

ORDINANCE NO. 20-14

AN ORDINANCE ENACTING CHAPTER 755 AND AMENDING SECTION 753.02 OF THE CODIFIED ORDINANCES OF THE CITY OF ASHLAND, OHIO; RELATIVE TO HOME SALES; AND DECLARING AN EMERGENCY.

Whereas, this Council desires to enact Chapter 755 of the Codified Ordinances of the City of Ashland, Ohio in order to better define and regulate home sales within the City; and

Whereas, this Council desires to amend Section 753.02 of the Codified Ordinances of the City of Ashland, Ohio for consistency with Chapter 755; now therefore,

Be It Ordained by the Council of the City of Ashland, Ohio 5 members thereto concurring:

Section 1. That Chapter 755 of the Codified Ordinances of the City of Ashland, Ohio be, and the same is hereby, enacted as follows:

755.01 HOME SALE DEFINED.

As used in this chapter, "home sale" means a transfer of ownership of tangible personal property to the general public conducted on or within any portion of a residential premises, including, but not limited to, garage sales, patio sales, yard sales, basement sales, rummage sales, porch sales, driveway sales and the like.

755.02 INTENT.

It is the intent of this chapter to regulate and control home sales conducted on or within residential premises but shall not be construed in a manner to curtail the average homeowner's or resident's attempt to conduct a sale but rather is directed at the chronic vendor who runs home sales as a part-time business on or within residential premises.

This chapter shall not apply to:

- (1) Home sales conducted solely for or on behalf of nonprofit corporations, religious institutions, clubs or lodges or to home sales conducted on real estate owned and/or occupied by such organizations.
- (2) Sales conducted by nonconforming businesses located in residential zoning districts.
- (3) Sales conducted pursuant to an order or process of a court of competent jurisdiction.

755.03 MAXIMUM NUMBER OF SALES.

(a) No home sale shall be conducted by the same resident or a member of the family of such resident on the premises of such resident more than three times each calendar year. A "home sale" as used herein means a period of three days or less in any one calendar week.

(b) No home sale shall be conducted on the same residential property more frequently than once every two months.

755.04 HOURS AND MERCHANDISE PERMITTED.

- (a) No person shall conduct a home sale except between the hours of 9:00am to 7:00pm.
- (b) No home sale shall last more than three consecutive days.
- (c) No person shall offer any merchandise for sale that has been purchased by or for, made a gift to, or for a consideration placed with, the resident for purposes of resale at such home sale.
- (d) After the expiration of each day of the sale, all merchandise offered for sale shall be placed inside the premises and not within view of the general public.

755.04 ADVERTISING SIGNS.

Signs advertising home sales shall be permitted as regulated by Chapter 1184 of the Codified Ordinances.

755.05 NOTIFICATION TO CITY.

- (a) Any person intending to conduct a home sale shall notify the Building Department in writing, in person or by telephone prior to the sale of:
 - (1) The name of the person conducting the sale.
 - (2) The street address of the location at which the home sale is to be conducted.
 - (3) The date or dates of the home sale.
 - (4) The number, if any, of previous such sales during the same calendar year.
 - (5) Such other information as may be required by the City Engineer.
- (b) The City Engineer shall maintain such records as are deemed necessary or appropriate for the administration of this chapter.

755.06 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 2. That Section 753.02 of the Codified Ordinances of the City of Ashland, Ohio be, and the same is hereby, amended as follows:

753.02 EXCEPTIONS

Nothing in this chapter shall apply to sales made to dealers by commercial travelers or selling agents in the usual course of business nor to bona fide sales of goods, wares and merchandise by sample for future delivery or to persons selling agricultural products or articles of their own manufacture or production, nor shall anything herein apply to sales pursuant to any court order except as hereinafter mentioned.

Any person who shall begin the occupancy of any room, building or structure or part thereof or any other place, for the purpose of selling goods, wares or merchandise shall prima facie be presumed to be an itinerant vendor or transient merchant, but such presumption may be overcome by evidence satisfactory to the Mayor that such person is not an itinerant vendor or transient

merchant and in such case, such person shall not be required to procure a license or pay a license fee.

The provisions of this chapter shall not apply to any goods, wares or merchandise shipped into the State of Ohio, from another state provided such goods, wares and merchandise are sold or offered for sale in the original packages in which same were shipped.

Also, the provisions of this chapter shall not apply to persons engaging in, conducting or participating in garage sales, porch sales, yard sales or the like, wherein at least one of the participants therein is a resident of the premises upon which such sale is conducted and the materials being offered for sale are the personal property of the participants, and provided that such sale does not constitute a frequent or continuing merchandising practice. ~~DEVIATE FROM THE REQUIREMENTS SET FORTH IN CHAPTER 755.~~

Furthermore, the provisions of this chapter shall not apply to the activity commonly known as a "flea market" which for the purposes of this section, shall be defined as ten or more parties assembled in one location for the purpose of selling goods, wares and merchandise, nor shall the provisions of this chapter apply to the activity commonly known as a "flea market", regardless of the number of parties, if such activity is being conducted by charitable organizations, schools, clubs, nonprofit organizations or religious or other similar groups.

Section 3. That in order to ensure consistency with home sales and to better prevent chronic vendors who run home sales as a part-time business within residential premises, this Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public peace, property, health, safety and welfare.

Section 4. That this Ordinance shall take effect and be in force from and after its passage by Council and approval pursuant to Section 12 of the Charter of the City of Ashland, Ohio and the provisions hereof shall be implemented from and after May 1, 2014.

Passed: April 1, 2014

/s/ Duane R. Fishpaw
~~Stephen L. Stuart, President of Council~~

Attest: /s/ Lindsey Queen
Lindsey Queen, Interim Clerk of Council

Approved: /s/ Glen P. Stewart
Glen P. Stewart, Mayor

Approved as to form and correctness:

/s/ Richard P. Wolfe
Richard P. Wolfe II, Director of Law

Date: April 1, 2014