

ORDINANCE NO. 2005-559

SPONSORS Mr. Dickinson and Mr. Teodosio

DATE November 21, 2005

An amended Ordinance amending Part Seven, Title Five of the Codified Ordinances of the County of Summit, entitled "Consumer Protection," by enacting Chapter 775, to protect consumers in consumer-related transactions concerning solicitors, peddlers and canvassers for County Council.

WHEREAS, the Council of the County of Summit seeks to protect the citizens of Summit County from illegitimate peddlers and solicitors; and

WHEREAS, the Council of the County of Summit has previously adopted Ordinance No. 2004-618 establishing a Consumers Affairs Board and Office of Consumer Affairs for the County of Summit; and

WHEREAS, it is the intention of this Council to further protect the citizens of Summit County by enacting Chapter 775 to protect consumers from uninvited solicitors in consumer-related transactions.

NOW, THEREFORE, BE IT ORDAINED by the Council of the County of Summit, State of Ohio, that:

SECTION 1

That the Codified Ordinances of the County of Summit are hereby amended by enacting a new Chapter 775 within Title Five of Part Seven which shall read as follows:

"CHAPTER 775

DEFINITIONS

775.01 DEFINITIONS

As used in this Chapter, certain terms are defined as follows:

- (a) "Itinerant vendor" or "hawker" means any person, natural or artificial, who engages in or conducts a temporary or transient business of selling goods, wares and merchandise within the county, but does not intend to continue in such business in any one location for more than four months and who, for the purpose of carrying on such business, hires, leases or occupies in whole or in part any room, building or structure for the exhibition and sale of such goods, wares and merchandise.

SECTION 1 (cont.)

- (b) "Peddler" means any person who sells, offers for sale, barter or exchanges any goods, wares, produce, merchandise or other articles of value at any place in, upon, along or through the streets, alleys or other public ways or places of the county or from house to house.
- (c) "Solicitor" means any person who, without prior request, or without being invited to do so by the owner or occupant of a private residence, attempts to sell or solicit orders for the sale of goods, wares, merchandise or other articles of value, including magazines, periodicals or books to be delivered at a later time.
- (d) "Canvassing" or "canvasser," means any adult person who calls at residences without the invitation or previous consent of the owner or occupant of such premise, seeking to obtain from an occupant of any residence an indication of such occupant's belief in regard to any social, political or religious matter.
- (e) "Person" means any adult individual, firm, partnership, corporation, company, association, joint stock company, church, religious sect, religious denomination, society, organization or league, or any combination thereof, and includes any trustee, member, receiver, assignee, agent or other representative thereof.
- (f) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit that gathers in common membership for regular worship and religious observances.
- (g) "Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

775.02 LICENSE REQUIRED

No itinerant vendor, hawker, peddler, solicitor, or canvasser shall sell or offer for sale any goods, merchandise, produce or anything of value in the county, or solicit or hawk any goods, merchandise or anything of value, without first obtaining a license therefore from the Director of the Office of Consumer Affairs, or his designee.

SECTION 1 (cont.)

775.03 LICENSE APPLICATION AND REQUIREMENTS

- (a) Application for licenses for itinerant vendor, hawker, peddler, solicitor, or canvasser shall be filed with the Director of the Office of Consumer Affairs or designee on a form, to be furnished by the Office of Consumer Affairs, which shall require, at least, the following information:
- (1) Name of Applicant, physical description, date of birth, and telephone number;
 - (2) Home address of applicant; Social Security number of applicant ;
 - (3) Name, address, telephone number, and Tax ID Number of the company by whom employed or for they are soliciting along with name of supervisor;
 - (4) Length of service with such employer or person for whom they are soliciting;
 - (5) All places of residence and all employment during the proceeding year;
 - (6) The nature and character of the goods to be sold or services to be sold or services to be furnished by the applicant or the purpose for which funds are being solicited;
 - (7) Name of the other township/villages/cities/counties in which the applicant has recently conducted activities for which license is herein required;
 - (8) Whether the applicant has ever been convicted of a felony.
 - (9) Make, model, year, license plate number, and proof of insurance for any vehicle used to solicit.
- (b) Applicant shall furnish a valid government ID with a photograph. Such application shall be made at least ten (10) days before the license is issued.
- (c) No individual shall be allowed to solicit under the provisions of this chapter who has not yet reached the age of eighteen (18).
- (d) No license shall be issued to individuals under the age of eighteen (18).

SECTION 1 (cont.)

775.04 FEES

For the license to be issued under the provisions of this chapter, each applicant shall pay to the Office of Consumer Affairs the sum of thirty-five dollars (\$35.00). All licenses issued hereunder shall be for a period of one (1) year or less which shall end on December 31 of that calendar year in which they are acquired, the date such license is issued.

775.05 LICENSE; TRANSFER OR ASSIGNMENT PROHIBITED

Any license issued pursuant to the provisions of this Chapter shall not be transferred or assigned by the licensee to any other person.

775.06 EXCEPTIONS

The provisions of this chapter shall not apply to the following:

- (a) Persons who solicit only the purchase of or subscription for newspapers having their principal sale or distribution in the County of Summit;
- (b) The manufacturer of any article manufactured by him within the County who, by himself or his agent, peddles or vends any such article or product;
- (c) Any person who, by State or Federal law or constitutional provision, has been exempted from obtaining a license;
- (d) Any sale under the order of a court or at a bona fide auction;
- (e) Any sale at wholesale to a retail dealer;
- (f) Four or more itinerant vendors associated together in an enterprise such as a "flea market," "farmers market," "Craft Show," stamp or coin collectors' "bourse," trade show, or the like.
- (g) Any fraternal, civic, service or school organization conducting an occasional sale, market or other fund-raising enterprise for charitable or civic purposes such as the Girls Scouts or Kiwanis Club; or
- (h) Any person representing a political candidate, party or ballot issue; or

SECTION 1 (cont.)

