable law;

4.5 Any and all powers conferred by Colorado law, as now existing or as later amended, upon nonprofit corporations.

Section 5. The Board of Directors may appoint staff to serve the Corporation.

Section 6. The Corporation shall not enter into any contractual obligations without a majority vote of the Board members present and voting at any meeting.

Article II
Members

Section 1. Individual and corporate contributors at certain minimum levels, as determined from time to time by the Board of Directors, shall be members of the corporation.

Article III
Directors

Section 1. The directors of this non-profit Corporation shall be no fewer than three (3) in number, and no more than fifteen (15) in number. Ex-officio, non-voting members shall include the Library Director.

Section 2. No more than two (2) Corporation directors shall serve concurrently on the Louisville Public Library Board of Trustees.

2.1 Board directors shall be elected by a majority vote of directors present and voting at the Annual Meeting for revolving three year terms. In the event of a three (3) director board, no more than one (1) director's term shall expire at any annual meeting, and in the event of a five (5) director board, no more than two (2) directors' terms shall expire at any annual meeting.

2.2 Any vacated position on the Board of Directors may be filled by a majority vote of the directors present and voting at any regularly scheduled or specially called meeting. The director so appointed shall serve the remainder of the term that was vacated.

2.3 A Director shall be limited to three (3) consecutive terms on the Board; however, such Director may again be considered for election to the Board after one full year off the Board.

2.3 A director may be removed from Board membership for cause by a majority of the Board at any meeting. Cause shall include, but not by way of limitation, failure to attend two (2) consecutive regular Board meetings, failure to attend at least fifty percent (50%) of the regular board meetings in an twelve (12) month period, or failure to actively participate in board authorized activities, including fund raising.

Section 3. Meetings

3.1 The Corporation shall hold an annual meeting and other meetings at such times and places as they may from time to time determine.

3.2 Special meetings of the Board of Directors may be called by the president with no less than two (2) business days notice to each director. Special meetings shall be called by the president in like manner and on like notice on the written request of directors.

3.3 A majority of the whole Board of Directors at a meeting duly assembled shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which a quorum is

present shall be the act of the Board except as may be otherwise specifically provided by statute or by these bylaws.

Section 4. Directors shall not receive compensation or participate in any gain or profit from the operation of this Corporation. Reimbursement for reasonable expenses may be paid.

Section 5. The property and business of the Corporation shall be managed by its Board of Directors, which may do all lawful acts.

Article IV ***Officers***

Section 1. The officers of the Corporation shall be chosen by the directors and shall be a president, a vice-president, a secretary and a treasurer. Any two offices, except the offices of president and secretary, may be held by the same person. Each officer shall serve a one (1) year term. The president shall have been a director for at least one (1) year prior to serving as president.

Section 2. The Board of Directors may appoint additional vice-presidents and assistants and such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 3. The president shall exercise chief executive authority and shall preside at all meetings of the directors. The president shall be an ex-officio member of all standing committees. The vice-president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president, and shall perform such other duties as the Board of Directors shall prescribe.

Section 4. The president, secretary, or vice-president shall each be authorized to execute checks in amounts less than \$500.00. Checks or other funds transfers in amounts greater than \$500.00 necessary for the operation of the Corporation will require written authorization by any two (2) of the following, president, vice-president, or secretary.

Section 5. The secretary shall attend all sessions of the Board of Directors and record all votes and the minutes of all proceedings. He or she shall give, or cause to be given, notice of all meetings and special meetings of the Board of Directors, and he or she shall perform such other duties as may be prescribed by the Board.

Section 6. The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation. The treasurer or designated agent shall deposit all monies and valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The treasurer shall be responsible for preparing and filing required financial reports with governmental agencies.

Article V
Investment Fund

Section 1. The Board of Directors hereby create an investment fund to be designated as the Louisville Public Library Investment Fund, to be made from donations, gifts, subscriptions, and bequests. A portion of the investment fund shall be deposited and invested by the Board of Directors in accordance with law. A portion of the investment fund may also be appropriated, used and expended according to the purposes stated in subsection 1.1 below as the Board deems expedient.

1.1 The income of the Louisville Public Library Investment Fund shall be expended in support of the objectives, enhancement and preservation of the collections, programs, and services of the Louisville Public Library and on the acquisition of new collections for the Louisville Public Library. The term "collections" shall include, but not be limited to, books, magazines, newspapers, periodicals, historical documents, maps, photographs, audio recordings, computer software, DVDs, electronic media devices, downloadable materials, including licenses, and other materials.

1.2 All gifts, bequests, subscriptions, and donations to the Louisville Public Library designated for the investment fund shall, on payment to and acceptance by the Louisville Public Library Foundation, be added to and become a part of the investment fund.

1.3 At all times, the Board of Directors shall exercise ordinary care and prudence under the facts and circumstances prevailing at the time with respect to the investment fund, and in so doing they shall consider long- and short-term needs of the Louisville Public Library in carrying out its purposes, its present financial requirements, expected total return on investment of the fund, price level trends and general economic conditions.

1.4 All gifts, bequests, subscriptions, and donations to the Louisville Public Library Investment Fund will be made out to the Louisville Public Library Foundation. The monies of the Louisville Public Library Investment Fund may be deposited in depository institutions or institutions deemed prudent by a majority of Board of Directors.

1.5 The investment fund hereby created is meant to be perpetual. However, in case the Louisville Public Library ceases to exist, the corpus of the investment fund will be distributed by the Board of Directors to its successors or other public libraries sharing the same goals and purposes as the Louisville Public Library.

1.6 The Board of Directors may adopt investment and spending policies or guidelines for the investment fund as the Board deems appropriate.

Article VI
Notices and Waivers

Section 1. Whenever notice is required to be given to any person, such notice may be given in writing, by mail, including electronic mail, addressed to such person at such address as appears on the books of the Corporation, and such notice shall be deemed to be given at the time when the same shall be thus mailed.

Section 2. Actions taken at a meeting that was improperly noticed shall be as valid as if having taken place at a meeting regularly called and noticed provided a quorum was present at such meeting and the directors consent: in writing; by verbal consent entered on the minutes of such meeting; or by taking part at such meeting without objection, The proceedings of such meeting may be ratified, approved and rendered valid (and the irregularity or defect therein) by a writing signed by all directors.

Section 3. Whenever any notice whatever is required to be given, a waiver thereof in writing signed by the person entitled to said notice either before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. Any action which may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof.

Article VII
Corporate Instruments

Section 1. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in writing in the name of and on behalf of the Corporation, and such authority may be general or may be limited to specific instruments or instances.

Article VIII
Limitation of Liability and Indemnification

Section 1. A director of the Corporation shall not be personally liable to the Corporation for monetary damages for breach of fiduciary duty as a director, except as to liability: a) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or b) for any transaction from which the director derived an improper personal benefit.

Section 2. The Corporation shall indemnify any and all of its directors or officers, or former directors or officers, against expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceeding in which they, or any of them, are made parties, or a party, by reason of being or having been directors or officers or a director or officer of the Corporation or of such other corporation, except in relation to matters as to which any such director or officer or former director or person shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled, under any bylaw, agreement, vote of members, or otherwise.

Article IX
Conflict of Interest

Section 1. No director or officer may use his or her position as a director or officer to obtain financial or other gain for the private benefit of the director or officer or for any organization with which the director or officer is associated.

Section 2. In the event that a conflict of interest should arise, a director or officer will be expected to voluntarily abstain from discussion or voting on any issue which the director or officer recognizes as a conflict of interest position. If any director or officer perceives a possible conflict of interest for any other director or officer, the conflict will be pointed out and the Board of Directors will decide whether or not the issue represents a conflict of interest for the director or officer in question before discussion on the issue proceeds.

Section 3. Directors and officers must distinguish clearly in their actions and statements between their personal philosophies and those of the institution.

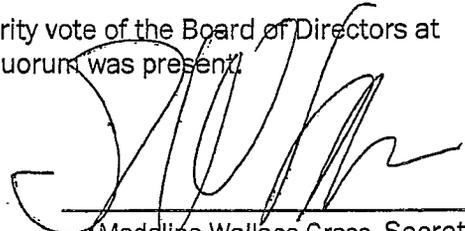
Article X
Amendments

Section 1. These bylaws may be altered or amended at any regular or special meeting of the Board of Directors, by a two-thirds majority vote of the entire Board of Directors.

Section 2. These bylaws were passed and adopted by unanimous vote as the bylaws of the Louisville Public Library Foundation, at a meeting of the Board of Directors of the Corporation on the 1st day of May, 1979, as amended on the 20th day of September, 2000, the 11th day of January, 2001, and the 22nd day of February 2012.

BYLAW CERTIFICATE

I certify that these by-laws were amended by a majority vote of the Board of Directors at special meeting held on August 16, 2012 where a quorum was present.



Maddie Wallace-Gross, Secretary
Louisville Public Library Foundation

CONSTITUTION/BY LAWS

Revised September 18, 2012

SENIORS OF LOUISVILLE

PREFACE

The Seniors of Louisville Constitution/Bylaws is clear that the Advisory Board is an independent organization (technically an “unincorporated association”) Because the Advisory Board’s Mission is consistent with City’s broad public purposes, it is appropriate for the City to provide meeting space and some staff support to assist the Advisory Board in pursuing that mission. (Louisville City Manager, Malcolm Fleming, 12-6 2010)

ARTICLE 1

NAME

The name of the organization is SENIORS OF LOUISVILLE.

ARTICLE 2

PRINCIPAL OFFICE

The location of the principal office of the organization is 900 West Via Appia, Louisville, Colorado, 80027. The organization’s records shall be kept at such office.

ARTICLE 3

MISSION AND VISION

Section 3.1 Mission. The Seniors of Louisville Advisory Board is a charitable organization dedicated to creating a vibrant community in which we all age-well.

Section 3.2 Vision. To provide for the welfare of seniors through programs and services of the Louisville Senior Center by advising staff and participating in focus groups; thereby building a link between the community of seniors, advisory board and staff in addressing basic needs, maximizing independence, promoting social and civic engagement and optimizing physical and mental health and well-being.

Section 3.3 To select and provide a recommendation to the Boulder County Board of Commissioners a candidate to represent the seniors in the Louisville

area on the Area Agency on Aging Advisory Council (AAC).

ARTICLE 4

MEMBERSHIP

Section 4.1 Membership in the SENIORS OF LOUISVILLE shall be open to all residents of the City of Louisville and surrounding areas who are participating in SENIORS OF LOUISVILLE activities and who have attained the age of 60 years.

