

ORDINANCE NO. 554

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LIMON, LINCOLN COUNTY, COLORADO, TO AMEND ORDINANCE NO. 367, THE MUNICIPAL CODE OF TOWN OF LIMON, COLORADO TO REPEAL SECTION 710 – REGULATION OF CANVASSERS AND SOLICITORS, AND TO ADOPT NEW REGULATIONS CONCERNING REGULATION OF TRANSIENT SALES.

Whereas, the Town of Limon, hereinafter referred to as the “Town”, in the County of Lincoln, State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, Colorado Revised Statutes, C.R.S. 31-15-501(1)(c) and (g) give to the governing bodies of municipalities the authority to license, regulate, tax, and in some cases prohibit transient businesses; and

Whereas, the Board of Trustees, hereinafter referred to as the “Board” has determined that Section 710, relating to “Regulation of Canvassers and Solicitors” should be repealed and rewritten to conform to the current state of the law concerning the regulation of transient sales within the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LIMON, COLORADO:

SECTION I – REPEAL OF SECTION 710 OF THE MUNICIPAL CODE OF LIMON AND ADOPTION OF NEW PROVISIONS CONCERNING TRANSIENT SALES. Upon adoption of this Ordinance, Section 710 of the Municipal Code, entitled “Regulation of Canvassers and Solicitors” shall be repealed and a new Section 710 – “Regulation of Transient Sales” including the following provisions adopted:

710 - Regulation of Transient Sales

710.1. Permit Required.

710.1.1. It is unlawful for any person to solicit, peddle, or otherwise engage in transient sales of goods, wares, merchandise, products, or personal property as defined in Section 710.2 within the Town limits without first procuring a permit as provided in this Section.

710.1.2. It is unlawful to sell goods, wares, merchandise, chattels, or personal property of any kind whatsoever at public auction or by hawking or peddling the same within the Town limits unless such person shall be first procured a permit therefore, as hereinafter provided.

710.1.3. It is unlawful to operate for gain or hire within the Town limits any striking machine, ring game, ball and puppet game, cane rack, knife board, or other similar game or devise typically associated with carnival or fair type activities unless such person shall have first procured a permit therefore, as hereinafter provided.

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

710.2.1. “Solicitor” means any person who travels from place to place within the Town boundaries by any type of conveyance taking or attempting to take orders for the sale of goods, wares, and merchandise, personal property, or services of any kind whatsoever for future delivery, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale, or whether or not he or she is collecting advance payment on such sales.

710.2.2. “Peddler” means any person who travels from place to place by any type of conveyance, carrying his or her goods, wares, and merchandise with him or her, offering and exhibiting such goods, wares, and merchandise for sale; or any person who, without traveling from place to place, sells or offers the same for sale from any type of vehicle or conveyance. A peddler generally offers for sale, consummates the sale, and delivers the goods at one and the same time to the ultimate purchaser or consumer. Any person who solicits, orders, and as a separate transaction,

makes deliveries to the purchaser as part of a scheme or design to evade the provisions of this definition shall be deemed to be peddling and shall be subject to the provisions of this Article.

710.2.3. "Transient Seller" means any person, either as principal or agent, who engages in a business of selling and delivering goods, wares, and merchandise or services from a temporary fixed location within the Town of Limon, and who, in the furtherance of such purpose hires, leases, uses, or occupies any building, structure, room, apartment, lot, parking lot, street, sidewalk, or other place, whether public or private, within the Town, for the exhibition and sale of such goods, wares, and merchandise, either privately or at an auction. Any person who engages in transient selling shall not be relieved from complying with the provisions of this Section by reason of associating himself or herself with any established local dealer, trader, merchant, or auctioneer, or by conducting transient selling in connection with as part of, or in the name of, any established local dealer, trader, merchant, or auctioneer, or by conducting transient selling in connection with, as part of, or in the name of any established local dealer, trader, merchant, or auctioneer. If the conduct of any person falls within the definitions of both peddler and transient selling as contained in this section, he or she shall be deemed to be transient selling for the purposes of this Section.

710.3. Exemptions From Article.

710.3.1. Religious, local government, educational, and charitable nonprofit organizations shall be exempt from the provisions of this Section. Charitable nonprofit organizations exempt under Section 710.3.1 shall provide documentation of non-profit status to the Town Clerk before exemption is granted.

710.3.2. Town Resident yard and garage sales of less than two days in duration and less than seven days in any particular year shall be exempt from the provisions of this Section.

710.3.3. Vendors, merchants, exhibitors, and salespersons who exhibit, demonstrate or solicit orders for goods, wares, or merchandise in conjunction with a local government or public school sponsored

event shall be exempt from the provisions of this Section.

710.3.4. Any art or crafts fair, show, exhibition of arts, crafts, or similar handiwork, or Town wide celebrations, observances, or special events such as an annual sidewalk or parking lot sale, which includes more than five (5) exhibitors or merchants, shall be exempt from this Section; provided that the event sponsor advise the Town Clerk of the name and address of the event sponsor, purpose and duration of the event, number of exhibitions or merchants taking part in the event, and the location of the event.

710.3.5. Any person who exhibits a privately owned vehicle for sale on private property or who temporarily parks a privately owned vehicle on which a "for sale" sign is displayed shall be exempt from the provisions of this Section.

710.3.6. Wholesale and distributor representatives servicing existing businesses in the Town or such representatives soliciting new business with existing businesses in the Town shall be exempt from the provisions of this Section.

710.3.7. Vending machines, coin-operated amusement machines, signs and billboards shall be exempt from the provision of this Section.

710.3.8. Private sales made by telephone or mail appointment where the solicitor is invited to a private residence shall be exempt from the provisions of this Section.

