

ORDINANCE NO. 3688

AN ORDINANCE AMENDING CHAPTER 4.16 OF THE EDMOND MUNICIPAL CODE FOR CANVASSERS AND SOLICITORS; ADDING PEDDLERS; AUTHORIZING THE CITY CLERK TO CREATE RULES REGARDING APPLICATIONS; PROVIDING DEFINITIONS; PROHIBITING SOLICITING AND PEDDLING IN RIGHT-OF-WAY; PROVIDING FOR EXCLUSIONS RELATED TO FOOD TRUCKS AND NON-PROFIT FUNDRAISERS; ESTABLISHING LICENSE FEES; PROVIDING TIMELINE FOR RECORDKEEPING; ESTABLISHING EXPIRATION OF LICENSE; PROVIDING FOR TIMES AND CONDITIONS FOR SOLICITATION AND PEDDLING; ADDING EXEMPTIONS; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EDMOND, OKLAHOMA:

SECTION 1. Chapter 4.16 of the Edmond Municipal Code is hereby amended to read as follows:

Chapter 4.16 Canvassers, Solicitors, and Peddlers

Section 4.16.010 License Required.

It shall be unlawful for any canvasser, solicitor, or peddler as defined in Section 4.16.020 of this chapter to engage in such business within the corporate limits of the City of Edmond without first obtaining a license therefor in compliance with the provisions of this chapter. The City Clerk is hereby authorized to make, adopt, and amend rules and regulations necessary for license applications, provided that said rules and regulations are posted on the city website.

Section 4.16.020 Definitions.

- (a) The word canvasser or solicitor as used in this chapter shall mean any individual, whether a resident of this City or not, going from place to place for the purpose of selling, offering for sale or attempting to take orders for the sale of merchandise for future delivery, or for services to be furnished or performed in the future, regardless of whether the individual is collecting advance payments on such sales.
- (b) The word peddler as used in this chapter shall mean any individual, whether a resident of this City or not, going from place to place for the purpose of selling, offering

for sale or attempting to take orders for the sale of merchandise or sale of services, regardless of whether the individual is collecting advance payments on such sales.

- (c) The definitions of canvasser, solicitor, or peddler shall not include persons licensed as a mobile food service establishment by the Oklahoma City County Health Department.
- (d) The definitions of canvasser, solicitor, or peddler shall not apply to organizations or associations, or individuals on their behalf, which are operated exclusively for religious, educational, philanthropic, benevolent fraternal, or charitable purposes, where no part of the net earnings inure to the benefit of any shareholder or individual, or where the solicitations may be in the form of collections or contributions at regular services of any church, religious society, lodge, benevolent order or fraternity, or similar organization. The applicability of the "similar organization" exception shall be determined by the City Clerk upon request for permit.
- (e) Public right-of-way as used in this chapter shall mean any street or highway and property adjacent to streets and highways which is dedicated to public use and over which the Federal, State or municipal government, or any agency, department or subdivision thereof, exercises control and dominion; or any bridge, alley, sidewalk, canal, plaza, pedestrian bridge, pedestrian way, stairs or elevator which is dedicated to public use and over which the Federal, State or municipal government, or any agency, department or subdivision thereof, exercises control and dominion.

Section 4.16.025 Prohibition on Use of Public Right-of-Way

No canvasser, solicitor, or peddler shall engage in business within any portion of any public right-of-way; provided, the provisions of this section shall not apply to a landowner who has expressly reserved in a written easement agreement with the City the right to use defined portions of any public right-of-way for his or her business purposes or to the lawful successor(s) or assign(s) of any such landowner.

Section 4.16.030 License Fee.

At the time the application is filed, a fee of Seventy Five Dollars (\$75.00) shall be paid to the City Clerk to cover the nonrefundable Thirty Five Dollars (\$35.00) cost of

investigation of the facts stated therein within the application and the Forty Dollars (\$40.00) license fee.

Section 4.16.040 Investigation.

- (a) Upon receipt of such application, the application shall be referred to the Chief of Police or designee, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- (b) If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police or designee shall notify the City Clerk of the reason for denial. The City Clerk shall give written notice to the applicant that his application is disapproved and the reasons therefor.
- (c) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or designee shall approve the application.
- (d) The Chief of Police or designee shall complete his investigation within Ten (10) working days from the date of the application.

Section 4.16.050 Issuance and Recordkeeping.

The City Clerk, upon the receipt of the approved application from the Chief of Police or designee, and upon payment by the application of the prescribed license fee, shall issue such license on a certificate deemed appropriate by the City Clerk. The City Clerk shall maintain records on licenses issued for a minimum of three years.

Section 4.16.060 Expiration of License.

Licenses issued in accordance with Section 4.16.050 of this Chapter shall expire one year from the date issued.

Section 4.16.070 Display of License.

The license shall, during the time such licensee is engaged in soliciting, canvassing, or peddling, be worn constantly by the licensee on the front of an outer garment in such a way as to be conspicuous.

Section 4.16.080 Permitted Hours of Solicitation and Peddling and Rules regarding Conduct.

No person, solicitor, canvasser, or peddler may solicit or peddle from house to house or door to door for the purpose of selling, taking orders for the sale of goods or services of any kind between nine o'clock p.m. and nine o'clock a.m. on any day, in the absence of a specific invitation or appointment from the individual or occupant of the residence. No canvasser, solicitor, or peddler shall enter any premises or attempt to sell, peddle or solicit where the owner or occupant of such premises has indicated his/her desire not to be contacted for sales or solicitations by the placing of a "No Solicitors," "No Trespassers," or "No Trespassing" sign on those premises, and any such entrance or attempt to sell, peddle or solicit shall constitute a trespass upon private property.

Section 4.16.085 Soliciting or Peddling During Special Events.

No solicitor, canvasser, or peddler may solicit or peddle in any area adjacent to a City approved Special Event, as defined by Chapter 4.11 of the Municipal Code, unless the solicitor, canvasser, or peddler has the permission of the person or organization holding the Special Event.

Section 4.16.090 Revocation of License.

- (a) Licenses issued under the provisions of this chapter may be revoked by the City Clerk for any of the following reasons:
- (1) Fraud, misrepresentation, or false statement contained in application for license;
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business as a solicitor, canvasser, or peddler;
 - (3) Any violation of this chapter;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting the business of soliciting, canvassing, or peddling in an unlawful manner, or in such a manner as to constitute a breach of the peace, or to constitute

a menace to the health, safety, or general welfare of the public.

- (b) Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the licensee in person or by certified United States mail addressed to his or her residence address set forth in the application.

Section 4.16.100 Appeal.

Any person aggrieved by the action of the City Clerk in revoking a license or in denying a license shall, upon written request within ten (10) business days after notice of the action complained of, have the right of appeal to the City Manager.

Section 4.16.105 Exemptions.

The following are exempt from the provisions of this Chapter:

- (1) Minors who are performing fundraising for recognized youth sports organizations, scouts and religious institutions, which are headquartered or have established branches within the Edmond city limits;
- (2) The mere delivery of goods to the buyer after the placement of an order at the merchant's permanent place of business; and
- (3) Any 501(c)(3) community oriented charitable service organization which conducts sales as part of an annual fundraiser.

Section 4.16.110 Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished for a Class B offense as set forth in Section 2.56.210. Each day such violation continues shall be a separate offense.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

SECTION 3. SEVERABILITY. If any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct

and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

PASSED AND APPROVED the 13 day of August, 2018.



MAYOR


Attest:



City Clerk

APPROVED as to form and legality this the 13 day
of August, 2018.





CITY ATTORNEY