ARTICLE 5

GENERAL MEMBERSHIP MEETINGS

Section 5.1 The Annual Meeting of the Membership shall be held in November and shall be published in the Senior Section of the September – December Recreation Center Activities Guide

Section 5.2 Additional meetings of the Membership may be called by the Chair to keep the members informed and submit matters of business for consideration and/or vote.

Section 5.3 Meetings of the Membership shall be called by the Board at the written request of ten members stating the reason for the meeting.

Section 5.4 Publication in the Senior Section of the Recreation Center Activities Guide shall satisfy notification of the meetings. Notification of all Membership meetings shall be made at least two weeks prior to the meeting

Section 5.5 Those members present at a called and properly noticed Membership meeting shall constitute a quorum.

Section 5.6 There shall be no proxy voting.

ARTICLE 6

SENIOR ADVISORY BOARD MEMBERS

Section 6.1 The members of the Board shall be elected by the Membership. The Board shall have nine elected voting members. The Liaisons to the Board who may attend Board meetings, but not as members

and without voting, shall be the Senior Services Supervisor, the City Council Representative, and the AAC representative.

Section 6.2 Only the elected and/or duly appointed Replacement members of the Board shall have a vote.

Section 6.3 Attendance of Board members at meetings is mandatory. Board members shall be permitted two (2) unexcused absences per year. Excused absences shall include sickness, out-of-town, and others as the board determines. It is recommended that board members inform the Chair whenever they will be absent. Members who anticipate an absence of more than two meetings must notify the Board. The Board shall then appoint a replacement for the duration of the absence. Any Board member who has more than two unexcused absences in a year may have his/her position declared vacant and the Board shall then appoint a replacement.

Section 6.4 Any member of the Seniors of Louisville may be removed from the Board by a majority vote of the whole Board and when deemed to be in the best interests of the Seniors of Louisville or the Senior Advisory Board will be served thereby.

ARTICLE 7

TERMS OF OFFICE

Section 7.1 The term of office of a Board member shall be three years. Each year three new Board members shall be elected.

Section 7.2 Members of the Board shall be limited to two consecutive 3-year terms.

ARTICLE 8

DUTIES OF THE BOARD

Section 8.1 The Board shall conduct the business of the SENIORS OF LOUISVILLE to meet the purposes of the organization as defined in Article 3

Section 8.2 The Board shall refer matters of business to the Membership, as the Board deems appropriate.

Section 8.3 The expenditures paid from the treasury of the SENIORS OF LOUISVILLE, shall be paid with the prior authorization of the Board except as noted in Article 16.

Section 8.4 The Seniors of the Louisville Advisory Board shall voluntarily conform to the Open Government & Ethics provisions of the City of Louisville where applicable.

ARTICLE 9

BOARD MEETINGS

Section 9.1 The regular meetings of the Board shall be held not less than bimonthly at such time and place as the Board members shall determine.

Section 9.2 Special meetings of the Board may be called by the Chair, or at the request of a majority of the elected members of the board.

ARTICLE 10

OFFICERS

Section 10.1 The Board shall elect the following officers:

Chair
Vice-Chair
Secretary
Treasurer

They shall serve their term of office for one year or until a successor has been elected and qualified.

ARTICLE 11

DUTIES OF OFFICERS:

Section 11.1 Chair: The Chair shall preside at all meetings of the Board and the SENIORS OF LOUISVILLE Membership meetings. The Chair shall appoint all committees subject to approval of the Board. The Chair shall be an ex-officio member of all committees except the nominating committee.

Section 11.2 Vice-Chair: The Vice-Chair shall assist the Chair and shall assume the duties of the Chair in the Chair's absence and perform duties as delegated by the Chair. The Vice-Chair shall keep the yearly calendar and inform the Chair of upcoming duties and events.

Section 11.3 Secretary: The Secretary shall keep the minutes at all meetings of the Board and SENIORS OF LOUISVILLE Membership, insert amendments to the Constitution/Bylaws when passed, and shall perform such duties as assigned to the office of secretary by the Chair.

Section 11.4 Treasurer: The Treasurer shall receive all monies paid to the SENIORS OF LOUISVILLE. The Treasurer shall make all disbursements of funds approved by the Board. All checks are to be signed by the Treasurer or by the Chair if the Treasurer is absent. The Treasurer shall keep records of all monies received and disbursed and submit a financial report at each meeting. The Treasurer shall prepare a summary financial statement at the end of each fiscal year to be audited. The audit report shall be presented to the Board at the March Board meeting. The Treasurer shall file IRS form 990N by May 15 each year. . The Treasurer shall prepare a proposed budget of income and expenditures for the following year and present it to the Board at the final meeting of the year.

Section 11.5 The yearly records shall be maintained by the respective officers and handed over to their successors when they leave office.

ARTICLE 12

BOARD AND OFFICER VACANCIES

Section 12.1 In the event of a vacancy on the Board, the Chair shall appoint a SENIORS OF LOUISVILLE member to fill the vacancy until the next annual meeting of the Membership, at which time any remaining unexpired term shall be filled by election.

Section 12.2 If the office of the Chair shall become vacant for any reason, the Vice-Chair shall fill the unexpired term.

Section 12.3 In the event of a vacancy in the office of Vice-Chair, Secretary or Treasurer, the Board shall appoint another Board member to fill the unexpired term of the respective office.

ARTICLE 13

QUORUM

Section 13.1 The presence of a majority of elected members at any Board meeting shall constitute a quorum.

Section 13.2 The members present at any SENIORS OF LOUISVILLE Membership meeting shall constitute a quorum.

ARTICLE 14

ELECTIONS

Section 14.1 The Chair shall appoint a nominating committee in July, which shall nominate the candidates for election to the Board. The committee shall be made up of three non-Board members selected from the Membership. The committee shall report the names of the candidates to the Board at the 1 September meeting.

Section 14.2 The election of the Board shall be by ballot by those present and qualified to vote at the Annual November Membership Meeting. A plurality vote shall be necessary to elect. A voice vote may be taken when the number of nominees is equal to or less than the number of existing vacancies.

Section 14.3 Members elected shall take office the first day of January and serve terms as stated in Article 7. Election of officers shall take place at the first Board meeting in January.

ARTICLE 15

STANDING COMMITTEES

Section 15.1 The following standing committees shall be established:

15.1.1 Basic Needs.

15.1.2 Independence and Caregiving

15.1.3 Individual and Community Involvement.

15.1.4 Health and Wellness.

Section 15.2 These committees and other standing committees shall be appointed by the Chair annually and when necessary and serve until the end of the calendar year. Members of all standing committees shall qualify for reappointment. The Chairperson of all standing committees shall be a Senior Advisory Board Member.

ARTICLE 16

MONEY

Section 16.1 The SENIORS OF LOUISVILLE shall have its own treasury. All monies of the organization shall be deposited in the account of SENIORS OF LOUISVILLE at a federally insured financial institution designated by the Board. Both the Chair

and the Treasurer shall have signatory rights on the accounts.

Section 16.2 Amounts of more than \$50.00 per item may not be paid without prior Board approval.

Section 16.3 A three-member committee, one from the Board and two from the Membership, shall be appointed by the Chair in January to perform an annual audit of the financial matters of the organization. The results of the audit shall be presented to the Board at the March meeting.

Section 16.4 The Seniors of the Louisville Advisory Board recognizes allotments and donations from the Louisville City Council and others may have restrictions on how the money will be spent. All the money shall be spent on public projects for seniors and no money shall be spent by members of the Board or by the staff for individual purposes.

Section 16.5 In the event that the Seniors of Louisville be dissolved, all the assets shall be distributed for an exempt purpose as described in section 501(c)(3) or to

the City of Louisville for a public purpose as decided by a simple majority vote of the Board.

ARTICLE 17

PARLIAMENTARY PROCEDURES

Section 17.1 Robert's Rules of Order, as revised, shall govern the Board and SENIORS OF LOUISVILLE Membership meetings.

ARTICLE 18

AMENDMENTS

Section 18.1 The Board may amend the Constitution/Bylaws by an affirmative vote of six members of the Board.

Section 18.2 No amendment shall be put to vote unless notice stating the purpose of the amendment has been given to the Board members two weeks prior to the meeting at which the amendment will be voted upon.

**ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
LOUISVILLE HISTORICAL COMMISSION, INC.**

Pursuant to the provisions of the Colorado Revised Nonprofit Corporation Act , the following Articles of Amendment to the Articles of Incorporation are hereby adopted:

First: The name of the Corporation is changed from 'Louisville Historical Commission, Inc.', to 'The Louisville History Foundation, Inc.'.

Second: ARTICLE III of the ARTICLES OF INCORPORATION is amended in its entirety to read as follows:

ARTICLE III

This Corporation is organized exclusively for charitable, educational and scientific purposes under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code. Subject to the limitations and restrictions of the Internal Revenue Code and those set forth below, the objects and purposes of the Corporation and the nature of the business to be carried on by it are as follows:

- (i) Support, preservation and dissemination of Louisville, Colorado area history;
- (ii) Provision of services, programs, assistance, education and activities to support and promote the preservation of Louisville, Colorado area history;
- (iii) Generate support, including donations, contributed services and other assistance, for the Louisville Historical Museum and campus and other undertakings and projects to promote the preservation of Louisville, Colorado area history; and
- (iv) To do and engage in all lawful activities, and to exercise all powers, privileges, and rights that are necessary or advisable, that further or are consistent with the preceding objects and purposes of the Corporation.

The Corporation shall support and assist, and make grants and gifts in aid and support and assistance of, solely the charitable, educational and scientific purposes set forth in this Article. The entire principal and income of the endowment

and assets of the Corporation shall be held and distributed solely for such purposes, except for the modest amounts needed for the expenses of administration of this Corporation in order to effectuate its purposes.

This Corporation is not organized for the pecuniary profit of its directors, officers, or any other private individual; nor may it issue stock or declare or distribute dividends, and no part of its net income shall inure, directly or indirectly, to the benefit of any director, officer, or any other private individual (except that reasonable compensation and expenses may be paid for services rendered); and any balance of money or assets remaining after the full payment of corporate obligations of all and any kinds shall be devoted solely to the charitable, educational and scientific purposes of the Corporation.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

Upon the dissolution of the Corporation, all assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

Third: ARTICLE VII of the ARTICLES OF INCORPORATION is amended in its entirety to read as follows:

ARTICLE VII

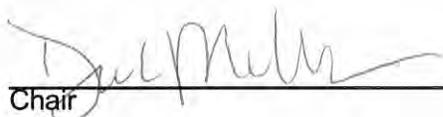
For the purposes set forth in Article III, and subject to the limitations and restrictions of the Internal Revenue Code and those set forth in Article III, the Corporation may have dues paying members but such members shall not be permitted to vote in the election or appointment of Directors, on any matters pertaining to the operation or governance of the Corporation, nor on the expenditure, lending or distribution of any Corporation monies, funds or assets.

