

ORDINANCE 14-32

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, AMENDING CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN PERTAINING TO SALES, BY AMENDING SEC. 62-32, SUBSECTION (3) TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER"; BY AMENDING SEC. 62-33 TO REQUIRE THAT AN I.D. CARD BE OBTAINED BY ANY PEDDLER, SOLICITOR OR CANVASSER, AND TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER"; BY AMENDING SUBSECTION (1) TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER"; BY DELETING SUBSECTION 5(i) IN ITS ENTIRETY; BY DELETING SUBSECTION (6) IN ITS ENTIRETY; BY AMENDING SEC. 62-34, SUBSECTION (a) TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER" AND TO DELETE REFERENCE TO THE NAME AND ADDRESS OF THE SURETY; BY AMENDING SEC. 62-36 TO DELETE "*RULES AND REGULATIONS*" FROM THE TITLE; BY DELETING SUBSECTION (A) IN ITS ENTIRETY; TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER"; BY AMENDING SEC. 62-38 TO ADD "OR HIS DESIGNEE" FOLLOWING "CITY MANAGER" IN SUBSECTIONS (a) AND (b); BY AMENDING ARTICLE III *GARAGE SALES* TO DELETE THE TITLE *DIVISION 1. GENERALLY*; BY RENUMBERING SEC. 62-94 AS SEC. 62-72 AND AMEND SAID SECTION TO REPLACE "PERMITS ISSUED" WITH GARAGE SALES; BY RENUMBERING 62-73 AND TO DELETE PUNISHMENT IN ACCORDANCE WITH SECTION 1-15 AND TO ADD SUBJECT TO THE CITY'S CODE ENFORCEMENT PROCESS; BY DELETING *DIVISION 2. PERMIT* AND SECTIONS 62-91 THROUGH 62-95 IN THEIR ENTIRETY; BY AMENDING SEC. 62-101 *DEFINITIONS*, SUBSECTION (3), TO PROVIDE AN EXCEPTION FOR AN ADMISSION FEE AND TO DELETE THE REFERENCE THAT NOTHING CONTAINED IN THE SUBSECTION SHALL BE DEEMED TO AUTHORIZE ANY MEETING, THEATRICAL PERFORMANCE, EXHIBITION OR EVENTS OF ANY KIND WITHOUT A LICENSE WHERE SUCH LICENSE IS REQUIRED; BY AMENDING SEC. 62-102 TO ADD *AND I.D. CARD* TO THE TITLE (*LICENSE AND I.D. CARD REQUIRED; FEES*); BY AMENDING SUBSECTION (a) TO ADD THE REQUIREMENTS OF AN I.D. CARD; BY AMENDING SUBSECTION (b) TO PROVIDE THAT APPLICATION FOR A LICENSE AND I.D. CARD SHALL BE MADE TO THE PLANNING & DEVELOPMENT DIRECTOR AND DELETE FROM THE CITY CLERK OR OTHER OFFICER; BY DELETING THE REQUIREMENT FOR APPLICANT TO MAKE WRITTEN APPLICATION TO THE CITY CLERK AND THE USE OF FORMS PROVIDED BY THE CITY CLERK; BY DELETING THE REQUIREMENT TO PROVIDE NOTICE OF CHANGES IN NAME AND ADDRESS IN WRITING TO CITY CLERK OR MUNICIPAL OFFICER; BY DELETING THE NECESSITY OF A PERSON DESIRING TO DISTRIBUTE COMMERCIAL HANDBILLS TO MAKE APPLICATION FOR LICENSE PER THE TERMS OF THIS SUBSECTION; BY

AMENDING SUBSECTION (d)(1)a. TO CHANGE THE FEE FROM \$50.00 TO \$250.00; BY AMENDING SUBSECTION (d)(1)b. TO CHANGE THE FEE FROM \$25.00 TO \$125.00; BY AMENDING SUBSECTION (d)(1)c. TO CHANGE THE FEE FROM \$10.00 TO \$50.00; BY DELETING SECTION 62-103 IN ITS ENTIRETY AND RENUMBERING SECTIONS 62-104 THROUGH 62-110; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City Commission seeks to amend Chapter 62 to bring it into compliance with state and national standards along with flexibility to meet the city needs; and (d)(1)c.

WHEREAS, the Ordinance Review Committee did review and recommend to the City Commission the amendments proposed; now, therefore

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1: That Chapter 62 of the Code of Ordinances of the City of Dunedin is amended in its entirety as follows:

CHAPTER 62 SALES

ARTICLE I. IN GENERAL

Secs. 62-1—62-30. - Reserved.

ARTICLE II. - PEDDLERS, SOLICITORS AND CANVASSERS

Sec. 62-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser means any individual going from house to house or street to street for the purpose of soliciting orders or to determine opinions or sentiments, without the express invitation, oral or written, of the inhabitant of the premises and otherwise not an exception to the provisions of this article under the terms of this article.