- (i) Any local religious group or representative thereof offering or soliciting orders for periodicals, tracts or publications of such religious group.

775.07 REGULATIONS FOR PEDDLERS; EXCESS NOISE; HOURS

- (a) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall use any whistle, bell, horn or other electronic or mechanical device which may be heard at a greater distance than five hundred (500) feet for the purpose of advertising his goods, wares and merchandise or services in a loud voice or operate any noise-producing device, loudspeaker, chime or bell on any vehicle, whether motor or manually operated, while such vehicle is in motion or standing, to advertise or call attention to such person's presence..
- (b) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall park, stand or stop, for the purpose of making any sale, within 200 feet of any school between the hours of ~~10~~9:00 a.m. and 4:00 p.m. during the school term.
- (c) All peddling or soliciting done under license issued by virtue of this Chapter shall be conducted between the hours of 9:00 a.m. and 8:00 p.m.
- (d) No itinerant vendor, hawker, peddler, solicitor, or canvasser shall make any sale or any delivery to any person from any motor vehicle or other conveyance while such person is standing on, or is within, any public street, alley or right of way normally used by motor vehicles.
- (e) Each peddler's vehicle shall be equipped with a receptacle for the disposal of wrappings, papers, envelopes or other containers for his goods or merchandise and no peddler shall fail to pick up and dispose of such wrappers, papers, envelopes or containers after any sale or delivery of his product before moving to another location or place.
- (f) Each itinerant vendor, hawker, peddler, solicitor, or canvasser shall recognize a three (3) day right to cancel orders or purchases.

SECTION 1 (cont.)

- (g) If a sales agreement is made in writing the itinerant vendor, hawker, peddler, solicitor, or canvasser must provide consumer with a copy of said agreement.
- (h) Each itinerant vendor, hawker, peddler, solicitor, or canvasser is hereby required to disclose to consumers the following:
 - (1) Nature and quality of goods and services;
 - (2) Materials terms and conditions;
 - (3) Name, mailing address and telephone number of seller, and;
 - (4) Refund, cancellation and exchange policy.

775.08 CARRYING OR EXHIBITING LICENSE

The license issued under the provisions of this Chapter shall be carried by any peddler or solicitor at all times when peddling or soliciting and shall be exhibited to any resident or municipal official upon request.

775.09 EMPLOYEE PEDDLERS TO BE LICENSED

It shall be unlawful for any person to be hired by another to sell goods, wares, food merchandise or services in the County as a peddler unless such so hired has been duly licensed as hereinbefore provided.

775.10 REVOCATION OF LICENSE

Any license issued under the provisions of this Chapter may be revoked at any time, by the Director of the Office of Consumer Affairs or his designee, should the person to whom it is issued be guilty of any fraud, misrepresentation or unfair, deceptive, or unconscionable sales practice in connection with his business, or otherwise; is found to be a person not fit to be engaged in such business; or violate any of the provisions of this Chapter.

SECTION 1 (cont.)

775.11 NOTICE PROHIBITING PEDDLING OR SOLICITING

Any owner or occupant of a residence or place of business who does not wish to receive an uninvited peddler or solicitor shall give notice of his intention by displaying a sign, decal, or card not more than one (1) square foot in total surface area, upon or near the main entrance door to the residence or place of business. The sign, decal, or card shall state "No Soliciting" in letters at least 1/3 of an inch in height.

775.12 SOLICITING IN VIOLATION OF POSTED NOTICE

No person shall peddle or solicit at any location displaying the sign, decal, or card described in 775.11 of the County of Summit Codified Ordinances.

775.13 WALKING ON LAWNS PROHIBITED

All persons, while engaging in canvassing or soliciting, shall utilize existing sidewalks, driveways, streets and walkways to gain access to the premises to be canvassed or solicited and no person, while engaging in such activity, shall walk upon or cut across the lawn portion of any premises

775.14 SEVERABILITY

The determination that any part of this Chapter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

777.96 CAUSE OF ACTION

Nothing in this Chapter shall be interpreted as restricting any private cause of action.

775.97 RELATION TO OTHER LAW

This Chapter shall apply in all townships, villages and municipal corporations within the County of Summit.

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SECTION 1 (cont.)

- (a) In Townships where a resolution regulating transient vendors exists, the resolution shall prevail over this Chapter.
- (b) In villages or municipalities where an ordinance regulating peddlers and solicitors exists, the ordinance shall prevail over this Chapter.
- (c) In villages, municipalities or townships which do not have their own regulations regarding peddlers, solicitors or transient vendors; applications for licenses shall be submitted to the Summit County Office of Consumer Affairs in accordance with this Chapter.

775.99 PENALTIES

- (a) Whoever violates any provision of this Chapter shall be subject to the penalties provided in Section 761.99.
- (b) In addition to the penalties above, any person aggrieved by any violation of this Chapter may pursue remedies authorized in Section 761.04 of this code.”

SECTION 2

Provided this Ordinance receives the affirmative vote of six (6) members, it shall take effect ninety (90) days after its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

SECTION 3

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

INTRODUCED October 24, 2005

ADOPTED November 21, 2005




CLERK OF COUNCIL



PRESIDENT

APPROVED November 22, 2005



EXECUTIVE

for

February 19, 2006

ENACTED EFFECTIVE

VOICE VOTE: 11-0 YES: Callahan, Congrove, Crawford, Crossland, Dickinson,
Gallagher, Heydorn, Kostandaras, Prentice, Smith and Teodosio