

ORDINANCE NO. 16, 2013
AN ORDINANCE OF THE COMMON COUNCIL OF
THE CITY OF COLUMBUS, INDIANA,
TO AMEND CHAPTER 5.20 OF THE COLUMBUS CITY CODE,
DOOR TO DOOR SOLICITATION

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government;

WHEREAS, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Columbus, Indiana (the "Council") to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit;

WHEREAS, previously the Council adopted Chapter 5.20 of its City Code to address door to door solicitation;

WHEREAS, there have been statutory amendments to the underlying legislation which require Chapter 5.20 to be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AS FOLLOWS:

Section I. Chapter 5, Article 20 of the Columbus City Code, is hereby amended to read in its entirety as follows:

Chapter 5.20
DOOR-TO-DOOR SOLICITATION

Sections:

- 5.20.010 Definitions.
- 5.20.020 Licensing.
- 5.20.030 Restrictions on license/door-to-door solicitation.
- 5.20.040 License revocation or denial.
- 5.20.050 Penalties.

5.20.010 Definitions.

As used in this chapter, the following words and phrases shall be defined as herein stated below:

"Door-to-door solicitation" shall include all methods and means of soliciting funds and/or of selling commercial products, services or property within the corporate limits of the City of

Columbus, Indiana ("city"), by and through the uninvited personal solicitation of city residents on residential property.

"Exempt persons" shall include the following:

1. An individual while and to the extent he or she is engaged in protected political speech or activity;
2. An individual while and to the extent he or she is engaged in protected religious speech or activity;
3. An individual who, due to the preemption of applicable federal or state law, is exempt from local licensing requirements;
4. An individual who holds a license from the Indiana Professional Licensing Agency;
5. An individual holding a certificate issued by the Indiana Utility Regulatory Commission (IURC) allowing the person to have direct marketing authority for cable service including video programming, pursuant to the provisions of Indiana Code 8-1-34-30, and any amendments thereto, unless the person elects to follow the provisions under this Ordinance instead.

"Vendor" means a person, partnership, corporation, company, organization or entity who is not an exempt person and who is engaged in the selling, peddling, merchandising or brokering of products, services or property to the general public for a commercial purpose and/or who is engaged in the solicitation of funds.

5.20.020 Licensing.

A. Any vendor who desires to engage in door-to-door solicitation shall first obtain from the Columbus police department a non-transferable door-to-door solicitation license ("license") permitting such activity by vendor and/or by vendor's employees and agents. Said license shall be requested by the vendor and obtained from the Columbus police department on weekdays (Monday - Friday), not including holidays, between the hours of 9:00 a.m. and 5:00 p.m.

B. If the vendor intends to sell or offers to sell any type of food or beverage, unless pre-packaged, the Columbus police department shall refer the application to the Bartholomew County health department for review and recommendation. The review shall include an inspection of all refrigeration equipment to be used by the vendor and shall insure that minimum sanitation requirements established by state and local law are met.

C. The Columbus police department shall provide to any person, upon request, a door-to-door vendor application form ("application") to be completed by a vendor and processed by the Columbus police department. The application shall seek general information about the vendor, vendor's business and the nature of vendor's proposed door-to-door solicitation. The application

shall seek and shall be subject to the verification of relevant information about the vendor's company such as: date of incorporation; state of incorporation and if the corporation is formed outside of the State of Indiana, the date on which such corporation was qualified to transact business as a foreign corporation in Indiana and the applicant's status with the Indiana Better Business Bureau, or the Better Business Bureau of the state of incorporation and/or the home state of the corporation. The application shall also require a vendor to list the name of every employee and agent who will be involved in door-to-door solicitation pursuant to a license issued to the vendor under this section, and to obtain from the Indiana State Police Department and attach to the application a copy of the limited criminal history of the vendor and of each employee and agent of same who will be involved in door-to-door solicitation. The application shall require the vendor to state the name, address and telephone number of the contact person who will respond to consumer complaints who shall be available for a period of time not less than sixty days following the last date that the vendors sells or offers goods, wares, merchandise, food, services or subscriptions in the city. All completed applications shall be submitted to the Columbus police department for review by the chief of police, or his designee.

D. If, while any application is pending or during the term of any license granted thereon, there is any substantial change in fact, policy or method that would materially alter the information given in the application, the applicant shall notify the police department, in writing, of the change within seventy-two hours after such change. If the applicant or licensee fails to so notify the police department, any license issued to the applicant or vendor shall be suspended pursuant to a hearing set forth in Section 5.20.040 below.

E. A license and a non-transferable identification card shall be issued to a vendor by the chief of police upon such vendor's completion of an application, confirmation that such vendor has no felony or misdemeanor conviction within fifteen years of the application date for a crime of dishonesty, fraud, theft and/or moral turpitude, and such vendor has paid a license fee of fifteen dollars for a ten-day license or ninety dollars for a one-year license. Upon receipt of a license, a vendor must also purchase from the Columbus police department, at the cost of three dollars each, non-transferable identification cards for each adult employee and/or agent of vendor listed on vendor's application and for whom the chief of police or his/her designee has confirmed has no felony or misdemeanor conviction within fifteen years of vendor's application date for a crime of dishonesty, fraud, theft and/or moral turpitude. If a vendor's employee and/or agent is a minor, each minor employee and/or agent shall carry with him/her a copy of the vendor's license at all times while engaged in the act of door-to-door solicitation. In the event the vendor is a federally recognized 501(c)(3) entity, not-for-profit, nonprofit, charitable organization or any other organization exempt from Indiana gross retail tax, as identified and determined by the City of Columbus police department, said licensing fees shall be waived.

