

CITY OF FRANKLIN, OHIO
ORDINANCE 2023-12

AMENDING CHAPTER 721 OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN

WHEREAS, this Council, by Ordinance 2006-39, passed on November 20, 2006, enacted Chapter 721 of the Codified Ordinances of the City of Franklin to regulate peddling, soliciting and itinerant vending in the City of Franklin;

WHEREAS, the City Manager and the Law Director have recommended certain amendments to Chapter 721 to better regulate peddling within the City; and

WHEREAS, this Council finds it to be in the best interests of the health, safety and welfare of the City and its inhabitants to make these amendments to Chapter 721.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The City's Codified Ordinances, Chapter 721, are amended as set forth in Exhibit A, attached hereto.

Section 2. All ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed.

Section 3. It is found 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 that resulted in this formal action occurred in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

INTRODUCED: April 17, 2023

ADOPTED: May 1, 2023

ATTEST: Khristi Dunn
Khristi Dunn, Clerk of Council

APPROVED: Brent Centers
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2023-12 passed by that body on May 1, 2023.

Khristi Dunn
Khristi Dunn, Clerk of Council

APPROVED AS TO FORM:

Ben Yoder
Ben Yoder, Law Director

CHAPTER 721 Solicitors and Mobile Vendors

721.01 Definitions

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

“Applicant.” Any person applying for a permit from the City for the purpose of receiving permission to conduct mobile vending or solicitation activities within the City pursuant to this chapter. “Applicant” shall be understood to include both the individual person filing a permit application with the City, as well as the company or organization on whose behalf the individual is conducting mobile vending or solicitation activities (if applicable).

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

“Charitable Organization.” A not-for-profit organization, and includes patriotic, philanthropic, social service, welfare and eleemosynary, benevolent, educational, civic, fraternal, veteran's medical, and social research corporation organized and incorporated under Section 501(c)(3) of the Internal Revenue Code.

“~~Itinerant~~Mobile Vendor.” Any person who engages in or conducts a temporary or transient business of selling, or obtains orders or commitments for the sale, repair or exchange of, goods, wares, ~~food or~~ merchandise, edible products meant for human consumption, or any other item: (i) on foot; (ii) from a vehicle, trailer, pushcart or other ~~type of~~ similar conveyance; or (iii) from a temporary stand or structure, and who, ~~for the purpose of carrying on~~ conducts such business occupies, in whole or in part, any parking lot, or any other part of any activities on property where ~~such use is~~ the mobile vending operations are not the principal use of the property.

“Person.” Any individual, entity, corporation or other organization.

~~“Peddler.” Any person traveling either by foot, automobile, truck or any other type of conveyance from place to place, door-to-door or street-to-street, who carries with him 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 and Religion.” Shall not include the word charitable, but shall be given their commonly accepted definitions.~~

“Solicitor.” Any person who obtains or seeks to obtain funds or donations for any cause whatsoever by means of ~~canvassing~~ traveling on foot, by vehicle or otherwise from place to place.