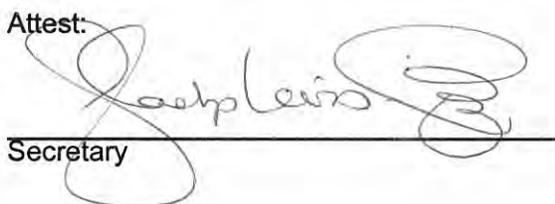
These Articles of Incorporation may be amended in a manner consistent with the requirements of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, by vote of two-thirds of the Directors called for the purpose of amending the Articles, provided that such proposed amendment shall be plainly stated in the call for the meeting at which they are to be considered. Notice of such meeting shall be sent or given to the Directors no later than fourteen days prior to the meeting.

Fourth: The effective date of the Articles of Amendment herein adopted shall be January 1, 2014.

The Corporation has no voting members and therefore member action is not required on the amendments herein set forth. The amendments set forth herein have been approved by vote of at least two-thirds of the Directors called for the purpose of amending the Articles at a meeting that such proposed amendment was plainly stated in the call for the meeting. Notice of such meeting was sent or given to the Directors no later than fourteen days prior to the meeting.

IN WITNESS WHEREOF, the foregoing Articles of Amendment were adopted by vote of the Board of Directors of the Corporation on the 20th day of November, 2013.


Chair

Attest:

Secretary

BYLAWS
OF
THE LOUISVILLE HISTORY FOUNDATION, INC.

Article I
Offices, Purpose and Power

Section 1. The principal office of The Louisville History Foundation, Inc., a Colorado non-profit corporation (the 'Foundation'), shall be at 749 Main Street, Louisville, Colorado 80027.

Section 2. The Foundation may also have offices at such other places as the Board of Directors may from time to time determine, or as the business of the Foundation may require.

Section 3. The purpose of the Foundation shall be to support and engender community support for the preservation of the history of the City of Louisville, Colorado, and of the City of Louisville's historical museum and campus.

Section 4. Subject to the limitations and restrictions set forth in its Articles of Incorporation as from time to amended, the Foundation shall have all powers necessary and allowed to non-profit corporations by law to fulfill its purposes without limitation, including:

4.1. The solicitation of gifts, bequests, grants, subscriptions, and devises of property of any kind, whether real or personal and wherever situated, for the use and benefit of the Foundation;

4.2. Holding, managing, operating, selling, exchanging, investing, and generally dealing with property, real or personal, which may come into its possession for the use and benefit of the Foundation;

4.3. Applying, expending, and using any or all of its assets, no matter how received, principal and income or either, to the use and benefit of the Foundation, with or without such restrictions as the foundation may determine;

4.4. Qualifying for and/or maintaining the Foundation's tax exempt status under federal and other applicable law, including filing all reports and return incidental thereto;

4.5. Any and all powers conferred by Colorado law, as now existing or as later amended, upon nonprofit corporations in furtherance of the Foundation's purposes and goals.

Section 5. The Board of Directors may hire or appoint staff to serve the Foundation.

Section 6. The Foundation shall not enter into any contractual obligations without a majority vote of the directors present and voting at any meeting at which a quorum is present.

Article II Members

Section 1. The Foundation may have dues paying members on such terms and conditions as it determines but such members shall not vote on any matter, including but not limited to in the election or appointment of Directors, on any matters pertaining to the operation or governance of the Foundation, or on the expenditure, distribution or loaning of any Foundation monies, funds or assets. The Foundation's Board of Directors may determine the minimum contribution levels for membership to the Foundation. The Foundation's Board of Directors may also grant non-voting complimentary memberships as it shall determine in its discretion.

Article III Directors

Section 1. The Board of Directors of the Foundation shall consist of no fewer than three (3) nor more than fifteen (15) voting directors. The initial Board of Directors shall consist of four (4) voting directors. Ex-officio directors, whom shall be non-voting directors, shall include the City of Louisville's Director of Library Museum Services and the City of Louisville's Museum Coordinator.

Section 2. No more than two (2) directors of the Foundation may concurrently serve on the Board of the Louisville Historical Commission, Inc.

Section 3. Directors shall be elected by a majority vote of directors present at any meeting at which a quorum is present. If there are more nominees than director positions available, those nominees receiving the most votes shall be elected to the available positions. Directors shall serve three (3) year terms except that the initial terms of some directors may be shortened in order to provide for staggering of terms. Directors' terms may be staggered so that less than a majority of the directors' terms shall expire at any Annual Meeting.

Section 4. Any vacancy occurring on the Board of Directors may be filled by a majority vote of the directors present at any regularly scheduled or specially called

meeting at which a quorum is present. If there are multiple nominees for the position available, the nominee receiving the most votes shall be elected to the position. The director so appointed shall serve the remainder of the vacant term.

Section 5. A director shall be limited to serving two (2) consecutive terms on the Board; however, after being off the Board for a year, a former director shall again be eligible for election to the Board.

Section 6. A Director may be removed from the Board for cause by majority vote of directors present at any regularly scheduled or specially called meeting at which a quorum is present. Cause for removal shall include, but not be limited to, failure to attend two (2) consecutive Board meetings, failure to attend at least fifty percent (50%) of Board meetings within a twelve (12) month period, or failure to actively participate in Board sponsored activities including fund raising.

Article IV Meetings

Section 1. The Foundation shall hold an annual Board of Director's meeting and other meetings at such times and places as the Board may from time to time determine. Meetings may be held in person, by telephonic conference, or by electronic means, so long as: a) all directors are duly noticed and invited to participate in such meetings; and b) a quorum of directors are present or participate in such meeting; and c) all directors are included in all Board communications and votes on the topics of the meetings; and d) records of such meetings, conversations and votes are kept and maintained by the Board.

Section 2. Special meetings of the Board may be called by the Chair and shall be called by the Chair upon the written request of three (3) or more directors. No less than three (3) business days' notice of special meetings shall be given to all directors. Notices of special meetings shall state with particularity the anticipated topics to be discussed and voted upon at the special meeting.

Section 3. A majority of the directors on the Board at a meeting duly called and assembled shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board except as may be otherwise specifically provided by statute or by these Bylaws.

Section 4. Directors shall not receive any compensation or remuneration for serving as directors of the foundation, and shall not realize any gain or profit from the operation of this Foundation. Directors may be reimbursed for reasonable and actual expenses incurred by them on behalf of the Foundation.

Section 5. The property, business and affairs of the Foundation shall be managed by its Board of Directors, which may do all lawful acts in order to effectuate the purposes and goals for which the Foundation is organized.

Article V **Officers and Committees**

Section 1. The officers of the Foundation shall be appointed by the Board and shall be a Chair, a Vice-Chair, a Secretary, and a Treasurer. Any two offices except the offices of Chair and Secretary may be held by the same person. Officers shall hold their offices for one year or until their successors are duly appointed and take office. If any of the offices shall become vacant, the Board shall select a successor from the Board to serve for the unexpired term of the vacant office.

Section 2. The Board may appoint additional Vice-Chairs and assistants, and such other officers and agents, as it shall deem necessary and helpful, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 3. The Chair should preside at all meetings of the Board and shall perform the duties and exercise the functions and powers prescribed for such office by these Bylaws and, to the extent not inconsistent with these Bylaws, prescribed for such office by the Board. The Chair shall be an ex-officio member of all standing committees.

Section 4. The Vice-Chair shall, in the absence or disability of the Chair, perform the duties and exercise the functions and powers of the Chair, and shall perform such other duties as the Board shall prescribe. In the event of the absence or inability to act of both the Chair and Vice-Chair, the remaining directors shall select some other director to temporarily perform the duties of the Chair.

Section 5. The Secretary shall record the minutes and all votes of Board proceedings. He or she shall give, or cause to be given, notice of all meetings and special meetings of the Board of Directors, and he or she shall perform such other duties as may be prescribed by the Board. In the event that the Secretary is unable to attend any meeting, then the Chair shall appoint another director to perform the record-keeping functions of the Secretary at such meeting.

Section 6. The Treasurer shall have the care and custody of the Foundation funds and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Foundation. The Treasurer or designated agent shall deposit all monies and valuable effects in the name and to the credit of the Foundation in such depositories as may be designated by the Board. The Treasurer shall be responsible for preparing and filing all required financial reports and returns with appropriate governmental agencies.

Section 7. The Foundation may maintain a Standing Membership Committee. If the Board maintains a Standing Membership Committee, the Chair shall appoint at least one director to the Standing Membership Committee and may appoint members of the Foundation who are not directors to the Standing Membership Committee. The Standing Membership Committee may make recommendations to the Board concerning membership and fundraising issues. The Board may create any other committees as it may deem necessary or helpful to perform any functions of the Foundation, and the Board shall appoint the members thereof.

Section 8. The Board reserves the right to determine the number of members on committees and whom shall serve on committees, the subjects and topics to be addressed by such committees at meetings, the notice, quorum and voting rights and privileges of such committees, the record keeping obligations imposed upon such committees, the manner of acting of such committees, and all other aspects of the operation and governance of such committees including the right to disband or dissolve any of the committees. Unless and until the Board makes and implements any such rules and requirements for the operation and governance committees, the committees shall be permitted to act informally and in an *ad hoc* manner without specific notice, reporting, voting or documentation requirements.

Article VI Funds

Section 1. All gifts, bequests, subscriptions, membership dues and donations to the Foundation shall be made out to The Louisville History Foundation, Inc. Such funds shall be deposited in such depository institutions and upon such terms as are determined by the Board.

Section 2. All checks, drafts, other orders for payment of money, notes, or other evidence of indebtedness approved by the Board and issued in the name of the Foundation shall be signed by the Treasurer or other Board member so designated to sign on behalf of the Foundation. Checks, contracts or other expenditures of an amount or value of \$500 or greater shall require the signature of the Treasurer and another authorized officer.

Section 3. In the event the Foundation quits operations and ceases to exist, all assets of the Foundation remaining after payment of its just debts shall be distributed by the Board for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. At no time during the operation of the Foundation or in its dissolution shall any assets, properties, or profits of the Foundation inure to the benefit of any officer or director of the Foundation or to any private person or company.

