

ORDINANCE MODIFYING CHAPTER 733 OF THE CODIFIED ORDINANCES OF THE CITY OF WYOMING, "SOLICITORS AND PEDDLERS," BY REPEALING SECTION 733.01 AND REPLACING IT WITH NEW SECTIONS 733.01-733.10, RENUMBERING EXISTING SECTION 733.02, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Wyoming enacted Chapter 733 of the Codified Ordinances of the City of Wyoming to regulate the activities of door to door solicitors, peddlers, and canvassers for the protection of the health, safety, and general welfare of the citizens of Wyoming;

WHEREAS, due to changes in federal and state caselaw, it is necessary to repeal certain portions of the City's law and replace those provisions with regulations that fully meet constitutional requirements; and

WHEREAS, the City desires to continue to regulate solicitors, peddlers, and canvassers to the fullest extent permitted by law to protect the public health, safety, and general welfare of the citizens of Wyoming who may come in contact with such solicitors, peddlers, or canvassers,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WYOMING, HAMILTON COUNTY, OHIO:

Section 1. That Section 733.01 is repealed in its entirety and replaced as set forth below:

733.01 Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSERS. Any person traveling door-to-door within the community, to canvas or advocate for a cause, organization or person, or any person conducting a survey, advocating a religious organization or ministry, or presenting handbills for a person, cause or organization so long as such canvassing does not involve the solicitation or request for donations.

COMMERCIAL SOLICITORS. Any individual, group of individuals, business entity, organization (both for-profit or not-for-profit) or any agent of such business entity or organization which travels door-to-door within the community, which either solicits or offers for sale either for present or future delivery any goods, merchandise or services, whether monies are collected at the time of such solicitation or to be paid in the future.

COMMUNITY. As referenced herein, the term community shall mean the City of Wyoming, Ohio.

DOOR-TO-DOOR. Travel by foot, motor vehicle or any other type of conveyance from house-to-house, building-to-building or door-to-door within the community. Such solicitation does not include telephone, Internet or any other electronic communication. Door-to-door travel is intended to mean the personal contact between two or more individuals at a home, office or building within the community.

NON-COMMERCIAL SOLICITORS. Any individual, group of individuals, business entity, organization (both for-profit or not-for-profit) or any agent of such business entity or organization which travels door-to-door within the community, which either solicits or requests donations for any organization, person or cause, whether monies are collected at the time of such solicitation or to be paid in the future.

733.02 General Rules.

- (a) In addition to the requirements set forth below for permits by commercial solicitors, all solicitors, commercial or non-commercial, or canvassers traveling door-to-door within any residential area of the city to solicit donations, canvas, or offer goods or services for sale, shall carry appropriate photo identification and shall exhibit the same upon the request of any resident contacted within the city.
- (b) In addition to the permit required for commercial solicitors as set forth below, any solicitor, commercial or non-commercial, or canvasser under 18 years of age traveling door-to-door within any residential area of the city to solicit donations, canvas, or offer goods or services for sale, must be accompanied by a parent, guardian or supervising adult. Such parent, guardian or supervising adult shall have photo identification for himself or herself with him or her at all times, and shall exhibit the same upon request of any resident contacted within the community.
- (c) No person or organization shall solicit, whether commercial or noncommercial, or canvass within any residential area of the community between the hours of 9:00 p.m. and 8:00 a.m. daily.

733.03 Commercial Solicitation Permit Requirements.

Commercial solicitors intending to sell or offer for sale goods or services through door-to-door solicitation in any residential area of the city shall be required to register in advance with the city through the Police Department. Each organization, business entity, groups of individuals or individuals will be issued a permit upon

appropriate application to the city so long as such organization, business entity, group of individuals or individuals meet the requirements of this chapter for appropriate registration and authorization to conduct the solicitation within the community.