~~721.02 Permit Or Registration Required~~ 721.02 Permit Required

- (a) Permit Required: Subject to ~~divisions~~division (c) ~~and (d)~~ of this section, no person shall engage in the business or activity of ~~itinerant vendor, peddler or solicitor in this Municipality~~mobile vending or solicitation in the City of Franklin without first obtaining a ~~permit or registering,~~from the City as required by ~~Section 721.03~~ this chapter.
- ~~(b) Persons Hired by Others: Subject to divisions (c) and (d) of this section, all persons acting for or hired by another as an itinerant vendor, peddler or solicitor in this Municipality shall obtain a permit or register, as required by Section 721.03.~~
- (b) ~~(c) Religious or~~ Charitable Organizations: ~~No~~An individual permit shall not be required of any individual who, without compensation, acts as a ~~peddler or solicitor~~Mobile Vendor or Solicitor on behalf of and for ~~any recognized religious or charitable organization. However, subject to division (d) of this section, no individual shall act as a peddler or solicitor on behalf of and for any such organization without first having registered with the City Manager, pursuant to a~~Charitable Organization; provided, however, the Charitable Organization receives permit approval from the City for its mobile vending or solicitation activities in accordance with Section 721.04.
- (c) ~~(d) Exceptions~~: No permit ~~or registration~~ shall be required of any person for the following:
- (1) PeddlingMobile vending or soliciting only for the wholesale delivery to merchants, manufacturers or other business or manufacturing establishments;
 - (2) PeddlingMobile vending or soliciting at the invitation or request of the person contacted;
 - ~~(3) Peddling or soliciting conducted only among the members of the entity or organization conducting the peddling or soliciting;~~
 - (3) ~~(4) Peddling~~Mobile vending or soliciting in the form of collections or contributions at the regular assemblies, meeting or services of any ~~recognized charitable or religious organization~~Charitable Organization;
 - (4) ~~(5) Minors~~Mobile vending or soliciting conducted by minors under the age of eighteen (18) years who are ~~peddling or soliciting~~acting as a part of a program sponsored by their educational institution or ~~who are members of recognized charitable organization~~a Charitable Organization of which the minor is a member (e.g. Boy Scouts, Girl Scouts, 4-H, etc.); ~~when selling or taking orders for products in connection with a program sponsored by their organization;~~
 - (5) ~~(6) Vending, peddling~~Mobile vending or soliciting at a function authorized by the City ~~Manager, such as~~of Franklin, including but not limited to a farmer's market or social event for which a permit has been issued; and

- ~~(6) (7) Acting as a canvasser~~Canvassing in order to disseminate ideas, ~~thought~~thoughts, or messages regarding any cause, issue, religion or political candidate, as long as such canvassing does not involve the solicitation of donations or other type of monetary contribution, nor the violation of any local, State or Federal law.

721.03 Permit Application And Requirements

- (a) Applications for permits for ~~itinerant vendors, peddlers and solicitors~~Mobile Vendors and Solicitors shall be filed with the City Manager, or his or her designee, on a form to be furnished by the City Manager, which shall require, at a minimum, the following information:
- (1) The name of the ~~applicant~~Applicant;
 - (2) The home ~~or business~~ address of the ~~applicant~~Applicant;
 - ~~(3) A physical description of the applicant and a recent photograph of the applicant not more than one year old;~~
 - ~~(4) The applicant's social security number or tax identification number;~~
 - ~~(5) The name and address of the person or business by whom the applicant is employed or for whom he or she is vending, peddling or soliciting, and the length of the applicant's service with such person or business;~~
 - ~~(6) All places of residence and all employment of the applicant within the preceding year;~~
 - (3) (7) The nature and character of the goods, wares, ~~food or~~ merchandise and food products to be sold by the ~~applicant or the person/business for whom the applicant is vending, peddling or soliciting; or the nature and character of the services to be furnished by the applicant or the person/business for whom the applicant is vending, peddling or~~ solicitingApplicant; or the purpose or organization for which funds or donations are being solicited by the Applicant;

- ~~(8) The names of other municipalities in which the applicant has recently conducted vending, peddling or soliciting activities;~~
- ~~(9) The period of time for which the applicant is seeking the permit;~~
- ~~(10) A City Income Tax form filled out and filed with the application; and~~
- (4) (11) The required permit fee; and
- (5) Any other information or documentation the City Manager may reasonably require.
- (b) Applications must be made at least ten days before the permit is issued, and upon receipt of such application, the City Manager, or his or her designee, shall forward such application to the Chief of Police, or his or her designee, to perform a background check on the Applicant. If the Chief of Police, after investigation, determines in the Chief's reasonable discretion that neither the ~~applicant nor the enterprise the applicant proposes to undertake~~ Applicant nor its proposed operations within the City constitutes a clear and present danger to the residents of the City, ~~he or she~~ the Chief shall sign such application and return it to the City Manager.
- (c) If the City Manager, or his or her designee, determines after investigation that the information furnished under the requirements of division (a) above is correct; ~~that the applicant~~ Applicant proposes to engage in lawful ~~commercial or professional enterprise; that~~ mobile vending or solicitation activities; and the Chief of Police has not found the ~~applicant or the enterprise the applicant proposes to undertake constitutes~~ Applicant or its proposed operations within the City constitute a clear and present danger to City residents, then ~~he or she~~ the City Manager shall issue a permit to the ~~applicant~~ Applicant.
- (d) The permit fee shall be a nonrefundable fee of twenty-five dollars (\$25.00), payable at the time the application is submitted to the City. ~~All annual permits issued under the provisions of this chapter shall expire on December 31 in the year when issued. All other permits shall expire on the date specified in the permit. The permit fee shall be nonrefundable, regardless of whether a permit application is approved or rejected.~~