Section 4. The Board of Directors may adopt investment and spending policies or guidelines as the Board deems appropriate.

Article VII
Notices and Waivers

Section 1. Whenever notice is required to be given under the Articles of Incorporation or these Bylaws, it shall be given in writing by: a) personal delivery; or b) by first class U.S. mail; or c) by confirmed fax transmission; or d) by email. All such notices shall be accurately addressed to the party being given notice at their proper addresses, fax numbers, or email addresses as appear in the books and records of the Foundation. In the case of personal delivery, such notice shall be deemed to be given on the date of delivery. In the case of first class U.S. mail, such notice shall be deemed to be given two (2) business days after the posting of the notice. In the case of confirmed fax transmission or email, such notices shall be deemed given on the date of transmission if sent to the party at a home fax machine or email address, but on the first business day if sent to the party at a work fax machine or email address.

Section 2. Actions taken at any improperly noticed meeting shall be valid provided a quorum was present at such meeting and that the directors consent: in writing; by verbal consent entered on the minutes of such meeting; or by taking part at such meeting without objection. The proceedings of such meeting may also be ratified, approved and rendered valid (and the irregularity or defect therein waived) by a writing signed by all directors.

Section 3. Whenever notice is required to be given under these Bylaws, a written waiver thereof signed by the person entitled to the notice, either before or after the time stated herein for the giving of the notice, shall be good notice and a waiver of the notice requirement.

Section 4. Any action which may be taken at a meeting of the Board may be taken without a meeting if consents in writing, setting forth the action so taken, shall be approved and signed by all directors entitled to vote on the subject.

Article VIII
Corporate Instruments

Section 1. The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in writing in the name of and on behalf of the Foundation, and such authority may be general or may be limited to specific instruments or instances.

Article IX
Limitation of Liability and Indemnification

Section 1. A director or officer of the Foundation shall not be personally liable to the Foundation for monetary damages for breach of fiduciary duty as a director or officer, except as to liability: a) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or b) for any transaction from which the director derived an improper personal benefit.

Section 2. The Foundation shall indemnify any and all of its directors and officers, or former directors and officers, from and against all expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceeding in which they, or any of them, are made party by reason of being or having been directors or officers or former directors or officers of the Foundation, except in relation to matters as to which any such director or officer or former director or officer shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled, under any bylaw, agreement, vote of directors, or otherwise.

Article X Conflicts of Interest

Section 1. No director or officer may use his or her position as a director or officer to obtain financial or other gain for the private benefit of the director or officer or for any organization with which the director or officer is associated.

Section 2. In the event that a conflict of interest should arise, a director or officer will be expected to voluntarily disclose the existence and nature of such conflict and abstain from discussion or voting on any issue which the director or officer recognizes as a conflict of interest. If any director or officer perceives a possible conflict of interest for any other director or officer, the conflict shall be pointed out to the Board, which shall decide whether or not the issue presents a conflict of interest for the director or officer in question before discussion on the issue proceeds.

Article XI Amendments

Section 1. These Bylaws may only be amended at any regular or special meeting of the Board by a two-thirds (2/3rds) majority vote of the directors then comprising the Board. Any such amendment may only take place at a meeting of the Board at which a quorum is present, and provided that the amendment(s) have been specifically noted in the agenda of the meeting and sent to each director.

BYLAW CERTIFICATE

I CERTIFY that these Bylaws were passed and adopted by unanimous vote of the Board of Directors as the Bylaws of The Louisville History Foundation, Inc. at a meeting held on November 20, 2013 at which a quorum was present.

Gladys Levis-Pilz, Secretary

I CERTIFY that these amended Bylaws were passed and adopted by unanimous vote of the Board of Directors as the Bylaws of The Louisville History Foundation, Inc. at a meeting held on December 5, 2014 at which a quorum was present.



Daniel Mellish, Secretary

SUBJECT: DOOR-TO-DOOR SOLICITATION ORDINANCE

DATE: MARCH 19, 2015

PRESENTED BY: SAM LIGHT, CITY ATTORNEY

SUMMARY:

The City Council last addressed the issue of door-to-door solicitation in 2005 when it adopted Louisville Municipal Code (“LMC”) Chapter 5.06 which includes, among other provisions, a ban on door-to-door solicitation within the City. The City has recently received correspondence from a representative of Kirby vacuum cleaner salespersons stating that the City’s current door-to-door solicitation ban harms them by preventing them from working in the City, and that such a total ban is overbroad in light of more recent case law. The reported case law includes a Colorado Supreme Court decision upholding such a ban, as well as Federal Court decisions striking down various provisions of local door-to-door solicitation ordinances.

Attached is the current LMC Chapter 5.06 regarding Peddlers, Solicitors and Vendors. Section 5.06.020.A of the LMC imposes a total ban on uninvited solicitors entering private premises or office buildings. In addition to the total ban, Section LMC 5.06.030 also prohibits non-compliance with a “no solicitation” or “no trespassing” sign posted on private property.

If the City determines that it wishes to revise Chapter 5.06, it has several options. The City could choose to repeal section 5.06.020.A, the outright ban on door-to-door solicitation, and otherwise leave Chapter 5.06 as is. Another option is to replace the total ban with narrower restrictions on soliciting, such as creating a solicitation license or permit process, or a creation of a “do-not-solicit” list. Any of these options comes with additional administrative costs such as costs for processing and enforcing licenses or permits, and creates new legal risks for the City.

The first option, repealing the total ban, would still allow individuals to post notices on their private property or businesses which would prohibit any door-to-door solicitors from entering the premises, as stated in Section 5.06.030. This practice is followed, for example, in the cities of Lakewood, Longmont, and Parker (ordinances attached). This option would have less administrative costs for the City; however, the City Police Department may be called upon more frequently to enforce any violations of the no-solicitation signs.

If the City chooses the second option, repealing the total ban and replacing it with additional regulations such as licensing or permitting requirements, or creation of a “do-not-solicit” list, it could adopt regulations similar to those used in Aurora, Boulder, Castle Rock, or Parker (ordinances attached). If the City desires to pursue this approach, it

SUBJECT: DOOR-TO-DOOR SOLICITATION

DATE: MARCH 19, 2015

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would need to determine the specific components of its regulations. For example, in addition to an application or permit process, would the regulations include requirements such as sales tax deposits, surety bonds, background checks, identification cards, or the management of a “do-not-solicit” list, all of which have associated administrative and legal costs?

Attached are copies of the solicitation ordinances from the cities identified above. The following briefly describes some components of their regulations. Aurora’s rules for licensing require a sales tax deposit, surety bond, and a valid identification card that expires 90 days after issuance. Boulder prohibits door-to-door solicitation when prepayment for the product is required. All other door-to-door solicitors must be licensed by the Boulder City Manager, which license must be displayed at all times that the person is engaged in solicitations within the City and expires in twelve months. In addition to requiring each company to apply for a solicitation permit, Parker requires every individual solicitor to pay for an identification badge. Castle Rock’s application for a solicitor permit requires a non-refundable application fee of \$35, identification photographs, the license plate number, make and model of the car used for the business, employment references for the previous two years, and disclosure of all licenses currently held by applicant within the last five years, among other requirements.

Staff will be available to answer any questions about these ordinances and options for revision at the meeting.

FISCAL IMPACT:

If the City chooses to implement a solicitation license or permit process, there will be administrative costs for processing applications, background checks, and enforcement of the same.

RECOMMENDATION:

Discussion

ATTACHMENT(S):

1. Current Louisville Municipal Code Chapter 5.06
2. Sample ordinances from Aurora, Boulder, Castle Rock, Lakewood, Longmont, and Parker

Current Louisville Municipal Code

Chapter 5.06 - PEDDLERS, SOLICITORS AND VENDORS

Sec. 5.06.010 - Purpose of provisions; interpretation.

The purpose of this chapter is to protect the health, safety and welfare of the citizens and residents of the city through regulation and appropriate prohibitions of certain activities of peddlers, solicitors and vendors. The chapter shall be interpreted liberally so as to effect, to the extent permitted by law, the prohibitions set forth herein.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.020 - Uninvited solicitations prohibited.

- A. No person shall enter or remain upon any private premises or office building in the city, not having been requested or invited by the occupant thereof, for the purpose of contacting said occupant to solicit the immediate or future purchase or sale of goods, services, or any other thing of value.
- B. Subsection A of this section and section 5.06.030 of this chapter shall not apply to bona fide religious, charitable, school and civic organizations, or other organizations eligible for exemption under Section 501(c) of the Internal Revenue Code.
- C. Subsection A of this section shall not apply to the solicitation of newspaper subscriptions, milk deliveries, trash collection services, or linen services by persons who are engaged in selling and delivering such goods or services within the city by vehicle over a fixed route from previous orders or on a regular schedule; however, such persons shall be subject to section 5.60.030 of this chapter.
- D. Subsection A of this section and section 5.06.030 of this chapter shall not apply to any person engaged in distribution of non-commercial information in the exercise of such person's First Amendment rights under the United States Constitution.
- E. No person shall sell or offer for sale any goods, services, or any other thing of value from or upon any street, alley, sidewalk, park, or property owned or controlled by the public or by the city, except as may be authorized by the city council or its designee.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.030 - All solicitations prohibited by posting of "No Solicitation" or "No Trespassing" sign.

No person shall enter or remain upon any public or private premises or in any office building in the city, not having been requested or invited by the occupant thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, services, or any other thing of value, or for the purpose of soliciting any gift or donation, when a "No Solicitation" sign or "No Trespassing" sign is posted at or near the entrance to such premises.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.040 - Attempt to obtain.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence or other private premises for the purpose of soliciting the purchase or sale of goods, services, or any other thing of value, by knowingly making a false or deceptive representation or statement.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.050 - Notice prohibiting solicitors.

Every resident and business within the city shall have the right to post a notice or notices upon the private property of such resident or business to the effect that peddlers, solicitors and vendors shall not enter the premises or solicit or attempt to solicit orders or sales from the owners or occupants thereof. Any person who shall go in or upon any place so posted without previous invitation to do so from the occupant thereof is guilty of an unlawful act.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.060 - City council approval.

The city council shall have the power to grant the privilege of conducting the activities described in section 5.06.020.E pursuant to request, competitive bid, or otherwise as the council may from time to time determine. Such privilege shall be upon such terms and conditions as the city council deems appropriate to avoid an excess of vendors, derive revenue for the city, address public health and safety concerns, and to serve the public need. The city council delegates to the city manager or the manager's designee the power to act on behalf of the city council in granting the above privileges, subject to the same terms and restrictions set forth above.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Sec. 5.06.070 - Violation; penalty.

