

ORDINANCE NO. 2012-04

AN ORDINANCE TO AMEND CHAPTER 7 (BUSINESSES) OF THE CODE OF ORDINANCES OF THE CITY OF GERMANTOWN TO ADOPT CERTAIN PROVISIONS RELATED TO DOOR-TO-DOOR SOLICITATION AND CANVASSING.

WHEREAS, the City of Germantown strives to protect the privacy rights of its residents and to provide for the health, safety, and welfare of its residents;

WHEREAS, due to recent developments in the law, the current ordinance prohibiting door-to-door solicitation and canvassing has been deemed violative of the First Amendment to the Constitution of the United States of America;

WHEREAS, accordingly, the City of Germantown Board and Mayor of Aldermen now deems it in the best interest of the City to amend Chapter 7, Article IV of the City Code; and

WHEREAS, a public hearing was held on the 11th day of June, 2012, pursuant to a publication in a newspaper of general circulation within the community on May 23, 2012.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN FOR THE CITY OF GERMANTOWN, TENNESSEE THAT:

Section 1. Chapter 7, Article IV of the City Code is amended by deleting the same in its entirety and placing the following in its stead:

Sec. 7-96. Purpose.

This Article is enacted to provide for the health, safety and welfare of the citizens of the City.

Sec. 7-97. Definitions.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a differing meaning:

Farmers market. A cultural activity where a common facility or area is utilized where local farmers/growers gather on a regular, recurring basis to sell a variety of fresh fruits, vegetables, produce, jams, jellies, honey, preserves and baked goods, from independent stands directly to consumers.

Goods, wares, or merchandise. All varieties of merchandise items, whether handmade or manufactured, or services, whether personal or professional, categorized as, but not necessarily limited to, food, drink, firewood, trees, landscaping products, souvenirs, gifts, prizes, art/school supplies, cloth, clothing or wearing apparel, novelties, small appliances, works of art or crafts, directional

information and/or charts, street photographers, tools or mechanical devices of any nature.

Mobile dessert vendor. Any person who offers for sale or sells to another ice cream or other dessert products from motor vehicles, human-powered vehicles, bicycles, three-wheeled vehicles or any other form of mobile transportation conveyance on the streets, public or private property within the City.

Temporary display stands. Any stand, stall, vehicle, trailer, tent or similar device that does not have a municipal street address officially assigned to it.

Sec. 7-98. Selling and distribution of materials prohibited.

(a) It shall be unlawful for any person to knock on the door, ring the doorbell, or otherwise attempt to gain admittance for the purpose of peddling or soliciting at any business establishment, residence, dwelling, or apartment at which a sign is affixed or otherwise exposed to public view bearing the words “No Solicitation” or “No Trespassing” or words of similar import indicating that such persons are not wanted on said premises;

(b) It shall be unlawful for any person, unless specifically authorized by the owner or resident of a premises, to leave advertising materials, leaflets, pamphlets, literature, or the like at any business establishment, residence, dwelling, or apartment at which a sign is affixed or otherwise exposed to public view bearing the words “No Solicitation” or “No Trespassing” or words of similar import indicating that such persons are not wanted on said premises; and

(c) It shall be unlawful for any person to sell or offer for sale at temporary display stands, except as allowed elsewhere in this chapter, any goods, wares or merchandise.

Sec. 7-99. No-solicitation list.

(a) The City may establish a no-solicitation list allowing any owner or lawful occupant of any business establishment, residence, dwelling, or apartment within the City to prohibit solicitation, peddling, and the distribution of advertising materials, leaflets, pamphlets, literature, or the like at said business establishment, residence, dwelling, or apartment by registering the address with the City. Such registration shall take effect as soon as it is noted on the City’s no-solicitation list.

(b) If the City establishes a no-solicitation list, the City shall maintain and publish on the City’s website and have available at the office of the City Clerk/Recorder such no-solicitation list consisting of all addresses that have been registered thereon. Such list shall be made available without charge to any person requesting same. No person shall have to identify himself or herself to obtain a copy of such list. The City will make the necessary arrangements to periodically update the no-solicitation list.

(c) So long as an address is noted on the no-solicitation list, it shall be unlawful for any person to enter onto the property listed on the no-solicitation list

for the purpose of peddling, soliciting or distributing materials, leaflets, pamphlets, literature or the like.

Sec. 7-100. Mobile dessert vendors.

Mobile dessert vendors are allowed to sell ice cream and other dessert products from vehicles under the following conditions:

- (1) Vendors must comply with any license required by the state, county and City;
- (2) Vendors must comply with Health Department regulations;
- (3) Vendors must carry the minimum amount of insurance required by state and county laws;
- (4) Vehicles used to transport and dispense desserts must meet all state and county regulations for such vehicles;
- (5) Vendors shall not sell/dispense their products from locations in the City where the vehicle is stopped for more than the necessary time to effect a sale, including, but not limited to, streets, City owned property, parking lots, private property or vacant lots;
- (6) Vendors shall not park or stop to sell their products within one-quarter mile of any boundary of a school zone area during the period from one hour before the start of school until one hour after the school day officially ends;
- (7) Vendors shall not sell their products after sunset;
- (8) A vendor shall make no sales until the vehicle is stopped and lawfully parked;
- (9) A vendor shall sell only from the side of the vehicle away from moving vehicles, away from moving traffic and as near as possible to the curb or side of the street;
- (10) A vendor shall not sell to a person standing in a roadway;
- (11) The driver of a vehicle shall not stop and back the vehicle to attempt to make or make a sale;
- (12) The driver of every mobile dessert vehicle shall at all times when the vehicle is in motion or at a stop take every precaution to protect the safety of the customers against traffic and other hazards;
- (13) Vendors shall not operate in congested areas where the selling of the product will impede, cause a safety hazard or inconvenience the public.

Sec. 7-101. Exceptions.

(a) Sales by charitable and nonprofit organizations of Christmas trees from vacant lots or any other area of the City with the prior approval of the Board of Mayor and Aldermen, are exempt from this Article.

(b) Sales of goods, wares, and merchandise from concession stands in public parks of the City, subject to the provisions of section 13-52, shall be exempt from this Article.

(c) Sales of goods at special civic events such as but not limited to, horse shows, festivals, and craft shows, where such sales take place on the grounds where such civic event is being held, are exempt from this Article.

(d) The sale of crafts, vegetables, fruit and produce generally on the property of churches in the City, with the prior approval of the proper church officials and the Board of Mayor and Aldermen, shall be exempt from this Article.

(e) Farmers markets shall be permitted in the T-5 Smart Growth zoning district, with the prior approval of the Board of Mayor and Aldermen. All farmers markets must be inspected and approved by all applicable authorities and comply with all the rules and regulations adopted by the City. Otherwise, farmers markets are exempt from this Article.

Sec. 7-102. Enforcement.

The provisions of this Article shall be enforced by any police officer, code enforcement official or other duly authorized official of the City.

Sec. 7-103. Penalty for violation of Article.

Any person, firm, partnership, corporation or other legal entity violating this Article shall be fined not more than \$50 or the maximum amount permitted by state law, whichever is greater, for each offense.

Section 2. BE IT FURTHER ORDAINED that this ordinance shall take effect upon its passage on third and final reading, the health, safety and welfare of the citizens requiring it.

First Reading April 23, 2012

Second Reading June 11, 2012

Third Reading June 25, 2012

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk