

**Chapter 9.54**  
**OFF-PREMISES COMMERCIAL SOLICITATION RESTRICTIONS**

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**9.54.010 Legislative findings.**

The city council finds that:

(a) Adopting limitations on off-premises commercial solicitations in the commercial solicitation restriction district (CSRSD) will aid the safety and unobstructed passage of pedestrians.

(b) There has been a proliferation of off-premises commercial solicitations in the CSRSD resulting in complaints from tourists and other pedestrians about the persistent and aggressive actions of persons approaching and trying to converse with them in order to enter into a commercial transaction.

(c) Since the demise of the timber industry in Southeast Alaska the community of Ketchikan has worked very hard to rebuild its economy and made significant investments in the infrastructure required to make Ketchikan an attractive tourist destination and port of call. In 2006, the city issued \$38.5 million in revenue bonds to finance a major renovation of its port infrastructure. The annual debt service for these bonds averages about \$2.58 million. The final maturity is December 1, 2035. In July 2006, the city of Ketchikan entered into a 30-year agreement to lease a cruise ship berthing facility from Ketchikan Dock Company. The lease agreement requires a minimum lease payment of \$1.8 million annually.

(d) Tourism is an essential component of the city's economy and its tax base. Hundreds of thousands of cruise ship passengers visit the city each year and many of those visitors as well as others are concentrated within the CSRSD. Its friendly small town and historic nature plays an important role in its being an attractive tourism destination and place to live, all of which is threatened by off-premises commercial solicitation in the CSRSD.

(e) This chapter is directed to the regulation, the time, place, and manner of certain limited forms of commercial speech and is not intended to regulate any form of speech other than speech designed to do no more than propose a commercial transaction.

(f) The purpose and intent of this chapter is to protect local residents and visitors with unreasonable interference or disturbance of their peace or obstruction of their free travel from the conduct of off-premises solicitors.

(g) This chapter is also designed to preserve and protect the economic viability of the city, the safety of the public and the attractiveness of the city as a tourist and shopping destination. (Ord. 1814 § 1, 2016)

#### **9.54.020 Definitions.**

For purposes of this chapter the following words and phrases shall have the meanings respectively assigned to them:

“Business” shall mean any commercial activity in which any goods, services, tours, or edibles are sold or offered for sale or for rent within the corporate limits of the city.

“Commercial solicitation restriction district” or “CSR” shall mean that area designated in KMC 9.54.030.

“Enclosed structure” shall mean a structure having a roof and supported by a column or walls. “Enclosed structure” does not include any sidewalks under a roofed area.

“Goods” shall mean any tangible item, including edibles.

“Off-premises solicitation” or “OPS” shall mean person-to-person efforts solely intended to interest pedestrians in or solicit the participation of pedestrians in commercial transactions for private profit with a business, except when made entirely from within an enclosed structure or when made entirely on private property to a person also on private property.

“OPS employer” shall mean any business or other person who directly hires or otherwise contracts with an OPS solicitor to conduct OPS activities on its behalf.

“OPS solicitor” shall mean any person engaged in off-premises solicitation.

“Product” shall mean the products, tours, goods, edibles or services sold or offered for sale or rent.

“Sidewalk” shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

“Street” shall mean all that area dedicated to public use for public street purposes and shall include, but not be limited to, public roadways and alleys. (Ord. 1814 § 1, 2016)

#### **9.54.030 Commercial solicitation restriction district.**

The commercial solicitation restriction district encompasses properties in these areas: the 1000 Block of Kennedy Street; Schoenbar Court; the 400 – 1000 Blocks of Water Street; Hopkins

Alley; 0 – 300 Blocks of Main Street, Front Street and Bawden Street; Dock Street; Mission Street; Mill Street; Creek Street; the 0 – 500 Blocks of Stedman Street; Thomas Street and the Spruce Mill Way and the Port of Ketchikan Water Front Promenade as more particularly shown on Exhibit A at the end of this chapter. (Ord. 1814 § 1, 2016)

**9.54.040 Limitations on off-premises solicitation activity.**

(a) No person shall engage in off-premises soliciting within the CSRD, except when the solicitation is made from entirely within an enclosed structure except as set forth in subsections (b) through (e) of this section, for the purpose of selling or offering for sale any goods or services of any kind for private profit.