Any person who violates any provision of this chapter shall be guilty of a municipal offense, punishable as provided in section 1.28.010 of this code. Each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by any such person shall be deemed a separate offense.

(Ord. No. 1481-2005, § 1, 12-6-2005)

Aurora Municipal Code

DIVISION 4. - DOOR-TO-DOOR SELLER'S LICENSE

Sec. 86-226. - Definitions.

Except as otherwise indicated by the context, the following words and phrases shall have the following meanings for purposes of this division:

Door-to-door selling means the itinerant sale or bartering of any goods, commodities, or services to the consuming public, whether or not such goods, commodities, or services are actually delivered at the time of sale. The term "door-to-door selling" shall not include the itinerant sale or bartering of goods, commodities, or services to commercial, industrial, or business customers.

Door-to-door seller means any person who engages in the business of door-to-door selling within the city.

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-227. - License required.

- (a) No door-to-door seller shall be permitted to operate in the city without a valid door-to-door seller's license.
- (b) No individual shall be permitted to engage in door-to-door selling within the city without a valid door-to-door seller's identification card.
- (c) The following persons, their agents and employees shall be exempt from the requirements of this division:
 - (1) Charitable organizations, as defined in section 130-32
 - (2) Persons in the business of selling subscriptions for the home delivery of newspapers, as defined in section 130-32; and
 - (3) The United States and the State of Colorado, their departments, agencies and political subdivisions.

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-228. - Sales tax deposit.

- (a) At the time a license application is filed, each applicant whose door-to-door selling business consists in whole, or in part, of making retail sales as defined in section 130-32 shall deposit funds with the licensing administrator as security for the collection and remittance of city sales tax on retail sales made by the applicant. The amount of such deposit shall be established by the director in accordance with the provisions of section 2-587 of this Code.
- (b) Every 90th day following the date upon which the license is issued, the licensee shall deposit with the licensing administrator such funds as are necessary to maintain such security in the amount required by the director.
- (c) After the license has expired, the licensee's deposit shall be returned only upon the payment of all sales tax due and owing to the city.

(Ord. No. 98-86, § 8, 11-30-98; Ord. No. 2005-92, § 12, 12-5-2005)

Sec. 86-229. - Surety bond.

Each applicant for a door-to-door seller's license shall furnish a good and sufficient bond with at least two sureties, or a corporate surety authorized to do business in the state in the sum of \$1,000.00 times the number of individuals engaged in door-to-door selling at any time within the city on behalf of the applicant. Such bond shall be conditioned upon the faithful observance by the applicant, and the applicant's agents, employees, and representatives, of the laws of this state and the city, including, but not limited to, the provisions of this division relating to the operation of a door-to-door selling business.

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-230. - Identification card.

- (a) Every agent, employee, or representative of a door-to-door seller's licensee shall, prior to engaging in door-to-door selling within the city, obtain a picture identification card from the licensing administrator, in a form prescribed by the director, and shall carry such card at all times during which he or she is engaged in door-to-door selling within the city.
- (b) Every individual seeking a door-to-door seller's identification card shall submit an application on a form to be provided by the director. The application shall contain:
 - (1) The applicant's name, home address, date of birth, social security number, and telephone number;
 - (2) The name and address of the person or persons on whose behalf the applicant will be engaged in door-to-door selling within the city; and
 - (3) The dates and times upon, and the specific route or routes over, which the applicant will be engaged in door-to-door selling within the city.
- (c) At the time an application for a door-to-door seller's identification card is submitted, the applicant shall present one of the following forms of identification as proof of his or her identity:
 - (1) A valid Colorado driver's license;
 - (2) An identification card issued in accordance with C.R.S. § 42-2-402;
 - (3) A valid driver's license, containing a picture, issued by another state;
 - (4) A military identification card;
 - (5) A valid passport; or
 - (6) An alien registration card.
- (d) The licensing administrator shall issue a door-to-door seller's identification card if he or she finds that:
 - (1) The application has been completed, the required fees have been paid, and the applicant has presented proof of his or her identity;
 - (2) The application contains no fraudulent, misrepresented, or false statement of a material or relevant fact; and
 - (3) The person or persons on whose behalf the applicant is engaged in door-to-door selling possess a valid door-to-door seller's license.
- (e) If, at any time before or after an identification card is issued, any information required by this section changes from that which is stated on the application, the cardholder shall supplement such information in writing within five days of the date upon which such change occurs.
- (f) Each door-to-door seller's identification card shall expire 90 days from the date of issuance and shall not be subject to renewal.

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-231. - Issuance; denial.

- (a) In addition to the reasons set forth in section 86-35, the licensing administrator shall issue a door-to-door seller's license if he or she finds that:
- (1) The sales tax deposit required by section 86-228 has been made in full;
 - (2) The surety bond required by section 86-229 has been posted in full.
- (b) If the licensing administrator finds that the applicant does not meet all of the requirements for issuance set forth in this section and in section 86-35, he or she shall deny the door-to-door seller's license or defer a decision on the license application as provided in section 86-36

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-232. - Suspension and revocation.

In addition to the reasons set forth in section 86-47, the director shall suspend or revoke a door-to-door seller's license if he or she finds that:

- (1) The licensee has failed to maintain the sales tax deposit required by section 86-228 in the proper amount;
- (2) The licensee has failed to maintain the surety bond required by section 86-229 in the proper amount; or
- (3) Any agent, employee, or representative of the licensee does not have in his or her possession a valid door-to-door seller's identification card at the time he or she is engaged in door-to-door selling within the city.

(Ord. No. 98-86, § 8, 11-30-98)

Sec. 86-233. - Fees.

Application, annual license, and identification card fees for door-to-door seller's licenses shall be established by the director in accordance with the provisions of section 2-587 of this Code.

(Ord. No. 98-86, § 8, 11-30-98; Ord. No. 2005-92, § 13, 12-5-2005)

Secs. 86-234—86-260. - Reserved.

Boulder Municipal Code

Chapter 10 - Itinerant Merchant License

FOOTNOTE(S):

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Adopted by Ordinance No. 4637. Derived from Ordinance Nos. 2899, 3466.

4-10-1. - Legislative Intent.

The purpose of this chapter is to protect the safety and welfare of the public by licensing persons who go door-to-door to sell goods or services and by prohibiting persons from going door-to-door to sell or solicit orders for the sale of goods or services for future delivery when the persons require a prepayment from the purchaser. Prohibiting such door-to-door solicitations is necessary to protect the residents of the city from fraud and misrepresentation. Licensure of all other persons going door-to-door to sell goods or services is also necessary to provide information about such sales persons to residents of the city and law enforcement officers. Nonprofit organizations with exemptions from federal income tax under 26 U.S.C. 501(c)(3) must obtain licenses, but will be exempt from any license fee and be granted perpetual licenses if they retain their federal tax exemptions and if they register the names of the people responsible for their sales personnel with the city manager at the beginning of each solicitation drive. Persons distributing information in the exercise of their first amendment rights and businesses such as newspaper and milk deliveries, trash collection and linen services that are engaged in selling and delivering goods or services by vehicle over a fixed route from previous orders or on a regular schedule are exempt from the license requirement.

4-10-2. - Certain Sales Prohibited.

No person in the city other than a nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3) shall go to any private residence to sell goods or services or solicit orders for the sale of goods or services for delivery at any subsequent time when such person requires a prepayment from the purchaser, without having been requested or invited to do so by the owner or occupant of the private residence.

4-10-3. - License Required.

- (a) No person shall sell merchandise or services or solicit orders for the sale and future delivery of merchandise or services on a door-to-door basis in the city without first obtaining a license from the city manager under this chapter.
- (b) Nothing in this chapter shall be deemed to apply to any person engaged in the business of selling and delivering goods or services directly to residents of the city who usually employs a vehicle for such deliveries over a regularly defined route and ordinarily sells from orders previously placed with such residents or regularly delivered on a schedule.
- (c) Nothing in this chapter shall be deemed to apply to any person engaged in distribution of information in the exercise of such person's First Amendment rights under the United States Constitution.

4-10-4. - License Application.

- (a)

An applicant for a license under this chapter shall apply on forms furnished by the city manager that include the name, age and address of the applicant; the names and addresses of all partners, if a partnership, or officers and directors and shareholders of more than ten percent of the stock, if a corporation, and all solicitors and sales personnel of the applicant; the types of goods or services sold or for which orders are taken; and the name and address of the supplier of goods or services to be delivered or furnished.

- (b) Any applicant that does not have an exemption from federal income tax under 26 U.S.C. 501(c)(3) shall pay the fee prescribed by section 4-20-10, "Itinerant Merchant License Fee," B.R.C. 1981.

4-10-5. - Authority to Deny Issuance of License.

- (a) The city manager may deny an application for a license under this chapter upon a finding of any of the conditions prescribed by subsection 4-1-9(a), B.R.C. 1981, or upon a determination that:
- (1) The applicant has had an itinerant merchant license revoked or suspended; or
 - (2) The applicant has previously failed to comply with the ordinances and regulations of the city relating to conducting any itinerant merchant business licensed by this code.
- (b) If the city manager denies a license application under this section, the manager shall follow the procedures prescribed by subsection 4-1-9(b), B.R.C. 1981.

4-10-6. - License to Be Issued and Displayed.

- (a) When the applicant has complied with the requirements of this chapter, the city manager shall issue a license to the applicant and to each salesperson or solicitor named in the application that states the type of sale or solicitation; the individual solicitor's or salesperson's name; the license expiration date; and the fact that the person is licensed by the city to solicit orders or sell goods but that the city does not endorse the activity or goods sold in any way; and, if the licensee is exempt from the fee required by subsection 4-10-4(b), B.R.C. 1981, that the licensee is nonprofit.
- (b) Each licensee under this chapter shall display the license at all times that the person is engaged in selling goods or soliciting orders in the city.

4-10-7. - Term of License.

The license term is twelve months or such shorter term as the licensee requests and as is set forth on the face of the license.

4-10-8. - Revocation and Suspension of License.

The city manager may suspend or revoke a license issued under this chapter for the grounds and under the procedures prescribed by section 4-1-10, "Revocation of Licenses," B.R.C. 1981.

Castle Rock Municipal Code

Chapter 5.04 - Canvassers, Solicitors and Distribution of Flyers

5.04.010 - Definitions.

As used in this Chapter, the following words have the meanings indicated:

Canvasser means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the noncommercial primary purpose of:

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause.
2. Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service.

