

ORDINANCE 31-12-O

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 709 OF THE  
CELINA CODIFIED ORDINANCES REGARDING REGULATING PEDDLER  
ACTIVITIES IN THE CITY, AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, the City of Celina, Ohio seeks to protect the public health, safety and welfare, by and through reasonable regulation of peddling upon public ways and in public places, and finds that the same is necessary; and

WHEREAS, the City of Celina seeks to protect its residents by requiring peddlers to register and obtain a valid peddlers license from the office of the Mayor; and

WHEREAS, City of Celina finds it necessary to clarify ambiguities in the language of the existing Chapter 709 of the City of Celina's Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Celina, County of Mercer, and State of Ohio.

SECTION ONE

THAT, the current Chapter 709 of the City of Celina's Codified Ordinances is hereby repealed in its entirety and replaced by Chapter 709, et. seq., which is attached hereto and labeled as "Exhibit A", which is fully incorporated herein by reference.

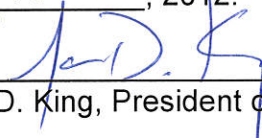
SECTION TWO

THAT, said newly-enacted Chapter 709, et. seq. shall take effect and be in force from and after its passage and approval by the Mayor at the earliest period allowed by law, namely thirty days following passage of this Ordinance, which Council reasonably anticipates being October 10, 2012.

SECTION THREE

NOW, therefore, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor at the earliest period allowed by law.

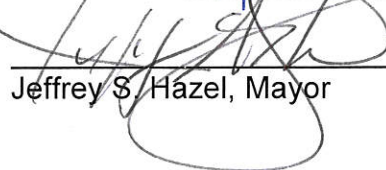
PASSED this 10 day of Sept., 2012.

  
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Jason D. King, President of Council

ATTEST:

  
\_\_\_\_\_  
Jackie L. Lacy, Clerk of Council

APPROVED September 10, 2012.

  
\_\_\_\_\_  
Jeffrey S. Hazel, Mayor

DRAFTED AND APPROVED BY:

  
\_\_\_\_\_  
George Erik Moore, Esq., City Law Director

**CHAPTER 709**  
**Peddlers**

**709.01 DEFINITIONS.**

As used in this chapter:

- (A) "Peddler" means any person traveling either by foot, automobile, truck or another type of conveyance from place to place, door to door or street to street, who is either (i) taking or attempting to take orders for profit by the sale of goods, wares, and merchandise or personal property of any nature, including without limitation periodicals, and other articles and publications, whatsoever for immediate or future delivery or for services to be furnished or performed immediately or in the future and/or (ii) obtains or seeks to obtain funds for any cause whatsoever upon the private residences, including any house, apartment or other dwelling, within the City, subject to the exclusions contained within section 709.01(B) of the Celina Codified Ordinances.
- (B) "Peddler" does not mean any person/entity who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the purpose of (i) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (ii) distributing a handbill or flyer advertising a non-commercial event or service.
- (C) "City" means the City of Celina, Mercer County, Ohio;

**709.02 LICENSE REQUIRED; EXCLUSIONS.**

- (A) No peddler shall peddle within the City, unless he or she is the holder of a valid license issued pursuant to this Chapter ("license").
- (B) No provision within this Chapter is intended to apply to garage sales within the City.
- (C) No provision within this Chapter is intended to apply to any person who represents any entity exempted from taxation under Section 5709.04 of the Ohio Revised Code and that provides written notice to the Mayor that such entity's representative(s) is/are present in the City for the purpose of selling, offering for sale, or soliciting orders for future delivery of goods or attempting to arrange an appointment for a future estimate or sales call, with such notice including the date(s) of such presence and activity(ies) within the City.
- (D) No provision within this Chapter is intended to apply to:
  - (1) any person licensed under Chapter 4707 of the Ohio Revised Code;
  - (2) any person invited by an owner or tenant to visit the owner's or tenant's premises to sell, offer for sale, or solicit orders for future delivery of goods;and/or

(3) any person who is only collecting money for goods previously ordered or sold.

(E) No provision within this Chapter is intended to apply to any person/entity described in section 709.01(B) of the City of Celina's Codified Ordinances.

**709.03 LICENSE APPLICATION, FEE, REVOCATION AND SUSPENSION; APPEAL.**

(A) Any person wanting a license under this Chapter shall obtain an application for the same from the office of the Mayor of the City, and shall submit the completed application, along with a valid driver's license or identification card issued by the State of Ohio or any other State for inspection and copying and an appropriate fee, to such office, on a form supplied by the Mayor which shall contain the following information:

- (1) The name, address, social security number of the applicant and/or tax identification number of the applicant/applicant's employer;
- (2) The place of residence and nature of the employment of the applicant during the last preceding year;
- (3) A personal description of the applicant;
- (4) The credentials of the applicant;
- (5) Evidence of the good moral character of the applicant;
- (6) The name and address of the person, firm or corporation by whom the applicant is employed;
- (7) The length of service of such applicant with such employer;
- (8) A description of the proposed peddling activities;
- (9) The nature or character of the goods, wares, merchandise or services to be offered by the applicant; and
- (10) Any other information as may be reasonably required by the Mayor.

