

ORDINANCE NO. 10-36

AN ORDINANCE AMENDING CHAPTER 721 AND
REPEALING THE EXISTING CHAPTER 721 IN ITS
ENTIRETY.

BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That Chapter 721 of the Codified Ordinances of the City of Delaware is hereby amended and replaced in its entirety by the following new section:

721.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning

(a) "Canvasser" means any person who seeks to disseminate any lawful message by means of traveling from place to place without soliciting funds or donations.

(b) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veteran's medical and social research, either actual or purported

(c) "Peddler" means any person who carries with him or her for the purpose of sale at retail and immediate or future delivery, goods, wares, food or merchandise, or any person who in person as principal or agent canvasses, sells or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food, or merchandise, or services

(d) "Religious" or "religion" shall not include the word charitable, but shall be given their commonly accepted definitions.

(e) "Solicitor" means any person who obtains or seeks to obtain funds for any cause whatsoever by means of canvassing from place to place

721.02 LICENSE REQUIRED.

(a) Subject to the exceptions in Section 721.03, all persons who systematically go to each residence, or randomly select residences, for the purpose of peddling and soliciting or any other activity, shall first obtain a license from the Police Chief, or his or her designee, prior to proceeding with such activity.

(b) Subject to the exceptions in Section 721.03, all persons acting for or hired by another as a peddler or solicitor in the City shall first obtain a

license from the Police Chief, or his or her designee, prior to proceeding with such activity.

721.03 EXCEPTIONS.

(a) The License, required by Section 721.02, shall not apply to: the local delivery of newspapers and solicitation of subscriptions for the same, to the sale and delivery of products sponsored by the various associations of the public and parochial school systems and solicited by students of the same, or to the sale of services or products exclusively to commercial or industrial enterprises located within the boundaries of the City.

(b) The License, required by Section 721.02, shall not apply to those acting as a canvasser, as defined in Section 721.01, in order to disseminate ideas, thoughts, or messages regarding any cause, issue, religion, or political candidate as long as such canvassing does not include the violation of any local, state, or federal law.

(c) The License, required by Section 721.02, shall not be required of any individual who, without compensation, acts as a peddler or solicitor on behalf of and for any recognized religious or charitable not for profit organization.

721.04 LICENSE APPLICATION AND REQUIREMENTS.

(a) Applications for license for peddlers and solicitors shall be filed with the Police Chief, or his or her designee, on a form to be furnished by the Police Chief or his or her designee, which shall require, at least, the following information:

- (1) The name of the applicant
- (2) A physical description of the applicant
- (3) The applicant's social security number
- (4) The federal identification number of the applicant's entity or organization if the applicant is peddling or soliciting on behalf of an entity or organization;
- (5) The name and address of the person by whom the applicant is employed or for whom he is soliciting, if any, and the length of the applicant's service with such employer or person
- (6) The nature and character of the goods to be sold or services to be furnished by the applicant;
- (7) The names of other municipalities in which the applicant has recently conducted peddling or soliciting activities; and
- (8) Verification that the applicant or his organization/entity has complied with the requirements of Ohio R.C. Chapter 1716 pertaining to charitable solicitations, if applicable;
- (9) If the applicant is soliciting on behalf of a recognized religious or charitable not for profit organization, proof of tax exempt status; and

(10) Each individual shall furnish a valid government issued identification which includes a photograph of himself or herself.

(b) Applications shall be made at least three business days before the license is issued to allow time to complete a background check completed by the Police Chief, or his or her designee

(c) If the Police Chief, or his or her designee, determines after investigation that the information furnished under this section is correct; that the applicant proposes to engage in lawful commercial or professional enterprise and that neither the applicant nor the enterprise upon which the applicant proposes to engage constitutes a clear and present danger to the residents of the City, he shall issue a license to the applicant

(d) The license fee charged by the Police Chief, or his or her designee, shall be the fee as identified in the current Fee Schedule of the City of Delaware or as determined by the City Manager. All licenses issued under the provisions of this Chapter shall expire twelve (12) months after issued. Other licenses shall expire on the date specified in the license.