Commercial flyer means any printed or written material, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, publication, booklet, handbill or other printed or otherwise reproduced original or copy of any manner of literature or paper containing a written or pictorial message that is predominately and essentially an advertisement and is distributed or circulated for advertising purposes or for any direct or indirect private financial gain of any person or entity so engaged as advertiser or distributor, except that a telephone directory or newspaper of general circulation in the Town published primarily for the purpose of disseminating news shall not be considered a commercial flyer.

Noncommercial flyer means any printed or written material, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, booklet, handbill or any other printed or otherwise reproduced original or copy of any manner of literature or paper containing a written or pictorial message that is distributed or circulated solely for nonprofit purposes.

Solicitor means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service, whether or not the goods or services are actually delivered at the time of sale.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.020 - Registration required.

No person shall act as a solicitor within the Town without first registering with the Town Clerk in accordance with this Chapter. Canvassers are not required to register but may do so for the purpose of reassuring Town residents of the canvasser's good faith.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.030 - Application fees.

- A. No application shall be received by the Town Clerk unless accompanied by an application fee in the following amount:
 1. Canvasser: no fee.

2. Solicitor: \$35.00.

B. All application fees are nonrefundable. No portion of any application fee paid shall be refunded if registration is denied or a registration, once issued, is suspended or revoked.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.040 - Application for registration.

Any person or organization required to register under this Chapter shall provide the following information on application forms to be provided by the Town Clerk:

- A. Proof of age, address and identification of the applicant, to be provided by presenting the applicant's driver's license, state identification card, passport or other government-issued identification card (issued by a government within the United States). The Town Clerk shall make a photocopy of the identification presented by the applicant, which shall be retained with the application.
- B. The name, permanent address and local address, if any, of the company represented by the applicant and a copy of the organization's Town business and tax license or Town contractor registration certificate.
- C. A brief description of the proposed activity related to this registration. (Copies of literature to be distributed may be substituted for this description, at the option of the applicant.)
- D. The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by each person.
- E. The web, email or other address for the company where residents having subsequent questions can go for more information.
- F. Two identical photographs of the applicant which reasonably identify the applicant; such photographs of the applicant to measure two inches by two inches.
- G. A statement as to whether or not the applicant:
 - 1. Has been convicted of any felony, misdemeanor or ordinance violation (other than a traffic violation) and, if so, the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred and the pertinent details thereof;
 - 2. Has been institutionalized for mental illness which caused acts of violence against the person or property of another; or
 - 3. Is required to be registered as a sex offender or as a sexual predator and the nature of the offense or the punishment or penalty assessed therefor, in this or any other state.
- H. Names, addresses and telephone numbers of former places of employment of the applicant during the previous two years, if any.
- I. All licenses currently held or previously held by the applicant within the five years preceding the date of application related to soliciting or a similar business endeavor, noting any nonrenewal, suspension or revocation by the issuing authority and the pertinent details thereof.
- J. A statement as to whether a civil judgment has ever been entered against the applicant or, to the applicant's knowledge, the company, for fraud, deceit or misrepresentation and, if so, the full details thereof.
- K. Authorization for the Town Clerk to conduct a background check to verify information disclosed on the application.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.050 - Registration; grounds for denial.

A. The Town Clerk may deny registration for any of the following reasons:

1. Any person against whom a judgment based upon or a conviction for misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere has been entered within the five years preceding the date of application.
2. Failure to comply with this Chapter or violation of any ordinance applicable to his or her permitted activities.
3. Failure to obtain a business license or contractor's registration certificate as required by the Town or failure of the applicant, his or her supervisor or his or her employer to remit any sales tax due the Town.
4. Registration as a sex offender or as a sexual predator in this or any other state, or conviction of any crime that requires such registration.
5. Felony convictions for crimes against the person or property of another.
6. Institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such felony convictions or institutionalization occurred within the five years preceding the date of application. For the purposes of this Section:

Crimes or acts of violence against the property of another shall include: theft, burglary, breaking and entering, larceny and other similar felonies involving moral turpitude by whatever name.

Crimes or acts of violence against the person or another shall include: homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar felonies involving moral turpitude by whatever name.

6. Any false, misleading or fraudulent statement on an application, or when an applicant has omitted pertinent information on the application for registration.
7. The applicant is a person whose character and record are such as not to warrant the Town Clerk's confidence that he or she will conduct the business of soliciting lawfully, honestly and fairly or without resorting to duress, coercion, intimidation or harassment of any person being solicited for business or other acts of violence or force against persons or property.
8. Any person who has been denied registration or had his or her registration revoked pursuant to this Chapter within the previous year, unless the applicant can and does show, to the satisfaction of the Town Clerk, that the reasons for such earlier denial or revocation no longer exist.

B. In making a determination pursuant to Subsection A. above, when considering a criminal or ordinance violation conviction or judgment, the Town Clerk shall be governed by the provisions of Section 24-5-101, C.R.S., pertaining to the effect of criminal convictions on employment rights. The Town Clerk shall also give consideration to the following criteria:

1. The reliability of any source as to character and record and any corroboration of any such evidence;
2. The nature of any criminal conviction or ordinance violation or any judgment involving fraud, deceit or misrepresentation, including the classification of any felony or misdemeanor conviction; length of time incarcerated or severity of remedy or penalty imposed; mitigating or aggravating factors involved; subsequent record of conduct, including educational

achievements and work history; subsequent convictions or parole or probation violations; and the correlation, if any, between the illegal or fraudulent activity and the solicitor registration for which application has been made; and

- 3. Any evidence presented tending to show the applicant's rehabilitation as being a law-abiding and productive member of society.
- C. Persons whose applications for registration have been denied shall be notified in writing of the reason for such denial within three business days of receipt of the application for registration by the Town Clerk. Upon written request to the Town Clerk, applicants that have been denied are entitled to an administrative review of the denial by the Town Manager or his or her designee. The Town Manager or his or her designee shall determine whether the reasons for registration denial in fact exist and shall notify the applicant in writing of said determination within three business days of receipt of the written request for administrative review by the Town Manager or his or her designee.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.055 - Identification badge; replacement.

- A. When an application for registration is approved, the Town Clerk shall issue an identification badge to the solicitor, which badge shall be worn so as to be plainly visible at all times while the solicitor is performing any activities within the Town that require registration pursuant to this Chapter.
- B. Upon receipt of an application for a replacement badge, stating that the previously issued identification badge has been lost or stolen, payment of a replacement fee in the amount of \$10.00 and submission of new passport-sized photographs, the Town Clerk may issue a replacement badge. No replacement badge shall be issued unless the Town Clerk is able to verify that the solicitor remains employed by the company listed in the original application, or otherwise will be engaged in the same soliciting activities as specified in the original application.

(Ord. 2013-43 §1, 2013)

5.04.060 - "No knock" list.

The Town Clerk shall make available on the Town website a list of persons within the Town who restrict visits to their residential property (including their leasehold, in the case of a tenant) by solicitors. Each solicitor registered pursuant to this Chapter shall be responsible for verification of addresses contained on the "No knock" list prior to engaging in solicitation within the Town; such verification may be made by reviewing the "No knock" list on the Town's website.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.070 - Distribution of flyers.

Any person attempting to distribute commercial or noncommercial flyers within the Town shall observe the following regulations:

- A. No flyer shall be left at or attached to any mailbox or any sign, utility pole, transit shelter or other structure within the public right-of-way.
- B. No flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.
- C. Distribution of flyers shall occur only between the hours of 9:00 a.m. and 7:00 p.m.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.080 - General prohibitions.

A. No solicitor shall:

1. Enter upon private property where the current occupant has included the property on the Town's "No knock" list, regardless of whether a Town-issued sticker indicating the property has been included on the Town's "No knock" list is posted, or remain upon any private property when any form of sign or sticker is clearly displayed advising that the occupant does not wish to be called upon by solicitors, including but not limited to the Town-issued "No knock" sticker or a "No soliciting" sign.
2. Use or attempt to use any entrance other than the front or main entrance to the dwelling or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.
3. Remove any yard sign, door or entrance sign or sticker that gives notice to such person that the resident or occupant does not invite visitors.
4. Enter upon any private property within the Town after 7:00 p.m. and before 9:00 a.m.

B. It shall be unlawful for any person, organization, corporation or business entity to instruct, direct, command, order, organize or otherwise arrange for any person to engage in solicitation in violation of Paragraphs A.1. through A.4. of this Section or in violation of Section 5.04.020 of this Chapter.

C. It shall be an affirmative defense to any violation of this Chapter that the solicitor has an express invitation from the resident or occupant of a dwelling allowing him or her to enter upon any posted property.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.090 - Violations record.

The Municipal Court Clerk shall report to the Town Clerk all convictions for violations of this Chapter. The Town Clerk, in his or her record for each certificate of registration issued, shall record the reports of violations therein.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.100 - Registration; revocation.

A. Each registration is issued in the name of the person and for solicitation on behalf of the organization specified in the application and is not transferable to any other person or organization.

B. If the Town Clerk finds that any of the grounds stated in Section 5.04.050 of this Chapter exist or that the applicant has, during the period of registration, been convicted of a violation of this Chapter or any other crime or ordinance violation that would be cause for denial of a registration, the Town Clerk shall revoke the certificate of registration; or, for other just cause related to the health, safety or welfare of the citizens of the Town or related to the person's business integrity or responsibility, the Town Clerk may revoke the certificate of registration.

C. A person whose certificate of registration has been revoked shall be notified in writing of the reason for such revocation immediately upon revocation and, upon written request to the Town Clerk, is entitled to an administrative review of the revocation by the Town Manager or his or her designee. The Town Manager or his or her designee shall determine whether the reasons for

revocation in fact exist and shall notify the applicant in writing of said determination within three business days of receipt of written request for administrative review by the Town Manager or his or her designee.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.110 - Registration; expiration.

Each registration shall expire on the date specified on the identification badge, and the Town Clerk shall issue no registration for a period longer than one year. On the expiration of a registration, any person may apply for the issuance of a new registration. Each successive registration shall be subject to all requirements for issuance of a new registration, including but not limited to a new background check, new photographs being provided and a new application fee being paid.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.120 - Transfer of registration.

No person shall transfer or attempt to transfer a registration or any identification badge issued pursuant to this Chapter to any other person, and no person shall use a registration or identification badge issued to any other person.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

5.04.130 - Violations.

Any person charged with a violation of this Chapter, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by any such person.