733.04 Applications for Commercial Solicitation Permits.

- (a) Applicants for permits under this chapter shall file with the Chief of Police or his or her designated clerk, in writing, in duplicate, on an application containing the following information:
 - (1) Name of applicant and all agents of the applicant who will offer or sell goods or services within the city.
 - (2) Permanent home address and/or business address of the applicant who will offer for sale or solicit sales of goods or services within the city.
 - (3) A brief description of the nature of the business or organization offering such goods or services to be sold and a brief description of the goods or services to be sold.
 - (4) The length of time during which the right to do business or the right to solicit sales within the community is desired; provided, however, that this right may not exceed a period of six months. This shall not restrict a commercial solicitor from selling or soliciting for sale for a period of 12 months throughout the community, but the commercial solicitor must renew such permit after its six month expiration with such renewal being similar to the procedure for the issuance of a new permit.
 - (5) Photographic identification of the applicant and photographic identification of all agents of the applicant who will be selling or soliciting for sales within the city.
 - (6) A statement as to whether or not the applicant, or any agent of the applicant who will be selling or soliciting for sales within the city, has been convicted of any crime or misdemeanor, the nature of the offense and the punishment or penalty assessed for such violation. The application shall acknowledge that the Chief of Police shall access and review the applicant's and any agent of the applicant's criminal record.
- (b) All new and renewal applications must be accompanied by an application fee determined pursuant to a fee schedule

established by City Council, which fees are subject to change from time to time as determined by Council.

733.05 Investigation.

- (a) Upon receipt of the completed application for a commercial solicitation permit by the Chief of Police, the Chief of Police shall cause an investigation of the applicants or applicant's agents business and moral character to be made as the Chief may deem necessary for the protection of the public good. This review shall be completed by the Chief of Police within five (5) business days. If the investigation is not completed within that period of time the applicant may deem the application to be denied and the applicant may appeal the deemed denial similar to an appeal as set forth in § 733.06.
- (b) If the Chief of Police's review of the application determines that any applicant or agent of the applicant has been convicted of a crime of moral turpitude, any crime of violence which may present a danger to the public, any sex offense crime, any crime of theft or deception, or any drug offense, the application or the right of any agent of the applicant to solicit in the community may be denied. If such application is denied the Chief of Police shall endorse such denial upon the application and state the reasons for the same and then return the application to the applicant with a copy to the City Manager. The application shall be returned either in person or by ordinary mail directed to the applicant's address as listed on the original application.

733.06 Appeal of Denial.

- (a) If an application has been denied as stated herein, the applicant may file such appeal within ten calendar days after written notice of such denial has been either delivered to the applicant or mailed to the applicant by ordinary mail to the applicant's last known address. Such appeal shall be brought to the City Manager by filing a copy with the office of the City Manager and a copy with the Chief of Police.
- (b) The City Manager or his designee shall then hold a public hearing upon such appeal at which the Chief of Police or his or her designee shall present the appropriate evidence to the City Manager upon which the application was denied. The applicant may be present at the public hearing and may present evidence to refute the findings of the Chief of Police. Upon hearing all evidence the City Manager may affirm, modify or, for good cause shown, overrule the decision of the Chief of Police. The decision of the City Manager shall be rendered within ten days of the conclusion of the public

hearing. Such decision shall be made in writing and presented personally to the applicant or mailed by ordinary mail to the applicant at the last known address provided in the application. The decision by the City Manager may be appealed as an administrative decision according to Ohio law.

733.07 Issuance Of Commercial Solicitation Permit.

- (a) If as a result of the investigation the Chief of Police approves the permit, the Chief shall endorse such approval upon the commercial solicitation permit application. Each application shall then be assigned an appropriate permit number and a copy of the approved application shall be returned to the applicant. The applicant must at all times carry a copy of such approved permit and appropriate photo identification upon his or her person when soliciting for sales within the city. A copy of the approved application shall be provided to all agents of the applicant who have been identified to solicit sales within the community, all of whom shall carry a copy of the permit and appropriate identification upon his or her person when soliciting sales within the city.
- (b) In addition to any criminal offense for a violation of this section, the approved permit granted to such applicant or the applicant's agent may immediately be suspended for failure to comply with this section. Any such suspension may be appealed by the permittee under the same procedure for application appeals as set forth in § 733.06.

733.08 Revocation Of Commercial Solicitation Permits.

- (a) Commercial solicitation permits issued under the provisions of this chapter may be revoked by the Chief of Police after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for a permit;
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business of the commercial solicitor;
 - (3) Any violation of this chapter;
 - (4) Conviction of any crime or misdemeanor involving any crime of violence which may present a danger to the public or any sex offense crime or drug offense; or
 - (5) Conducting the business of the commercial solicitor in an unlawful manner or in such a manner as to constitute a breach of peace or a menace to the health, safety or general welfare of the public.

