

CHAPTER 721 - PEDDLERS, SOLICITORS AND CANVASSERS^[2]

Sections:

Footnotes:

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State Law reference— Power to regulate, O.R.C. § 715.61 et seq.; Home solicitation sales, O.R.C. § 1345.21 et seq.; Charitable solicitations, O.R.C. Ch. 1716

Cross reference— Trespassing, § 541.05

721.01 - DEFINITIONS.

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

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

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

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.

Religious or *religion* shall not include the word charitable, but shall be given their commonly accepted definitions.

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

(Ord. No. 2008-27, 10-7-2008)

721.02 - REGISTRATION AND 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 register with and 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 register with and obtain a license from the Police Chief, or his or her designee, prior to proceeding with such activity.

(Ord. No. 2008-27, 10-7-2008)

721.03 - EXCEPTIONS.

- (a) The registration and 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, to solicitations and deliveries sponsored and sustained by the Community Association of the City, or to the sale of services or products exclusively to commercial or industrial enterprises located within the boundaries of the City.

- (b) The registration and 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. However, subject to this chapter, no individual shall act as solicitor or peddler on behalf of or for such organization without first having registered with the Police Chief, or his or her designee.

(Ord. No. 2008-27, 10-7-2008)

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 O.R.C. Ch. 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 Powell. All annual licenses issued under the provisions of this chapter shall expire 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.

(Ord. No. 2008-27, 10-7-2008)

721.05 - REGISTRATION FOR CHARITABLE OR RELIGIOUS PURPOSE.

- (a) Applications for registration certificates 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. Each registration shall contain:
 - (1) The name, address, and the telephone number of the person completing the application;
 - (2) The name of an officer or official of the organization;
 - (3) The nature of the charitable or religious purpose to which the contributions, donations or sale proceeds will be applied;
 - (4) Verification that the applicant or his employer has complied with the requirements of O.R.C. Ch. 1716 pertaining to charitable solicitations, if applicable;
 - (5) If the applicant is a recognized religious or charitable not for profit organization, proof of tax exempt status; and
 - (6) Such other information as the Police Chief, or his or her designee, may require.
- (b) A registration certificate shall be valid for no more than a 12-month period. The registration certificate shall state the expiration date.
- (c) No fee shall be required for a registration certificate.
- (d) No registration certificate shall be required for any person who acts as a canvasser on behalf of a religious or charitable organization if no donations or any other type of contributions are sought by the canvasser.

(Ord. No. 2008-27, 10-7-2008)

721.06 - 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.

(Ord. No. 2008-27, 10-7-2008)

721.07 - CARRYING AND EXHIBITING LICENSE OR REGISTRATION; NONTRANSFERABILITY; WRITTEN RECEIPT REQUIRED.

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

(Ord. No. 2008-27, 10-7-2008)

721.08 - 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 between 8:00 p.m. and 9:00 a.m. or on any Sunday or holiday. Holiday shall have the same meaning as defined in Section 1.14 of the Ohio Revised Code.

(Ord. No. 2008-27, 10-7-2008)

721.09 - 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 the words "No Peddlers or Solicitors 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 the section.

(Ord. No. 2008-27, 10-7-2008)

721.10 - FRAUD PROHIBITED; REVOCATION OF LICENSE OR REGISTRATION CERTIFICATE.

- (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 or registration certificate issued under this chapter for violation of any provision of this chapter.

(Ord. No. 2008-27, 10-7-2008)

721.11 - 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.

(Ord. No. 2008-27, 10-7-2008)

721.99 - PENALTY.

- (a) Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree on the first offense and shall be guilty of a misdemeanor of the first 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) 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.

(Ord. No. 2008-27, 10-7-2008)