721.04 Permit Application Requirements for Charitable Organizations

- (a) A Charitable Organization shall apply to the City for a single permit to cover all persons conducting mobile vending or solicitation activities within the City on the Charitable Organization's behalf. The permit application shall comply with all requirements and conditions of section 721.03 herein, with the exception of the permit fee.

721.04 Registration For Charitable Or Religious Purposes

- ~~(a) A charitable or religious organization shall make a group application to cover the peddlers and/or solicitors it intends to use in the City.~~

- ~~(b) Applications for registration certificates shall be filed with the City Manager, or his or her designee, on a form to be furnished by the City Manager or his or her designee. Each application shall require, at a minimum,~~In addition to the application requirements and conditions set forth in section 721.03, each permit application filed by a Charitable Organization shall include the following information:

- ~~(1) The name(s) of all officers of the organization~~Charitable Organization;
- ~~(2) The name, address and telephone number of the person completing the application;~~
- ~~(3) The name of an officer or official of the organization;~~
- (2) (4) The nature of the charitable or religious Charitable Organization's formal mission or purpose to which the contributions, donations or sale proceeds will be applied;
- (3) (5) Verification that the applicant and/or organization Applicant has complied with the requirements of Ohio R.C. Revised Code Chapter 1716 pertaining to charitable solicitations, if applicable;
- ~~(6) If the organization is a recognized religious or charitable organization, proof of tax exempt status; and~~
- (4) Proof of the Charitable Organizations status as a tax-exempt 501(c)(3) nonprofit corporation; and
- (5) (7) Such Any other information as or documentation the City Manager or his or her designee may may reasonably require.

- ~~(c) Upon the City's issuance of a registration certificate, each organization permit,~~the Charitable Organization shall prepare information cards (at the Charitable Organization's expense), which it shall issue to each peddler and/or solicitor Mobile Vendor and Solicitor utilized by the organization Charitable Organization. Such information cards shall include, at a minimum, the following information:

- (1) The name of the ~~organization~~Charitable Organization;
 - (2) A description of the Charitable Organization's formal mission or purpose of the peddling and/or solicitation;
 - (3) The ~~registration certificate~~City permit number and the ~~period for which it was issued~~permit's expiration date; and
 - ~~(4) The name of the peddler and/or solicitor, and a brief physical description, such as age, weight and height; and~~
 - (4) (5) The signatures of an officer or official of the ~~organization and of the peddler and/or solicitor~~Charitable Organization, as well as of the Mobile Vendor or Solicitor to whom the information card is issued.
- ~~(d) A registration certificate shall be valid for no more than a one-year period and shall state, on its face, an expiration date.~~
- (e) No fee shall be required for a ~~registration certificate~~permit issued to a Charitable Organization under this section.
- ~~(f) No registration 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 monetary contributions are sought by the canvasser.~~

721.05 Permit Expiration

Unless otherwise specified in the permit approval, all approved mobile vending and solicitation permits issued under the provisions of this chapter shall expire on December 31 in the year such permit is issued. The application processes set forth in sections 721.03 and 721.04 herein shall be followed (as applicable) to receive any subsequent permit or registration approval.

~~721.05~~ 721.06 Appeals

Any ~~person or organization~~Applicant who has applied for a permit ~~or registration certificate~~ in accordance with this chapter, and to whom the City Manager, or his or her designee, after an investigation, denied a permit ~~or registration certificate~~, may appeal

~~to the City Manager's decision to City~~ Council. Notice of such appeal shall be filed with the Clerk of Council within five calendar days after the ~~denial by the~~ City Manager ~~or his or her designee~~ issues a written decision to the Applicant denying its requested permit. Such appeal shall be heard by Council during a regularly scheduled meeting of Council within 30 days ~~and its decision~~. Council shall ~~be~~ render a final decision on the appeal following the hearing.