F. The decision as to whether an application is approved or denied shall be made by the chief of police within twenty days from the date the application is submitted to the Columbus police department for processing.

G. Vendor, and each of vendor's employees and agents, shall openly display upon his or her person an identification card issued by the Columbus police department whenever engaging in

door-to-door solicitation. Vendors who received a certificate from the IURC shall have the certificate upon their person whenever engaging in door-to-door solicitation.

5.20.030 Restrictions on license/door-to-door solicitation.

A. Door-to-door solicitation by vendors, including those who hold a certificate issued by the IURC, may be conducted between the following hours: 8:00 a.m. and 7:00 p.m. Monday through Saturday.

B. Subject to earlier revocation, pursuant to this section, a license, as well as any identification card(s) issued therewith, shall be valid for exactly ten or one hundred twenty days, as applicable, from the date the license or identification card was issued, and shall thereafter immediately expire and become null and void.

C. Vendor, vendor's employees and agents, and vendor who holds a certificate issued by the IURC, shall comply with all applicable federal, state and local laws and regulations while engaging in door-to-door solicitation.

D. Unlawful to solicit on posted premises. It is unlawful for any vendor, including those who hold a certificate issued by the IURC, to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of peddling or soliciting at any residence, dwelling or place of business at which a sign bearing the words "No Solicitors" (or words of similar import indicating that solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view; provided, that this section shall not apply to any peddler or solicitor who rings the bell, knocks on the door, or otherwise attempts to gain admittance to such residence or dwelling at the invitation or with the consent of the occupant thereof.

5.20.040 License revocation or denial.

A. If the chief of police or his designee, determines that one or more of the following apply to a vendor and/or to any employee or agent of vendor who applies for a license or who is involved in door-to-door solicitation, then the chief of police shall deny the application and/or revoke an issued license and/or identification card(s) relating thereto, whichever action is applicable under the circumstances:

1. Vendor submitted an application that contains materially false or misleading information;

2. Vendor or any of vendor's employees or agents was, within fifteen years prior to the date of vendor's application, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude;

3. Vendor or any of vendor's employees or agents has violated this section or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude after the issuance of but prior to the expiration date of such person's license and/or identification card;

4. Vendor or any of vendor's employees or agents has failed to properly display his/her identification card while engaged in door-to-door solicitation;

5. Two or more written and sworn complaints have been delivered to the Columbus police department and verified, under oath, regarding allegedly untruthful or illegal conduct concerning vendor or vendor's employees or agents during his/her door-to-door solicitation;

6. Two or more complaints have been filed and verified with the Indiana Better Business Bureau.

B. All license and/or identification card denials/revocations shall be in writing, shall state thereon the effective date of the denial/revocation and the reason for same, and shall be served by U.S. certified mail or by personal service on vendor at vendor's address as contained in the application.

C. Any vendor, within twenty days from the date on which notice of such license and/or identification card denial or revocation notice is served thereon, may by written request made and delivered to the chief of police, or his designee, within such time period, appeal such action to the Columbus police department administrative board ("administration"). If a timely appeal is not made, the decision of the chief of police is final. The administration shall issue its written decision on the appeal no more than ten days from the ending date of the filing of the appeal. Should the police administrative board deny the applicant's appeal, said applicant may appeal to the Columbus city board of public works and safety in writing within ten days of the administration's denial. If a timely appeal is made to the Columbus city board of public works and safety, said Board shall hear the appeal at a public hearing, which shall begin no more than twenty days from the date of the receipt of the appeal by the board.

D. No application, license or identification card fees shall be returned or refunded upon the revocation of a license and/or identification card issued pursuant to this section, all such monies being deemed forfeited.

5.20.050 Penalties.

A. Any vendor and/or any employee or agent of vendor who engages in door-to-door solicitation in violation of this section shall be subject to a fine of one hundred dollars for each separate offense during which the same engages in such conduct, with a maximum penalty of up to one thousand dollars per day. A vendor and/or employee or agent of a vendor who commits a violation under this chapter is subject to the enforcement procedures provided in Indiana Code 34-28-5-1.

B. Any vendor who is issued a certificate by the IURC and engages in door-to-door solicitation in violation of sections 5.20.030(A), (B), or (D), shall be subject to a fine of one hundred dollars for each separate offense during which the same engages in such conduct, with a maximum penalty of up to one thousand dollars per day. A violation under this section is subject to the enforcement procedures set forth in Indiana Code 34-28-5-1.

C. The city may seek a temporary and/or permanent restraining order against any vendor and/or any employee or agent thereof in any court of competent jurisdiction.

D. The city's remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

E. Willful or intentional disregard of this section shall, to the full extent permitted by law, entitle the city to collect from the violator the reasonable attorney fees, court costs, litigation expenses, and all other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

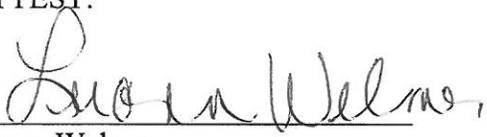
Section II. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

Section III. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

August, 2013 at 7:00 o'clock P.M. by a vote of 6 ayes and 1 nays. **ADOPTED**, by the Common Council of the City of Columbus, Indiana, this 20th day of



Presiding Officer

ATTEST:


Luann Welmer
Clerk Treasurer, City of Columbus, Indiana

Presented to me, the Mayor of Columbus, Indiana, the 21st day of Aug 2013 at 12:45 o'clock P.M.



Kristen Brown
Mayor, City of Columbus, Indiana