(Ord. 2013-43 §1, 2013; Ord. 2008-15 §1, 2008)

Lakewood Municipal Code

Chapter 5.28 - Solicitors and Peddlers

5.28.010 Notice prohibiting solicitors

Every resident of the city shall have the right to post a notice or notices upon his property, including but not limited to apartments, condominium units and detached residences, to the effect that peddlers, solicitors and hawkers shall not enter the premises or solicit or attempt to solicit orders or sales from the occupant or occupants thereof. Any person who shall go in or upon any place so posted without previous invitation so to do from the occupant or occupants thereof, for the purpose of soliciting orders for the sale of, or selling, goods, wares, merchandise, services, magazines, contracts, policies of insurance, stocks, bonds, rights, or anything of value, is guilty of an unlawful act. (Ord. O-82-133 § 1, 1982).

Longmont Municipal Code

CHAPTER 6.76. - SOLICITORS

6.76.010. - Definitions.

As used in this chapter:

Soliciting from a private residence means to enter upon the residential property of another or, in the event of an apartment or condominium complex having a common entrance hall or walkway, to knock or activate a bell or other mechanical device to any residential unit therein.

Solicitor means any person, whether a resident of the city or not, who solicits for the purchase or sale of goods or services of any nature whatsoever from any private residence.

(Code 1981, § 5-16-1; Code 1993, § 6.76.010)

6.76.020. - Soliciting when prohibited by signs unlawful.

It is unlawful for any person to engage, or cause any other person to engage as agent or employee, as a solicitor by soliciting from any private residence whereon a sign has been conspicuously displayed with the words "NO SOLICITORS" or "NO SOLICITING."

(Code 1981, § 5-16-2(A); Code 1993, § 6.76.020)

6.76.030. - Remaining after request to leave unlawful.

It is unlawful for a solicitor to remain and refuse to leave immediately, or to instruct and cause any agent or employee to remain and refuse to leave immediately, the private residential property or residential unit of another, after being requested by the owner or other person having the right to occupy such residence to leave, whether or not any "No Solicitors" or "No Soliciting" signs have been displayed.

(Code 1981, § 5-16-2(B); Code 1993, § 6.76.030)

6.76.050. - Violation of section 6.76.030—Penalty.

Violation of section 6.76.030 is punishable by a fine not less than \$50.00 and up to \$300.00, or by imprisonment up to 90 days, or by both such fine and imprisonment.

(Code 1981, § 5-16-3(B); Code 1993, § 6.76.030; Ord. No. O-94-61, § 9)

Parker Municipal Code

CHAPTER 5.05 - Solicitors

5.05.010 - Findings and legislative intent.

The Town Council makes the following legislative findings:

- (1) The Town is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution;
- (2) The Town has an interest in protecting its citizens' right to privacy in their own homes, in preserving the public peace and order and in protecting the public safety and welfare;
- (3) The Town is a largely residential community whose residents value the peace and quiet enjoyment of their private property;
- (4) The Town Council finds that unregulated door-to-door solicitation within the Town would degrade and have an adverse impact on the peace and quiet enjoyment of private property;
- (5) Criminal activity on private property often occurs during nighttime hours;
- (6) The Town Council finds and determines that unregulated door-to-door solicitation within the Town would present a danger to Town residents and their private property;
- (7) The Town Council finds and determines that the interests of the Town and of the public are accommodated by a regulatory scheme that permits solicitation during reasonable daytime and evening hours while promoting public safety through the use of a reasonable registration method;
- (8) The Town Council finds that the owner or occupant should be given the opportunity to post signs prohibiting entry onto his or her property for door-to-door commercial solicitation and the opportunity to opt in to a no-visit list prohibiting entry onto their property for door-to-door commercial solicitation, and that these methods provide a balance between the individuals' right to privacy within their home, promote and protect the safety and privacy of the public and protect the interests of commercial solicitors; and
- (9) The Town Council desires to adopt a regulatory program in furtherance of these interests, purposes and goals.

(Ord. 7.14 §1, 2012)

5.05.020 - Title.

The ordinance codified in this Chapter shall be known and cited as the Parker Solicitors' Ordinance.

(Ord. 7.14 §1, 2012)

5.05.030 - Definitions.

As used in this Chapter, unless the context otherwise requires, the following words shall have the following meanings:

Canvasser means a person who enters or remains upon any private premises in the Town, not having been requested or invited by the occupants thereof, for the purpose of distributing a noncommercial flyer or for the purpose of attempting to enlist support for or against a particular

religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause.

Commercial flyer means any printed or written material, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, publication, booklet, handbill or other printed or otherwise reproduced original or copy of any manner of literature or paper containing a written or pictorial message that is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for any direct or indirect private financial gain of any person or entity so engaged as advertiser or distributor, except that a telephone directory or newspaper of general circulation in the Town published primarily for the purpose of disseminating news shall not be considered a commercial flyer.

Commercial solicitor means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.

Door-to-door commercial solicitation means to enter or remain upon any private premises in the Town, not having been requested or invited by the occupants thereof, to attempt to make or to make personal contact with the occupant for the primary purpose of:

- a. Contacting to solicit the immediate or future purchase or sale of any goods, wares or merchandise, other than newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; or
- b. Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

Door-to-door noncommercial solicitation means to enter or remain upon any private premises in the Town, not having been requested or invited by the occupants thereof, to attempt to make or to make personal contact with the occupant for the primary purpose of:

- a. Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);
- b. Soliciting the sale of goods, wares or merchandise for present or future delivery or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501(c)(3);
- c. Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
- d. Proselytizing on behalf of a religious organization;
- e. Soliciting support for a political candidate or organization, or ballot measure or ideology.

Employer means any person, company, corporation, business, partnership, organization or any other entity on behalf of whom a person is acting.

Noncommercial flyer is any printed or written material, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, booklet, handbill or any other printed or otherwise reproduced original or copy of any manner of literature or paper, containing a written or pictorial message that is distributed or circulated solely for nonprofit purposes.

Noncommercial solicitor means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door noncommercial solicitation.

Permit means a document issued by the Town Clerk authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

Permit holder means any person to whom a permit has been issued under the provisions of this Chapter.

Person means a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

Residence means private residences located within the Town, including, but not limited to, houses, condominium units and apartments, or the yards, grounds or hallways thereof.

Sales tax means the tax authorized and levied by and within the Town, pursuant to ordinance.

(Ord. 7.14 §1, 2012)

5.05.040 - All solicitation prohibited by posting of "No Solicitation" or "No Trespassing" sign.

It shall be unlawful for any solicitor, including any commercial solicitor and any noncommercial solicitor, to enter or remain upon any public or private premises in the Town if a "No Solicitation," "No Trespassing" or other sign conveying a similar message is posted at or near the entrance to such premises. This provision shall apply to all solicitation, including, without limitation, all solicitation activities that are religious, charitable or political in nature and all solicitation of newspaper or magazine subscriptions.

(Ord. 7.14 §1, 2012)

5.05.050 - "Do Not Solicit" list for commercial solicitations.

- (a) Any owner or lawful occupant of private property within the Town who wishes to prohibit door-to-door commercial solicitation at his or her residence may register such property on the Town's "Do Not Solicit" list by completing a form prepared by the Town Clerk, which form may be submitted to the Town either in person, by mail or on the Town's website. Such registration shall take effect thirty (30) calendar days after the date of the Town's receipt of the registration form and shall remain in effect until cancelled by the owner or occupant or until the person filing the form ceases to be the owner or occupant of the property, whichever occurs first.
- (b) The Town Clerk shall maintain and publish on the Town's website a "Do Not Solicit" list consisting of all residential addresses that have been registered under Subsection (a) above and that have not been removed by the Town under Subsection (d) below or by the owner or lawful occupant of the registered property. Each permit holder shall be responsible for obtaining and reviewing a

copy of such list immediately upon issuance of a permit under this Chapter and at such intervals thereafter as may be reasonably necessary to ensure compliance with the requirements of Subsection (c) below.

- (c) As of the effective date of the registration of a residential address under Subsection (a) above, no person shall engage in door-to-door commercial solicitation at any property listed on the "Do Not Solicit" list. All door-to-door commercial solicitation at any such property shall be prohibited until such time, if at all, that the property has been removed from the "Do Not Solicit" list.
- (d) Each residential address appearing on the Town's "Do Not Solicit" list will remain on the list until cancelled by the owner or occupant or until the person filing the form ceases to be the owner or occupant of the property, whichever occurs first.
- (e) Neither the Town nor any of its officers, employees, agents or authorized volunteers shall be liable to any person for any injuries, damages or liabilities of any kind arising from or relating to any errors or omissions that may occur in compiling or maintaining the "Do Not Solicit" list.

(Ord. 7.14 §1, 2012)

5.05.060 - Registration required.

No person shall act as a commercial solicitor or otherwise engage in door-to-door commercial solicitation within the Town without first registering with the Town Clerk and obtaining a permit in accordance with this Chapter. Canvassers and noncommercial solicitors are not required to register or obtain a permit but may do so for the purpose of reassuring Town residents of the canvasser's or noncommercial solicitor's good faith.

(Ord. 7.14 §1, 2012)

5.05.070 - Permits and identification badges for commercial solicitors.

- (a) Any person seeking to engage in commercial door-to-door solicitation, when not previously requested or invited to do so by the owner or occupant of the residence, must obtain a permit from the Town Clerk and pay the permit fee as provided in this Chapter before commencing any commercial door-to-door solicitation.
- (b) All permits shall be issued in the name of the applicant. Upon issuance of each permit, the Town Clerk shall create and maintain a list of all persons authorized to engage in door-to-door commercial solicitation under the permit. It shall be the sole responsibility of the permit holder to:
 - (1) Provide a copy of the permit to each person authorized to engage in solicitation under the permit;
 - (2) Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit and with the provisions of this Chapter;
 - (3) Notify the Town Clerk in writing of any persons to be added to or removed from the list of authorized solicitors; and
 - (4) Submit to the Town Clerk, for each person to be added to such list, the information required under Paragraph 5.05.09(3) below, together with payment of the identification badge fee.
- (c) Permit applicants shall submit their applications to the Town Clerk via mail or in person. The Town Clerk shall, within ten (10) business days of the receipt of a complete application for a permit under this Chapter, issue such permit, together with identification badges, for all persons authorized to engage in door-to-door commercial solicitation under the permit, unless the Town Clerk determines that the permit application is denied.