(B) All license applications shall be referred to the Mayor who shall, within seventy-two (72) hours after receipt of the completed application, issue licenses to the peddlers, unless the Mayor finds that:

- (1) The applicant has provided false information in his or her application; and/or
- (2) The applicant, in the discretion of the Mayor, has not furnished enough information to constitute a "completed application"; and/or
- (3) The applicant or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving fraud or moral turpitude within the past five (5) years; and/or
- (4) The applicant or peddler named on the license application has committed and/or had involvement in and/or been affiliated with any act(s) involving "*crimen falsi* involving moral turpitude", with such term referring, without limitation, to (a) acts in the nature of perjury or subornation of perjury, false statement, criminal fraud, embezzlement, false pretense or any other offense the commission of which involves some element of deceitfulness,

untruthfulness, or falsification bearing on the accused's propensity to testify truthfully.; and/or (b) any action which might injuriously affect the administration of justice by the introduction of falsehood and fraud; including without limitation acts involving deceit, forgery, passing bad checks, and the like which reflect a general contempt for the administration of justice, character for dishonesty and/or lack of truthfulness.

- (C) Each applicant shall pay a non-refundable, non-pro-rated fee of thirty dollars (\$30.00) per license per calendar year, which fee shall be paid at the time the application is submitted.
- (D) By submitting an application under this Chapter, the applicant agrees to be subjected to a criminal background check, including undergoing finger-printing procedures at the applicant's sole cost, which is a separate cost from and in addition to the application fee set forth in this Chapter of the Celina Codified Ordinances. In the event of a business entity submitting an application under this Chapter, each employee which the applicant might utilize to engage in peddling activities shall sign the application authorizing the same for each such employee(s).
- (E) In the event that a sole proprietorship, partnership, limited liability company, corporation or other submits an application under this Chapter, and such business entity has employees, only one (1) permit shall be required of the business entity at each location, which shall cover all employees of the business entity at a single location, provided that each employee carries identification that they are employed by the business entity, such identification specifically refers to the peddler's registration number issued by the City to the business entity, and each employee has been subjected to the criminal background check that is required as part of the registration process under this Chapter of the Celina Codified Ordinances. Each business location shall require a separate registration.
- (F) Any license issued under the Chapter shall be valid for a maximum of one (1) calendar year.
- (G) Once issued, a license may be used only in conformity with the laws of the City and the State of Ohio; may not be assigned or transferred; must be carried by the licensee at all times; and shall be revoked by the Mayor for any of the following causes:
- (1) The licensee or person preparing the application on behalf of the licensee provided false information in the license application; and/or
  - (2) The applicant, in the discretion of the Mayor, has not furnished enough information to constitute a "completed application"; and/or
  - (3) The applicant or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving fraud or moral turpitude within the past five (5) years; and/or
  - (4) The applicant or peddler named on the license application has committed and/or had involvement in and/or been affiliated with any act(s) involving "*crimen falsi* involving moral turpitude", with such term referring, without limitation, to (a) acts in the nature of perjury or subornation of perjury,

false statement, criminal fraud, embezzlement, false pretense or any other offense the commission of which involves some element of deceitfulness, untruthfulness, or falsification bearing on the accused's propensity to testify truthfully; and/or (b) any action which might injuriously affect the administration of justice by the introduction of falsehood and fraud; including without limitation acts involving deceit, forgery, passing bad checks, and the like which reflect a general contempt for the administration of justice, character for dishonesty and/or lack of truthfulness.

(H) In the event a license application is not approved, or in the event any license issued pursuant to the provisions of this Chapter is revoked, written notice shall be given by the City of Celina's Auditor's Office to the applicant or licensee by personal service or certified mail. The applicant or licensee shall have ten (10) calendar days after the receipt of such notice to appeal such refusal or revocation. Such appeal shall be perfected by filing a notice of appeal with the Mayor, who shall notify the applicant or licensee or his or her decision in writing within ten (10) calendar days after receipt of such notice of appeal unless the applicant or licensee agrees to a longer period of time. In the event of any revocation of any license hereunder, the licensee shall be prohibited from engaging in peddling activities within the City unless the Mayor issues a ruling from an appeal of revocation authorizing the same, or as otherwise provided by law.

#### **709.04 PEDDLING OR VENDING**

No person shall peddle within the City, including without limitation door-to-door, from a vehicle in public streets and/or public places in the City without a license issued under this Chapter.

#### **709.05 ADULT ATTENDANT REQUIRED.**

Persons in pursuit of such peddling business or activity which involves utilizing children under age eighteen (18) years of age to engage in any peddling are hereby required to be accompanied by an adult attendant whose sole duty and occupation shall be to protect and safeguard such child(ren) from injury or hazards, including from vehicular traffic. The attendant shall maintain a constant lookout for approaching vehicles and shall warn and guard such child(ren) from injury therefrom.

#### **709.06 PERMITTED HOURS FOR PEDDLING.**

(A) Notwithstanding any other provision of this Chapter, no peddler, while peddling, shall call upon, knock at the door or ring the doorbell of any residence, house, apartment or other dwelling in the City before 10:00 a.m. or after 8:00 p.m., Monday through Saturday, inclusive. No peddling activities are permitted under this Chapter on Sundays and/or any Federally-recognized holiday.

- (B) Subsection (A) hereof shall not apply to any visit to the premises as a result of a specific request or appointment made by a lawful possessor and occupant of said premises.
- (C) Subsection (A) hereof shall not apply to any person/entity described in section 709.01(B) of the City of Celina's Codified Ordinances

**709.07 - 709.98 RESERVED**

**709.99 PENALTIES.**

- (A) Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the second degree for a first offense, and shall be guilty of a misdemeanor of the first degree for each and every subsequent violation of this Chapter or of any substantially similar Chapter of these Codified Ordinances.
- (B) A violation of either Section 709.04 or Section 709.06 of these Codified Ordinances, in addition to other penalties provided for in this Chapter, is deemed as trespass and shall be punishable as set forth in Section 541.05 of these Codified Ordinances and/or as set forth in the Ohio Revised Code.