~~721.06 Carr~~ **721.07 Carrying_ And Exhibiting_ Permit Or Information Card; Nontransferability; Written Receipt Required**

- (a) ~~The~~ A permit and/or information card (as applicable) issued under the provisions of this chapter shall at all times be conspicuously ~~exhibited by all itinerant vendors. The permit or information cards, required with the issuance of a registration certificate, shall be available~~ displayed for public viewing in the case of a Mobile Vendor, or easily accessible for immediate inspection ~~by all peddlers or solicitors~~ in the case of a Solicitor.
- (b) Permits ~~or registration certificates~~ and/or information cards issued under the provisions of this chapter are nontransferable and shall not be used by any person ~~or organization~~ other than the person ~~or organization~~ identified on the permit or ~~registration certificate~~ information card.
- (c) ~~Upon request, all itinerant vendors, peddlers and/or solicitors shall provide a written receipt showing the name of the vendor, peddler or solicitor, the amount of contributions or sales made and the date. Upon request, all organizations operating under a registration certificate shall provide a statement attesting to the organization's exempt status under Section 501 of the Internal Revenue Code.~~

721.08 Business Hours Restricted

~~721.07 Business Hours Restricted~~

No person shall ~~peddle, solicit, canvass or conduct research, door to door,~~ door-to-door at any residence or business within the City, on any sidewalk or street within the City, or in any other public place within the City between the hours of 9:00 p.m. and 9:00 a.m., or on any holiday.

721.08 Itinerant Vending

721.09 Location Restrictions on Mobile Vending Activities

- (a) No person shall ~~vend from~~ conduct mobile vending activities on any public property, including sidewalks and right-of-ways, unless the location, days of operation, and times of operation have been approved by the City Manager as a part of the ~~vendor's permit. No person shall vend on private property without the written permission of the property owner, nor shall any person vend within thirty feet (30') of any intersection.~~ Mobile Vendor's permit issued in accordance with this chapter. Temporary retail displays set up directly outside of the entrance of a lawful permanent commercial/retail establishment by the establishment's owner shall not be considered mobile vending activities subject to the City Manager's review and approval pursuant to this section.
- (b) No person shall conduct mobile vending activities on private property without the written permission of the record owner of the property.
- (c) No person shall conduct mobile vending activities within thirty feet (30') of any intersection.
- (d) ~~(b)~~ No private property owner shall grant permission for ~~an itinerant vendor~~ Mobile Vendor to operate from ~~his or her~~ the owner's property in violation of any provision of this chapter ~~and unless the itinerant vender has applied for and been issued a permit in accordance with this chapter,~~ or in violation of any applicable local, State or federal laws, regulations or rules.
- (e) No person shall conduct mobile vending activities on any public or private property within the City in violation of any local, State or federal laws, regulations or rules, or in any manner which presents a safety hazard for pedestrian or vehicular traffic in the City limits.

~~721.09 Notice Prohibiting Peddlers Or Solicitors~~ 721.10 Notice Prohibiting

Mobile Vendors 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~~ Mobile Vendors 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~~ Mobile Vendors or Solicitors Invited," ~~with letters at least one-third inch in height.~~ Any such weatherproof

card, decal or sign which complies with the requirements of this section shall be exempt from any additional or different requirements contained in the City's ~~zoning code~~ Uniform Development Code.

- (b) No person shall go upon any premises and ring the doorbell, 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 to engage in ~~peddling or soliciting~~ mobile vending or solicitation activities in defiance of a notice displayed pursuant to division (a) above.