- (b) An issued permit will be immediately suspended upon the issuance of a notice of hearing by the Chief of Police, under this section, and will remain suspended pending a decision to reinstate the permit by the City Manager.
- (c) Notice of the hearing for revocation of permits shall be given in writing setting forth specifically the grounds for such revocation and the time and place of the hearing. The notice shall be delivered personally to the permit holder or mailed to the permittee at his or her last known address at least five business days prior to the date set for the hearing. Such hearing shall be held within ten business days of the notice of revocation unless extended by agreement with the permit holder.
- (d) Such hearing shall be conducted by the City Manager, or his designee, as a public hearing. The City Manager, upon reviewing the evidence presented, may uphold the decision of the Chief of Police to revoke the commercial solicitation permit, may modify the decision or may overrule the decision of the Chief of Police. The City Manager's decision shall be rendered within ten calendar days of the hearing and shall be rendered in writing with a copy mailed, postage prepaid, to the permittee at his or her last known address. Pending a review by the City Manager the commercial solicitation permit shall be temporarily suspended. If the City Manager fails to render a decision within ten calendar days after the hearing then a decision of the Chief of Police shall be deemed to be overruled and the permit reinstated.

733.09 No Solicitation Notice.

- (a) No Commercial Solicitation List. Any resident or business within the community may file a notice of no commercial solicitation with the Police Department, which shall be on a form provided by the Police Department. The Police Department shall maintain a list of all residents or businesses within the community, by street address, that have a notice of no solicitation on file with the Police Department and shall provide all permittees with an updated copy of the list concurrently with the issuance of a commercial solicitation permit. No person soliciting sales shall enter upon such residential or business property where such property has been identified on the “no commercial solicitation list” that was provided to a permittee of a commercial solicitation permit under Section 733.07.
- (b) No Solicitation Sign. Any resident or business within the community may post a no solicitation sign conspicuously

on the property to bar entry to the property from any commercial or non-commercial solicitors and canvassers. The sign shall be a weatherproof sign, a minimum of three inches by four inches in size, stating no solicitors or words of similar meaning. The maximum size for any such sign shall be one square foot. The letters on such sign shall be at least one-third inch in height. No commercial or non-commercial solicitors or canvassers shall enter upon such residential or business property where such sign has been posted.

733.10 Violations. It shall be unlawful for any person, organization or entity regulated by this chapter to:

- (a) Enter upon any residential or business property within the community for purposes of soliciting sales if such property is listed on the “no commercial solicitation list” provided that such property appears on the list at the time the list was provided to the permittee by the Police Department;
- (b) Enter upon any residential or business property within the community if such property has been appropriately posted to prohibit on-site solicitation;
- (c) To solicit, whether commercial or non-commercial, or canvas within any residential area of the community between the hours of 9:00 p.m. and 8:00 a.m. daily;
- (d) To solicit sales within the community without appropriately obtaining a permit in advance;
- (e) To solicit sales within the community without having a copy of such permit on such person;
- (f) To solicit, whether commercial or non-commercial, or canvas in the community without appropriate photo identification or refuse to exhibit such photo identification to a resident or business resident when requested;
- (g) Solicit, whether commercial or non-commercial, or canvas in the community without being accompanied by a parent, guardian or supervising adult if such solicitor or canvasser is under the age of 18 years;
- (h) Accompany an underage solicitor or canvasser as an accompanying parent, guardian or supervising adult without appropriate photo identification;
- (i) Remain on such residential or business property without permission of the occupant or homeowner after the commercial or non-commercial solicitor or canvasser has been requested by the owner/occupant or person in charge of the premises to leave such private premises;
- (j) Make any false statement or misrepresentation in the process of applying for a commercial solicitation permit; or

- (k) Violate any other section of this chapter not specified herein.

Section 2. That Section 733.02 is hereby renumbered to Section 733.11.

Section 3. This ordinance is an emergency measure necessary for the preservation of public peace, health, safety and general welfare for the citizens of the City of Wyoming, Ohio, and shall go into effect immediately. The reason for said emergency is the immediate need to ensure that the City's regulations regarding solicitors and peddlers fully complies with state and federal caselaw, while providing the maximum level of protection to the citizens of Wyoming.

**PASSED IN THE COUNCIL CHAMBERS OF THE CITY OF WYOMING, OHIO, THIS
20th DAY JULY, 2015.**

Barry S. Porter, Mayor

ATTEST:

Clerk of Council

Approved as to Form:

Emily Supinger, City Solicitor