

## 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, ~~and~~ Solicitors, and Peddlers

Section 4.16.010 License Required.

It shall be unlawful for any canvasser, ~~or~~ 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. ~~The definition shall include any person who, for himself or for another person, temporarily leases, uses or occupies any property, building, structure, or any other place within this~~

~~City for the sole purpose of selling, exhibiting samples, or taking orders for future delivery.~~

- (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 ~~Application~~ License Fee.

- ~~(a) Applicants for license under this chapter must file with the City Clerk an application in writing on a form to be furnished by the City Clerk, which shall give the following information:~~
- ~~(1) Name and description of the applicant, including date of birth, driver's license number and social security number;~~
  - ~~(2) Permanent home address and full local address of the applicant;~~
  - ~~(3) A brief description of the nature of the business and the goods to be sold or exhibited;~~
  - ~~(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;~~
  - ~~(5) The length of time for which the right to do business or exhibit is desired;~~
  - ~~(6) The location or area where the goods or property is proposed to be sold, exhibited or orders taken for the sale thereof;~~
  - ~~(7) A photograph of the applicant, taken within sixty days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;~~
  - ~~(8) The names of at least two reliable property owners of the County of Oklahoma, State of Oklahoma, who will certify as to the applicant's good character and business respectability, or, in lieu of the names or references, such other available evidence as to the good character, and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;~~
  - ~~(9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, state or federal laws, the nature~~

~~of the offense and the punishment or penalty assessed therefor;~~

~~(10) A copy of a valid and current state sales tax permit unless the applicant can prove to the City Clerk's satisfaction that such permit is not mandated under the definition of the State Tax Code;~~

~~(11) A list of the last three municipalities wherein the applicant has solicited before coming to this City.~~

~~(b) At the time the application is filed, a fee of Ten Dollars (\$10.00) 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. If the application is approved, such fee will be applied to the cost of the license to be issued. If the application is denied, the Ten Dollar (\$10.00) investigation fee will be forfeited by the applicant. If the application is denied, the Forty Dollars (\$40.00) license fee shall be refunded to the applicant.~~

#### 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 keep a permanent record of all licenses issued.~~ The City Clerk shall maintain records on licenses issued for a minimum of three years.

Section 4.16.060 Fees Expiration of License.

~~The license fee which shall be charged by the City Clerk for such license shall be Ten Dollars (\$10.00) per day, Twenty Dollars (\$20.00) per week, and Seventy Five Dollars (\$75.00) per year. 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, ~~exhibiting or~~ 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 Soliciting Permitted Hours of Solicitation and Peddling and Rules regarding Conduct.

No person, solicitor, ~~exhibitor or~~ 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, ~~exhibitor or~~ 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, ~~exhibitor or~~ 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 ~~Manager~~ 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, ~~exhibitor or as a~~ 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, ~~exhibiting or of~~ 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 ~~Manager~~ 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 ~~Manager~~ Clerk in revoking a license or ~~by the action of the City Clerk~~ in denying a license shall, upon written request within ~~fourteen (14)~~ ten (10) business days after notice of the action complained of, have the right of appeal to the ~~Board of Adjustment~~ City Manager. ~~The Board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant at least five (5) days prior to the date set for the hearing in the same manner as provided in Section 4.16.090(b).~~

#### 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.

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MAYOR

Attest:

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City Clerk

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

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CITY ATTORNEY