

*"A Historic Past"*



*"A Bright Future"*

**CITY OF DELAWARE CITY**

407 Clinton Street - P.O. Box 4159  
Delaware City, Delaware 19706  
302-834-4573

**CITY OF DELAWARE CITY  
DELAWARE CITY, DELAWARE**

**Ordinance No. 14-0721-01**

**ORDINANCE ESTABLISHING STANDARDS FOR SOLICITATION  
IN THE CITY OF DELAWARE CITY**

**Chapter 26 – Nuisances**

**The City of Delaware City**

**WHEREAS**, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code; and

**WHEREAS**, the Mayor and City Council desire to adopt and establish Chapter 26, Article V, Sections 26-31 to 26-33 ("Proposed Code Sections"); and

**WHEREAS**, the Mayor and City Council desire the Proposed Code Sections to become a part of The City of Delaware City Code as set forth below; and

**WHEREAS**, the Mayor and City Council believe that unwanted, door-to-door commercial solicitation is constitutes a nuisance with The City of Delaware City and that establishing a solicitation regulation in The City of Delaware City is necessary to protect and preserve the health, safety and welfare of its residents from unwanted door-to-door solicitations, which may be intrusive upon privacy and to aid in preventing the potential for fraud and crime resulting from such unwanted solicitations and is in the best interest of The City of Delaware City; and

**WHEREAS**, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code Sections were introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

**NOW, THEREFORE,** the Mayor and the City Council of The City of Delaware City hereby ordain:

**Section 1.** A new Chapter 26, Article V, Section 26-31, upon an affirmative vote of the City Council, is hereby adopted as The City of Delaware City Code and shall read as follows:

**Section 26-31 General**

No person shall engage in or cause another person to be engaged in the act of commercial solicitation in or upon any property located within the City. No person shall engage in or cause another person to be engaged in the act of noncommercial solicitation in or upon any property located within the City where the owner, occupant or other person in control of the property has expressed his objection to such activity either by explicit instructions, oral or written, or by positing a sticker, sign or notice bearing the words "No Solicitation" or words of similar meaning and import unless the person has been invited or requested by the owner, occupant or other person in control of the premises for such purpose.

**Section 2.** A new Chapter 26, Article V, Section 26-32, upon an affirmative vote of the City Council, is hereby adopted as The City of Delaware City Code and shall read as follows:

**Section 26-32 Definitions**

For the purpose of this section only, the following words and phrases shall, when used in this section, have the following meanings:

- a.) "Charitable" means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501 (c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.
- b.) "Commercial Solicitation" means the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, roadway, route, street or sidewalk within the City either: (1) requesting, either directly or indirectly money, money, credit, funds, contributions, personal property or anything of value; (2) taking or attempting to take orders for the sale of goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and (3) selling and making immediate delivery any goods, wares, merchandise or services of any kind or description.

- c.) "Noncommercial Solicitation" means the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, roadway, route, street or sidewalk within the City that: (1) is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value; (2) has a charitable, religious or political purpose for the solicitation; (3) is communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature; (4) is seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter; (5) is seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter; (6) is conducting a poll, survey or petition drive in regard to any political matter; and (7) is carrying, conveying, delivering or transporting dairy products, newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same.
- d.) "Person" means any company, entity, individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit.

**Section 3.** A new Chapter 26, Article V, Section 26-33, upon an affirmative vote of the City Council, is hereby adopted as The City of Delaware City Code and shall read as follows:

#### **26-33 Violations and Penalties**

Any person violating the provisions of this Article shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$100 or imprisonment for such a period not to exceed 10 days, or by both such fine and imprisonment, at the discretion of the court. For purposes of this Article, each property solicited shall be considered a separately punishable offense.

**Section 4. Inconsistent Ordinances and Resolutions Repealed.** All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.


**Section 5. Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions,

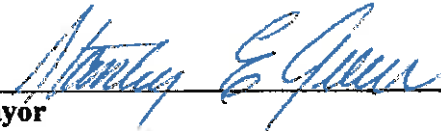
standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption by a majority vote of the City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this 18th day of August, 2014.

ATTEST:

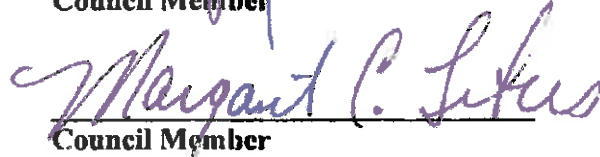
  
\_\_\_\_\_  
City Secretary

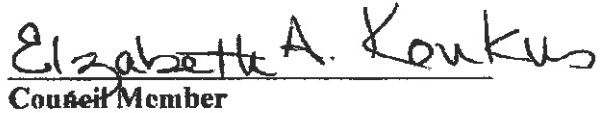
  
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Mayor

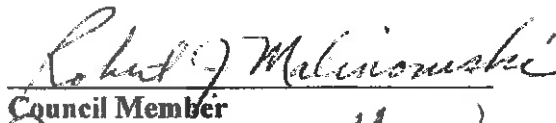
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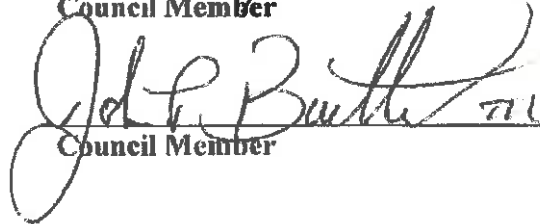
  
\_\_\_\_\_  
Council Member

  
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City Solicitor

  
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Council Member

  
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First Reading on 7-21-14.

Second Reading, Public Hearing, and Final Passage on 8/18/14