(e) No license shall be required for any person who acts as a canvasser if no donations or any other type of contributions are sought by the canvasser.

721.05 APPEALS

Any person who has applied for a license or registration certificate in accordance with this chapter and to whom the Police Chief or his or her designee has, after an investigation, denied a license or registration certificate may appeal the decision to the City Manger. Such appeal shall be considered by the City Manager within five days, and the City Manager's decision shall be final.

721.06 CARRYING AND EXHIBITING LICENSE; NONTRANSFERABILITY; WRITTEN RECEIPT REQUIRED.

(a) The license certificate issued under this chapter shall at all times be conspicuously attached and exhibited on the outer clothing of the peddler or solicitor.

(b) Licenses issued under the provisions of this chapter are non-transferable and shall not be used by any person other than the person identified on the license.

(c) Upon request, all solicitors or peddlers shall provide a written receipt showing the name of the peddler or solicitor, the amount of the contribution or purchase and the date. Upon request, all persons acting as peddlers or solicitors on behalf of any recognized religious or charitable not for

profit organization shall provide a statement attesting to the organization's exempt status under Section 501 of the Federal Internal Revenue Code.

721.07 BUSINESS HOURS RESTRICTED

No person shall peddle, solicit or conduct market research, door to door, at dwelling houses or businesses at random, on sidewalks or streets, at public places, at private meeting places or in any other manner or place in the City each day between 8:00 p.m. and 9:00 a.m. from April 1st through September 30th or between 7 p.m. and 9 a.m. from October 1st through March 31st.

721.08 NOTICE PROHIBITING PEDDLERS OR SOLICITORS

(a) The owners or occupants of any residence or place of business may evidence a determination to refuse to receive any uninvited peddlers or solicitors by displaying a weatherproof card, decal or sign not less than three inches by four inches in size nor more than one square foot in total surface area upon or near the main entrance door to the residence or place of business, containing words, in English, indicating that solicitors and/or peddlers are not permitted or invited with letters at least one-third inch in height.

(b) No person shall go upon any premises and ring the door bell, rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of any occupant of such residence or place of business for the purpose of securing an audience with the occupants thereof and engage in peddling or solicitations in defiance of a notice displayed pursuant to this section.

721.09 FRAUD PROHIBITED; REVOCATION OF LICENSE.

(a) No person shall directly or indirectly make or perpetrate any misstatement, deception or fraud in connection with any solicitation or peddling for any purpose in the City or in any application or report filed under this chapter.

(b) No person having entered into an agreement to conduct any peddling or solicitation on behalf of any person or organization shall fail to remit or pay to the party entitled thereto the proceeds of such peddling or solicitation in accordance with the terms of the agreement.

(c) The Police Chief, or his or her designee, may revoke at any time any license issued under this chapter for violation of any provision of this chapter.

721.10 SEVERABILITY CLAUSE

If any particular portion of this Chapter, is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that particular portion declared invalid. The declaration of invalidity shall not

affect or impair the remainder of this chapter, and to this end, the provisions are severable

721.99 PENALTY

(a) Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor on the first offense and shall be guilty of a misdemeanor of the fourth degree for a second or subsequent violation of this chapter or any substantially similar chapter of these Codified Ordinances. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) If the offender persists in a violation of this ordinance after reasonable warning and request to desist, a violation is punishable by up to a \$1000.00 fine and/or 30 hours of community service.

(c) A violation of Section 721.09, in addition to other penalties provided for in this chapter, is deemed to be a criminal trespass and shall be punishable as set forth in Section 541.05 of these Codified Ordinances.

SECTION 2. That existing Chapter 721 is hereby repealed and amended in its entirety.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION:

YEAS 6 NAYS 0
ABSTAIN

PASSED: May 24, 2010

YEAS 6 NAYS 0
ABSTAIN

ATTEST: Chris Shaw
CITY CLERK

Gary Milner
MAYOR