- (d) Subsequent to the issuance of any permit and upon receipt of the information and fee required by this Section, the Town Clerk shall, within five (5) business days, issue an identification badge to any new or additional person that is to be authorized to solicit under the permit, so long as such person is not otherwise prohibited from solicitation under this Chapter. The Town Clerk shall also, within five (5) business days, issue a replacement identification badge to any permitted commercial solicitor who, by affidavit, notifies the Town Clerk that his or her identification badge has been lost or stolen and who pays an additional identification badge fee set forth in Section 5.05.080 below.
- (e) If an employer applies for and is granted a permit under this Chapter, the employer shall be entitled to obtain identification badges from the Town Clerk for each employee or agent authorized to solicit under the permit.
- (f) Each employer who engages any other person for salary, compensation or other remuneration to engage in door-to-door commercial solicitation shall, before commencing such solicitation, register and obtain a sales tax license from the Town Clerk and pay the license fee as provided by Section 4.03.380 of this Code.

(Ord. 7.14 §1, 2012)

5.05.080 - Fees.

- (a) Permit fee. The permit fee for each permit issued hereunder shall be fifty dollars (\$50.00), and such permit shall be issued for one (1) year. In addition, each person engaging in door-to-door commercial solicitation under such permit shall be required to pay the amount of thirty dollars (\$30.00) for the providing of an identification badge.
- (b) Replacement identification badge fee. The fee to replace a lost or stolen identification badge shall be thirty dollars (\$30.00) per badge.

(Ord. 7.14 §1, 2012)

5.05.090 - Application contents.

Each person applying for a door-to-door commercial solicitation permit shall submit to the Town Clerk an affidavit on a form supplied by the Town Clerk stating:

- (1) The full name, business address and business telephone number of the applicant.
- (2) A complete list of all persons to be authorized to solicit under the permit.
- (3) For each person to be authorized to solicit under a permit, the following information:
 - a. Name, address, telephone number and date of birth;
 - b. A current copy of the person's criminal background check, as provided by the Police Department, dated no more than sixty (60) days prior to the date of the application or the person's authorization for the Town Clerk to conduct a criminal background check;
 - c. Whether the person is presently on parole or probation for any criminal violations;
 - d. A description of the individual, including height, weight, eye color and hair color;
 - e. The number and state of issuance of the person's motor vehicle operator's license or chauffeur's license, if any, or copy of other state-issued photo identification;
 - f. The license plate number and state of issuance of any motor vehicle owned, rented or being driven by the person and of any motor vehicle which the person intends to use in the course of door-to-door commercial solicitation, a description of such vehicle and the name and address of the owner of such vehicle;

- g. A brief explanation of the nature of the door-to-door commercial solicitation activity requiring a permit under this Chapter;
- h. If the applicant is a foreign corporation or an employee of a foreign corporation, the name, address and telephone number of an agent for service of process residing in the State;
- i. Proof that the applicant has obtained a valid Town sales tax license;
- j. A list of all cities in which the applicant presently holds a peddler's or solicitor's license;
- k. Whether the applicant is presently on parole or probation for any criminal violations;
- l. The names, business addresses and business telephone numbers of all individuals employing and/or supervising the applicant; and
- m. The number of permits requested and the names and addresses of all persons who may use such permits, not to exceed twenty-five (25) permits.

(Ord. 7.14 §1, 2012)

5.05.100 - Grounds for denying permit.

- (a) The Town Clerk may deny the issuance of a permit for any of the following reasons:
 - (1) Any misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere.
 - (2) Failure to comply with this Chapter or violation of any ordinance applicable to the applicant's permitted activities.
 - (3) Failure to obtain a sales tax license as required by the Town or failure of the applicant, his or her supervisor or his or her employer to remit any sales tax due to the Town.
 - (4) Any felony or misdemeanor convictions for crimes against the person or property of another or institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such felony or misdemeanor convictions or institutionalization occurred within the five (5) years preceding the date of the application.
 - (5) Conviction of any crime committed while engaged in solicitation in the Town.
- (b) For purposes of this Section:
 - (1) Crimes or acts of violence against the person of another shall include homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar felonies involving moral turpitude by whatever name.
 - (2) Crimes or acts against the property of another shall include theft, burglary, breaking and entering, larceny and other similar felonies involving moral turpitude by whatever name.

(Ord. 7.14.1 §1, 2014; Ord. 7.14 §1, 2012)

5.05.110 - Revocation of permit.

If the Town Clerk finds that any of the grounds for denial set forth in Section 5.05.100 above exist, that an applicant has made a false statement in his or her application, that an employer has failed to supervise solicitation conducted under the permit so as to reasonably ensure that such solicitation is in compliance with the terms of the permit and with the provisions of this Chapter, or that the permit holder has authorized, condoned or knowingly tolerated any unlawful solicitation or any solicitation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public, the Town Clerk shall revoke and shall not renew the permit. The permittee may appeal the Town Clerk's decision in the manner set forth in Section 5.05.140 below.

(Ord. 7.14 §1, 2012)

5.05.120 - Transfer of permits.

Permits may not be transferred from person to person.

(Ord. 7.14 §1, 2012)

5.05.130 - Records.

The Town Clerk shall maintain records showing each permit issued and the alleged violations of this Chapter.

(Ord. 7.14 §1, 2012)

5.05.140 - Appeal.

At his or her election, an applicant may appeal any decision relating to his or her permit by the Town Clerk to the Town Council. If the applicant requests, the Town Council shall hold a hearing pursuant to the procedures set forth in the Town Charter, Ordinances and Resolutions of the Town. The Town Council's decision shall be by a majority of a quorum of the Town Council.

(Ord. 7.14 §1, 2012)

5.05.150 - Expiration of permit.

Each permit shall expire one (1) year from the date of issuance unless otherwise revoked as provided by law. Any person wishing to renew a permit must apply for the renewal no less than thirty (30) days prior to the expiration of its term. Said application shall be accompanied by a criminal background check as required under Subparagraph 5.05.090(3)b. above for each person who is to be authorized to solicit under the permit during its renewal term. Failure to apply for such renewal within said thirty-day time period shall result in the expiration of the permit. The renewal fee shall be determined by the Town Clerk in an amount sufficient to defray the costs incurred by the Town in processing the renewal application. Said fee shall be nonrefundable.

(Ord. 7.14 §1, 2012)

5.05.160 - Identification badges.

The Town Clerk shall issue to each permitted commercial solicitor, at the time of the delivery of his or her permit, an identification badge bearing the words "Permitted Solicitor," the period of time for which the permit is issued and the number of the permit. The identification badges shall contain a photograph of the solicitor and include the names of the solicitor and employer, if any. Each permitted commercial solicitor shall conspicuously display such identification badge whenever he or she is engaged in door-to-door commercial solicitation. The Town Clerk may cause the same document to be used as the identification badge and the permit.

(Ord. 7.14 §1, 2012)

5.05.170 - Exhibit of permit.

Whenever requested by any police officer or by any customer or prospective customer of the commercial solicitor, the commercial solicitor shall exhibit his or her identification badge and his or her permit.

(Ord. 7.14 §1, 2012)

5.05.180 - Permissible times.

All door-to-door commercial solicitation and all door-to-door noncommercial solicitation shall be undertaken and completed between the hours of 9:00 a.m. and the later of 8:00 p.m. or sunset, as announced and published by the National Weather Service daily.

(Ord. 7.14 §1, 2012)

5.05.190 - Distribution of handbills and commercial flyers.

In addition to the other regulations contained in this Chapter, a person attempting to distribute or distributing commercial or noncommercial flyers within the Town shall observe the following regulations:

- (1) No commercial or noncommercial flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way.
- (2) No commercial or noncommercial flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.
- (3) Any commercial solicitor observed distributing commercial flyers shall be required to identify himself or herself to the police and verify his or her registration.

(Ord. 7.14 §1, 2012)

5.05.200 - Construction.

It is the intent of the Town Council that not only each person who engages in door-to-door commercial solicitation in the Town, but also each principal on behalf of whom such person is acting, shall be registered and permitted as required by this Chapter.

(Ord. 7.14 §1, 2012)

5.05.210 - Exemptions.

- (a) The following classes of persons otherwise engaging in door-to-door commercial solicitation shall not be required to obtain a permit, unless otherwise required by this Chapter:
 - (1) Delivery persons or route persons who are engaged in the business of servicing and soliciting in connection with sales and delivery routes of newspapers, milk and bread;
 - (2) All companies that have a franchise agreement with the Town;
 - (3) Persons advocating civic, religious, charitable or political causes;
 - (4) Members of a nationally recognized youth organization, including, but not limited to, the Boy Scouts of America, the Girl Scouts of America and the Boys and Girls Club of America, engaging in such organization's sponsored fundraising events; and
 - (5) School children engaging in school-authorized or school-sponsored fundraising activities.
- (b) Notwithstanding the exemptions contained in this Section, such persons otherwise exempt pursuant to Paragraphs (1) through (5) of Subsection (a) above shall not be required to obtain an identification badge as described in Section 5.05.160 of this Chapter prior to engaging in door-to-door commercial solicitation or solicitation of contributions and shall pay the fee for such identification badge as set forth in Section 5.05.080 above.

(Ord. 7.14 §1, 2012)

5.05.220 - Violation; penalties.

- (a) It is unlawful for any person to engage in door-to-door commercial solicitation without a permit or an identification badge as required by this Chapter. Any person who so engages in door-to-door commercial solicitation shall, upon conviction, be punished by a fine not to exceed four hundred ninety-nine dollars (\$499.00) per offense. Each day of such violation shall be deemed a separate offense.
- (b) It is unlawful for any applicant, permittee or solicitor to violate any Section of this Chapter. Any such violator shall, upon conviction, be punished by a fine not to exceed four hundred ninety-nine dollars (\$499.00) and shall be subject to having his or her permit, permit application and/or identification badge revoked, suspended or denied. Each violation of the provisions of this Chapter shall be deemed a separate offense.
- (c) It is unlawful for any person to employ any other person to engage in door-to-door commercial solicitation for a salary, commission or other remuneration in the Town without causing such employee to comply with this Chapter, and such person shall, upon conviction, be punished by a fine of not more than four hundred ninety-nine dollars (\$499.00) and shall be subject to having his or her permit, permit application and/or identification badge revoked, suspended or denied. Each person employed without compliance with the provisions of this Chapter shall be deemed a separate offense.
- (d) Any person in violation of Section 5.05.040 of this Chapter shall, upon conviction, be punished by a fine not to exceed four hundred ninety-nine dollars (\$499.00) per offense and, if a commercial solicitor, shall be subject to having his or her permit, permit application and/or identification badge revoked, suspended or denied.

(Ord. 7.14 §1, 2012)