(b) Under a permit issued for a special event, festival or street fair in accordance with KMC 9.56.040.

(c) Under a dock vendor lease issued pursuant and subject to the provisions of KMC 13.09.025.

(d) Under a permit for sale of fresh seafood issued pursuant and subject to KMC 13.09.030. (Ord. 1842 § 1, 2017; Ord. 1814 § 1, 2016)

**9.54.050 Specific prohibitions and appropriate conduct.**

(a) In addition to the provisions of any other applicable term of this chapter, it shall be considered unlawful and a violation of this chapter for an OPS solicitor to:

(1) Throw, place or deposit solid waste, litter, paper, documents or handbills on any street or sidewalk.

(2) Intentionally inflict emotional distress by verbal or physical harassment or coercion on any person.

(3) Misrepresent in any way the price, quality or nature of the product being promoted.

(4) Misrepresent the source or sponsor of any information offered or provided.

(5) OPS solicitors shall conduct themselves in accordance with the following standards:

(A) No OPS solicitor shall touch a person without consent during a solicitation.

(B) No OPS solicitor shall solicit an occupant of a vehicle in a public street whether the vehicle is moving, stopped, or parked.

(b) It shall be considered unlawful and a violation of this chapter for an OPS solicitor, or anyone engaging in or attempting to engage in a commercial transaction for private profit that is related solely and exclusively to the seller's economic interest, to interfere with or obstruct the free travel or passage of any pedestrian on any public street or sidewalk or obstruct any person's free movement or access to or from any public street or sidewalk for the primary purpose of selling or offering for sale any goods or services of any kind for private profit. (Ord. 1814 § 1, 2016)

**9.54.060 Legal accountability.**

In addition to the OPS solicitor, the responsible OPS employer shall be strictly and vicariously liable for any violations of this chapter by that OPS employer's OPS solicitor. (Ord. 1814 § 1, 2016)

**9.54.070 Fine schedule.**

(a) Pursuant to KMC 1.02.110 the following fine schedule is established for the violation of any provision of this chapter:

First violation	\$200.00
Second violation within 12 months	\$300.00
Third and subsequent violation within 12 months	\$500.00

(b) When the OPS solicitor is employed by the same OPS employer at the time of the violations involved, subsequent violations by that OPS solicitor shall constitute subsequent violations by the OPS employer. Violations by different OPS solicitors employed by the same OPS employer shall be aggregate and constitute subsequent offenses by the OPS employer.

As examples:

(1) In the instance of a first violation the OPS solicitor and the OPS employer would each be subject to a \$200.00 fine so that the total penalties would be \$400.00;

(2) In the instance of a second violation within 12 months the OPS solicitor and OPS employer would each be subject to a \$300.00 fine so that the total penalties would be \$600.00; penalties for the third and subsequent violations within a 12-month period would be imposed in the same manner;

(3) Where OPS solicitor A and OPS solicitor B are employed by the same OPS employer and OPS solicitor A commits a first violation and then OPS solicitor B commits a first violation within 12 months the OPS employer would be subject to a \$200.00 fine in respect to OPS solicitor A's violation and a \$300.00 fine in respect to OPS solicitor B's violation; penalties for subsequent violations within 12 months would be imposed in a similar manner. (Ord. 1842 § 2, 2017; Ord. 1814 § 1, 2016)

**9.54.080 Other remedies.**

In addition to the fines set forth in KMC 9.54.070 the city shall have all other remedies available to it in law or equity for violations of the chapter, including, but not limited to, injunctive relief. (Ord. 1814 § 1, 2016)

**Exhibit A Commercial Solicitation Restriction District**