Peddler means any person, traveling by foot, wagon, automotive vehicle, motor truck, or any other type of conveyance from house to house or from street to street carrying, conveying or transporting goods, wares and merchandise, offering and exposing them for sale or making sales or delivering articles to purchasers or who by traveling from house to house shall sell or offer the same for sale from a wagon, automotive vehicle, motor truck or other vehicle or conveyance; one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of the

scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article.

Solicitor means any individual traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from house to house or from street to street taking or attempting to take orders for the sale of goods, wares or merchandise, real property, subscriptions, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future whether or not such individual has, carries or exposes for sale a sample of merchandise or whether he is collecting advance payments on such sales and whether for present or future delivery.

Sec. 62-32. - Persons excluded from provisions of article.

The terms and provisions of this article shall not apply to:

- (1) Bona fide agents, business representatives or salesmen making calls or soliciting orders at the usual place of business of the customer.
- (2) Solicitors, salesmen or agents making a call or business visit upon the express invitation, oral or written, of the inhabitant of the premises.
- (3) Solicitors of charitable, educational, religious institutions or persons soliciting votes for a political candidate or a political issue who notify the city manager or his designee of such activities and provide reasonable details concerning the solicitation activities as the city manager or his designee may require.

Sec. 62-33. - Registration certificates required; qualifications and conditions for issuance.

No peddler, solicitor or canvasser shall engage in the sale or solicitation for order or anything of value or go from house to house within the geographical limits of the city involved in peddling, soliciting or canvassing activity without having obtained a valid registration certificate and I.D. Card. Registration certificates shall be issued by the city manager or his designee upon establishment of the following qualifications:

- (1) Driver's license or other proof satisfactory to the city manager or his designee for the establishment of identification.
- (2) Proof of agency or authority to represent the individual, firm or corporation selling the goods or filling the order.
- (3) That such person has not been guilty of abuse or violations involving forfeiture of previous permits issued by the city by reason of misconduct or violation.

- (4) That the applicant has paid all fees due the city.
- (5) The signing of an affidavit setting forth the following items of information:
 - a. The name, permanent business address and local business address of the applicant.
 - b. The home address of the applicant.
 - c. If the applicant is employed, the name and address of the employer.
 - d. A brief description of the nature of the business and the goods to be sold or services to be performed or canvass to be conducted.
 - e. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, including traffic violations, the nature of the offense and the punishment or penalty assessed.
 - f. The length of time the applicant intends to do business in the city.
 - g. If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
 - h. The place where the goods or property proposed to be sold or orders taken for the sale thereof, are manufactured or produced, where the goods or products are located at the time such application is filed and the proposed method of delivery.

Sec. 62-34. - Record of holder and surety; registration certificate fees.

- (a) The city manager or his designee shall ensure that a record shall be kept showing the name and address of the holder of the registration certificate and his employer, and the date and time the registration certificate was issued. The date of expiration of the registration certificate shall not be longer than one year from the date of issuance or the date that the solicitation, peddling or canvassing activity will be concluded, whichever is shorter.
- (b) A fee established by resolution of the city commission shall be charged for the issuance of each registration certificate and shall be paid to the cashier prior to the issuance of such certificate. The expiration date of the certificate shall be prominently displayed upon its face.

Sec. 62-35. - Occupational license and fees required.

Before being issued a registration certificate, the applicant shall first obtain the appropriate occupational license and pay the fees therefor.

Sec. 62-36. - Revocation of certificate.

When any holder of a registration certificate shall have violated the terms and conditions of his permit, the rules or this article, then the city manager or his designee may revoke the permit at any time.

Sec. 62-37. - Solicitation under false pretenses; request to leave; no soliciting signs.

- (a) It shall be unlawful for any person to solicit alms, aid, or funds for a charitable institution or for any institution, enterprise, business or project under any false or fraudulent pretense or who falsely or fraudulently represents himself to be the agent, solicitor or representative of any person, firm, corporation, business or institution for trade, business or other purposes.
- (b) No person shall remain in or upon any residential premises after the owner or occupant has requested any such person to leave.
- (c) No person shall enter upon any residential or business premises for soliciting or peddling when the owner or occupant of such premises has displayed a "No Soliciting" sign on such premises.

Sec. 62-38. - Appeals.

- (a) Should any person feel aggrieved by an administrative ruling of the city manager or his designee under any by virtue of the terms of this article or promulgated rules under this article, such person may file a written complaint in duplicate with the city manager or his designee not later than 15 days prior to a regularly scheduled meeting of the city commission and set forth therein briefly the grievance complained of. The city manager or his designee upon receipt of such complaint shall place the matter on the agenda for hearing at the next ensuing meeting of the commission.
- (b) If such complaint is adjudged well-founded, the commission shall make such recommendations and amendments as it deems proper; otherwise, the ruling of the city manager or his designee shall be final.

Secs. 62-39—62-70. - Reserved.