721.11 Fraud Prohibited; Revocation Of Permit

~~721.10 Fraud Prohibited; Revocation Of Permit Or Registration Certificate~~

- (a) No person shall directly or indirectly make or perpetrate any misstatement, deception or fraud in connection with any ~~itinerant~~ mobile vending, ~~peddling~~ or solicitation activities for any purpose in the City, or in connection with any application or ~~report filed~~ associated documentation filed with the City for the purpose of securing a permit under this chapter.
- (b) The City Manager, or his or her designee, may revoke at any time any permit ~~or registration certificate~~ issued under the provisions of this chapter ~~for any violation of~~ based on the City Manager's determination that the permit-holder has violated any provision of this chapter ~~or for the violation of~~, any condition of said permit ~~or registration certificate~~, or any applicable local, State or federal law, regulation or rule; or mobile vending or solicitation activities have been conducted pursuant to the permit in a manner which presents a safety or health concern for City residents.

~~721.11 Permit To Solicit Charitable Contributions On Highways~~

- ~~(a) The City Manager or his or her designee may issue a permit to solicit contributions on highways from the occupants of vehicles when all of the requirements of division (b) below have been met.~~
- ~~(b) A charitable organization may apply for and obtain a permit to solicit contributions on highways, but not on freeways as provided in Ohio R.C. 4511.051, as follows:~~
- ~~(1) The City Manager or his or her designee shall prescribe a form and receive applications for permits to solicit contributions on highways.~~
 - ~~(2) Only a charitable organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax exempt status of the organization pursuant to Section 501(c)(3) of the Internal Revenue Code, as amended, may apply for a permit to solicit contributions on highways. A copy of the Internal Revenue Service ruling or determination letter must be attached to the application.~~
 - ~~(3) The application shall specify the date and times for which the permit to solicit contributions on highways is sought. A permit to solicit contributions on highways shall not be issued for more than one day each calendar year, and the solicitation activities shall occur only between one hour after sunrise until one hour before sunset on that date.~~
 - ~~(4) The application shall specify the locations for which the permit to solicit contributions on highways is sought. A permit to solicit contributions on highways shall not be issued for more than two intersections.~~
 - ~~(5) The application shall list the names and addresses of all agents authorized to solicit contributions on highways on behalf of the charitable organization.~~
 - ~~(6) The application shall be accompanied by a paid-up liability insurance policy or certificate of insurance in the amount of not less than one million dollars (\$1,000,000), that insures the charitable organization for any and all claims that may arise as a result of soliciting contributions on the highways, and which insurance policy contains a clause that names the City of Franklin and its elected and appointed officials, agents or employees as additional insureds under such policy.~~
 - ~~(7) The application shall be accompanied by a signed waiver of liability from all agents authorized to solicit contributions on highways on behalf of the charitable organization for any and all claims that may arise as a result of soliciting contributions on highways.~~

- ~~(8) Prior to the issuance of a permit to solicit contributions on highways, the City Manager or the Manager's designee shall verify that the proposed solicitation at the locations and the date and times specified in the application does not conflict with a previously issued parade permit or scheduled public event. No more than one permit shall be issued for the use of any intersection during any calendar day, and no more than one charitable organization shall be permitted to solicit contributions on highways on the same calendar day.~~
- ~~(9) For each charitable organization issued a permit to solicit contributions on highways, the Police Chief shall be provided a copy of the charitable organization's application; its permit; and the names of the agents authorized to solicit contributions on highways on behalf of the charitable organization.~~
- ~~(10) All agents soliciting contributions on highways on behalf of a charitable organization shall possess a copy of such permit at all times during the period of such solicitation.~~
- ~~(11) All agents soliciting contributions on highways on behalf of a charitable organization shall wear light-colored clothing and/or safety vests and shall prominently display an identification of the charitable organization.~~
- ~~(12) The City Manager or his or her designee shall have the authority to revoke a charitable organization's permit to solicit contributions on highways, and the City Manager, his or her designee or the Police Chief, in their sole discretion, may order any and all of a charitable organization's agents to cease all activity if conditions become hazardous and/or inclement or if a charitable organization's agents fail to comply with the requirements of this section.~~

721.99 Penalty

Whoever violates any provision of this chapter shall be guilty of a fourth-degree misdemeanor. Each day on which such activities are conducted in violation of this chapter shall constitute a separate offense.

Summary report: Litera Compare for Word 11.3.1.3 Document comparison done on 4/13/2023 8:15:26 PM	
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Embedded Excel	0
Format changes	0
Total Changes:	370