

ORDINANCE NO. 585
CITY OF DAYTON, OREGON

Title: AN ORDINANCE AMENDING SECTION 5.6 OF THE DAYTON MUNICIPAL CODE (POSTING OR DISTRIBUTION OF NOTICES, HANDBILLS AND ADVERTISEMENTS)

WHEREAS, the City Council finds it desirable to regulate door-to-door solicitation and the door-to-door distribution of materials by providing city residents in residentially zoned areas with an effective means to protect their peace and enjoyment of their property and privacy from such unexpected door-to-door intrusions upon that peace and privacy; and

WHEREAS, door-to-door solicitors and distributors have guaranteed rights to free speech as enshrined in the Oregon and Federal Constitutions, of which those rights have been interpreted by the courts to preserve door-to-door solicitations and distribution as lawful; and

WHEREAS, the City Council finds it desirable to provide accountability for door-to-door solicitations and distributions by creating a municipal city code violation for those solicitors or distributors who would disturb a resident's peace and privacy.

THEREFORE, THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Dayton does hereby amend Section 5.6 (Posting Or Distribution Of Notices, Handbills And Advertisements) of the Dayton Municipal Code by replacing it in its entirety with the following:

5.6 Door-To-Door Solicitation or Materials Distribution.

5.6.1 Definitions.

- (a) Distribute, distributor or materials distribution : Any printed or written matter including but not limited to placards, handbills, advertisements or posters, including signs for garage sales placed upon real property used for residential purposes with the intent of communicating with a resident of the property.
- (b) Solicit, solicitor or solicitation: Entry onto real property used for residential purposes with the intent of visually or verbally communicating with a resident of the property.

5.6.2 Solicitation and Materials Distribution Violations.

It shall be unlawful for any person to:

- (a) Solicit or distribute before 9 a.m. or after 9 p.m. when the local time is daylight savings time or after 8 p.m. when local time is standard time, without the consent of the occupant to do so.
- (b) Solicit or distribute materials upon real property where a sign conforming to the requirements of Subsection 5.6.4 is posted.

5.6.3 Consent to Enter Onto Real Property, Exemptions.

- (a) It shall be an affirmative defense to an alleged violation of Subsection 5.6.2 that the person charged with the violation had received actual or constructive consent of the resident prior to entering onto the real property. Constructive consent to enter onto real property may be implied from the circumstances of each instance, the relationship of the parties and actual or implied contractual relationships.
- (b) The resident of the real property shall be considered to have given constructive consent to enter onto the real property for the purpose of solicitation or materials distribution between the hours of 9:00 a.m. and 9:00 p.m. when the local time is daylight savings time or after 8:00 p.m. when the local time is standard time, if they have not posted a "No Solicitation" sign, pursuant to Subsection 5.6.4.
- (c) Nothing in this subsection shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.
- (d) Officers, employees or agents of a governmental entity while performing activities within the scope of their office, employment or agency are exempt from the requirements of Chapter 5.6.
- (e) No person may be charged with a violation of Subsection 5.6.3 in connection with an act committed between 4:00 p.m. and 9:00 p.m. on each October 31st.

5.6.4 "No Solicitation" Sign.

- (a) If a resident of real property chooses to not invite solicitors or distributors onto their property the resident may post a "No Solicitation" sign pursuant to this subsection. The effect of the

posting of such a sign is to express the refusal of the resident to grant consent to any person to enter onto their real property to solicit or distribute, except to those persons exempt from these provisions by subsection 5.6.3.

- (b) Signs posted pursuant to this section shall be posted on or near the boundaries of the property at the normal points of entry, and must be no smaller than 6 inches in height by 8 inches in width, and must contain wording sufficient to notify potential solicitors and distributors that solicitation and distribution is not allowed upon the property.
- (c) For real property possessing no apparent barriers to entry at the boundaries of the property which limit access to the primary entrance of a structure located on the property, placement of the sign at the primary entrance to the structure constitutes compliance with this subsection.

5.6.5 Evidentiary Matters.

It shall be prima facie evidence of a violation of Subsection 5.6.2 if written material is found on real property upon which a sign conforming to the requirements of Subsection 5.6.4 has been posted. The person responsible for such written material shall be the person identified in the written material as its proponent, sponsor, distributor or potential beneficiary of the communication conveyed.

5.6.6 Violation.

A violation of Chapter 5.6 of the Dayton Municipal Code is a Class B violation.

Section 2. Severability.

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This Ordinance is effective 30 days after adoption.

PASSED and ADOPTED this 7th day of April, 2008.

Mode of Enactment:

Date of first reading _____ In full _____ or by title only _____

Date of second reading _____ In full _____ or by title only _____

A copy of the ordinance was made available, in writing, to the public at least one week before the meeting, and adopted with unanimous approval by the Council.


Final Vote:

In Favor: Blackburn, Hensley, Webb, White

Opposed: None

Absent: Dickson, Evers, Hutchins

Abstained: None

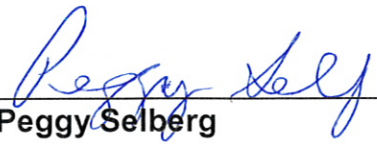


Jolie White, Mayor

4/21/08

Date of Signing

Attested by:



Peggy Selberg
City Recorder

4/17/08

Date of Enactment

WKS4\ORDINANCES\2008\ORD.585.ADOPTED