ARTICLE III. GARAGE SALES

Sec. 62-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garage sale means the display and sale of personal property from the actual residence of the seller and shall include only used items of personal property then owned by the seller and displayed for sale in the yard, garage, driveway, porch, patio or other portion of the residence of the seller in such a manner that the articles are visible to the general public. Garage sales shall not include the sale or offering for sale of any goods on consignment or any goods specifically purchased for resale. The term "garage sale" shall not apply to the isolated and casual sale of single items of personal property, such as an automobile, bicycle, lawn furniture or items of a similar nature. The term "garage sale" does not include sales commonly referred to as "flea market" sales or an operation conducted by more than one owner or operator. The provisions of this section shall not apply to sales of personal property made pursuant to a valid order of a court of competent jurisdiction.

Sec. 62-72. - Number per location; duration.

No more than two garage sales shall be permitted at any location (during any calendar year) unless a change in ownership has occurred. There shall be a 90-day minimum interval between garage sales. No garage sale shall be conducted for a period of greater than 48 hours.

Sec. 62-73. - Penalty for violation of article.

Any person who conducts a garage sale or owns the property on which a garage sale is conducted in violation of the terms of this article shall be subject to the Code Enforcement process of the City of Dunedin.

Secs. 62-74—62-100. – Reserved.

ARTICLE IV. - HANDBILLS

Sec. 62-101. - Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial handbill means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet,

or any other printed or otherwise reproduced original or copies of any matter or literature:

- (1) Which advertises for sale any merchandise, product, commodity, or thing;
- (2) Which directs attention to any business or mercantile, or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interests thereof by sales;
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. Exception: An admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency; good morals, public peace, safety and good order; or
- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

Handbill distributor means and includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

Newspaper means and includes any newspaper of general circulation as defined by F.S. §§ 50.011 and 50.031, and any newspaper duly entered or qualified to be admitted and entered as second class matter with the United States post office in accordance with federal statute or regulation.

Noncommercial handbill means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original in the aforesaid definitions of a commercial handbill, or a newspaper.

Private premises means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk,

driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place means and includes any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

Sec. 62-102. - License and I.D. Card required; fees.

- (a) It shall be unlawful for any person to engage in the business of a handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this article and all other relevant laws and regulations; provided, that nothing contained in this section shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in such city, and also if a license and I.D. Card have been obtained therefor, if such license and I.D. Card is required under the terms of any applicable law or ordinance.
- (b) Any person desiring to engage, as principal, in the business of distributing commercial or noncommercial handbills for hire, shall make application to and receive from the planning & development director a license and I.D. Card in the manner and for the period prescribed by the terms of this article and by all relevant provisions of the municipal Code.
- (c) Without excluding other just grounds for revocation, the city commission, or official so empowered by law, may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations, or for violation of this article or any other grounds specified by law. Such application shall be accompanied by the fee provided for in subsection (d) of this section. No license issued under this article shall be transferable; and, if any such license shall be surrendered by the licensee therein named, or shall be revoked for cause, neither the licensee names in such license, nor any other person, shall be entitled to any refund of any part of such fee.
- (d) Fees:
 - (1) License fees under the terms of this article, and for any such purpose, shall be as follows:
 - a. For a period of one year, the sum of \$250.00.
 - b. For a period of three months, the sum of \$125.00.
 - c. For a period of one week, the sum of \$50.00.
 - d. For a period of one day, the sum of \$5.00.

- (2) Provided that persons acting for licensees, as agents or employees, in the posting or distributing of any such handbills, shall not be required to obtain a license or pay a fee, but each such person shall comply with each and all of the other provisions of this article, and be subject thereto.

Sec. 62-103. - Provisions not applicable to U.S. mail or newspapers.

The provisions of this article shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this article.

Sec. 62-104. - Depositing and/or distributing commercial handbills; prohibited in public places.

It shall be unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within the city; and it shall also be unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill.

Sec. 62-105. - Depositing and/or distributing prohibited on automobiles or other vehicles.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

Sec. 62-106. - Depositing and/or distributing prohibited on vacant premises.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Sec. 62-107. - Depositing and/or distributing prohibited if requested not to do so; signs posted.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises.

Sec. 62-108. - Distribution by licensed persons.

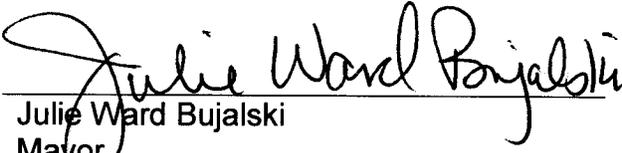
No person licensed under the provisions of this article, or any other person, shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this article, the aforesaid licensed or other person unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations.

Sec. 62-109. - Penalty for violation of this section.

Any violation of this section will be brought to the Dunedin Code Enforcement Board using the process outlined in Chapter 22 – Code Enforcement.

Section 2: That this Ordinance shall be effective upon passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 4th day of December, 2014.


Julie Ward Bujalski
Mayor

ATTEST:


Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: November 20, 2014

READ SECOND TIME AND ADOPTED: December 4, 2014