

**ORDINANCE NO. 586
CITY OF DAYTON, OREGON**

Title: AN ORDINANCE AMENDING SECTION 5.6 (DOOR-TO-DOOR SOLICITATION OR MATERIALS DISTRIBUTION.)

WHEREAS, by the adoption of Ordinance No. 585, on April 7, 2008 the City Council found it desirable to regulate door-to-door solicitation and the door-to-door distribution of materials while recognizing guaranteed individual 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WHEREAS, Ordinance No. 585 inadvertently repealed certain elements of the existing Dayton City Code relating to posting notices on public property and property in the public right of way.

THEREFORE, THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Dayton does hereby amend Section 5.6 (Door-to-Door Solicitation or Materials Distribution) of the Dayton Municipal Code as follows (Red Underline shows amended language):

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) Notice: Any printed or written matter including but not limited to placards, commercial or non-commercial handbills, advertisements or posters, including signs for garage sales.

(bc) 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 Posting or Distribution Restrictions.

- (a) No person may affix any notice on utility poles, street lights, stop signs, other street signs, trees in the public right of way, public places or premises. This section shall not be construed as an amendment to or repeal of any regulation now or hereafter adopted by the City regulating the use and location of signs and advertising.
- (b) No person, either as principal or agent, may scatter, distribute or cause to be scattered on public places or premises any notice.

5.6.56 Evidentiary Matters.

(a) 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.

(b) It shall be prima facie evidence of a violation of Subsection 5.6.5 if written material is found on the property described by that subsection.

5.6.67 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 by the City Council of the City of Dayton on this 12th day of May, 2008.

Mode of Enactment:

Date of first reading _____ In full ___ By title only ___

Date of second reading _____ In full ___ By title only ___

No council member present at the meeting requested that the ordinance be read in full.

A copy of the ordinance was provided for each council member; three copies were provided for public inspection in the office of the city recorder not later than one week before the first reading of the ordinance; and notice of the availability of copies is given by written posting at the city hall and two other public places in the city or by advertisement in a newspaper of general circulation in the city.

Final Vote:

In Favor: Evers, Hensley, Webb, White

Opposed: None

Abstained: None

Absent: Blackburn, Dickson, Hutchins

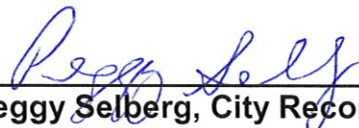


Jolie White, Mayor

May 15, 2008

Date of Signing

ATTEST:



Peggy Selberg, City Recorder

May 12 2008

Date of Enactment

WKS4\ORDINANCES\ORD.586ADOPTED.