710.4. Transient Sales Permit – Application; Fees; Permit Approval / Denial.

710.4.1. Any person transacting any business or selling activity defined in this Section shall first obtain from the Town Clerk a permit before engaging in any such selling or soliciting activities. This permit shall be referred to as a "Transient Sales Permit". Applicants must be at least eighteen (18) years of age. Each sales representative of the permitted business must have a copy of the permit on his person and a valid state or military issued identification.

710.4.2. Persons requesting a Transient Sales Permit shall provide a copy of a valid Colorado sales tax

license and the following information to the Town Clerk on an application furnished by the Town Clerk.

710.4.2.1.

Applicant's name, date of birth, driver's license or state or military identification number, home and business address and telephone numbers.

710.4.2.2.

Description and license numbers of vehicles used for the transient sales activity.

710.4.2.3. Name,

date of birth, driver's license number and home address of each other sales representative operating under this permit.

710.4.2.4 Name

of business firm represented and parent company, if any, and a brief description of the nature of the business and goods being sold.

710.4.2.5.

Location(s) and / or method the applicant intends to use to conduct business (such as selling out of home or building, selling out of car / truck, concession stand or booth, or door-to-door sales, etc.)

710.4.2.6. Length

of time the applicant intends to be doing business under this permit.

710.4.3. Permit fees

shall be paid at the time of application and prior to issuance of the permit. Permits are non-transferable. The Town Clerk or designee may impose conditions on the approval of permits including, but not limited to, cleanup, sanitation, or security measures. The fees to be paid for the issuance of permits shall be established by Resolution of the Board as deemed appropriate from time to time and kept / or posted in the office of the Town Clerk. The cost of the permits shall vary in amount as to the applicant's need to have a permit issued for a day, for a season, or for a year.

710.4.4. The Transient

Sales Permit shall contain the permit number, the name of the applicant and his or her representatives, business name, description of the type of goods to be sold or business activity, location where sales will take place and / or method of sales, any special conditions, date of

issuance and expiration, and the Town Clerk's signature.

710.4.5. The Town Clerk

may deny an application for a Transient Sales Permit based on the wants or warrants record, misrepresentation, fraud, deceit, or impropriety of the applicant or his or her representatives or other grounds that such transient business would not be in the best interest of the Town or its citizens.

710.4.6. The Police

Chief may suspend or revoke a Transient Sales Permit based on misrepresentation, fraud, deceit, or impropriety of the applicant or his or her representatives or other grounds that such transient business would not be in the best interest of the Town or its citizens and shall give the applicant or permit holder prompt notice.

710.4.7 Any applicant

may appeal a denial or revocation of a permit. The applicant may request a hearing before a neutral party appointed by the Mayor. If the applicant requests an appeal hearing, the Town Clerk shall provide written notice of the time and place of the hearing. Such notice shall be mailed postage prepaid by regular United States mail at least five (5) days prior to the date set for hearing.

710.5. Verification of Information; Background Check of Applicant. Upon receipt of an application, the Town Clerk shall verify information on the application and provide a copy of the application to the Town Police Department. The Police Department may conduct a wants or warrants check and provide the results to the Town Clerk.

710.6. Conduct of Business; Prohibited Acts; Same Declared as Nuisance.

710.6.1. No solicitor, peddler, or transient seller shall:

710.6.1.1. Sell

from any location within the Town limits without a valid Transient Sales Permit.

719.6.1.2 Carry

on his or her business upon any street, alley, sidewalk, park, or any other public place unless specified on the permit that such business activity in such public place be permitted thereunder.

710.6.1.3. Park or stand his or her sales stand, wagon, automobile, or other vehicle upon any sidewalk or sidewalk area, street, alley, highway, or public thoroughfare so as to obstruct free travel thereon.

710.6.1.4. Enter into a sale with any individual under the age of eighteen (18) unless provided for in the permit.

710.6.1.5. Enter into any sale with any individual who appears to be intoxicated or under the influence of drugs.

710.6.1.6. Knowingly provide any inaccurate, false, or misleading information with respect to required records of any transactions conducted by the permit holder.

710.6.1.7. Enter into any private residence or premises in conjunction with transient sale business without having first been invited or requested by the owner or occupant of such residence or premises.

710.6.1.8. Approaching any location posted with "no solicitors" signage.

710.6.2. Any of the above described prohibited activity committed by solicitors, peddlers, or transient sellers shall be declared as a violation of this section and shall be deemed to be a public nuisance.

710.7. Exhibition of Permit. Transient Sales Permit holders and sales representatives are required to exhibit their permit at the request of any Town officer or citizen. In addition, any transient sales permit holder(s) or sales representatives are required to exhibit their driver's license or other state or military issued identification upon the request of any Town officer or employee.

710.8. Record of Transient Sales Permits. The Town Clerk shall maintain a record of all permits issued pursuant to the provisions of this Section and all permit fees shall be paid into the general fund of the Town of Limon.

710.9. Enforcement. It shall be the duty of the Town Police Department to enforce the provisions of this

Section as to any solicitor, peddler, or transient seller found to be engaged in business without a valid Transient Sales Permit or in violation of any other provision of this Section.

710.10. Violations – Penalty. Upon the conviction of any person or persons charged with a violation of this Ordinance or any provisions thereof, such person or persons shall be guilty of a petty offense and shall be subject to a fine as imposed by Sub-section 520.22 – Penalties for Violation under Section 520 – Nuisances.

SECTION 2 – SEVERABILITY.

If any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

SECTION 3 – REPEALER.

All acts, orders, resolutions, ordinances, or parts thereof, of the Town of Limon that are inconsistent or in conflict with this Ordinance is hereby repealed to the extent only of such inconsistency or conflict.

SECTION 4 – RECORDING AND AUTHENTICATION.

Following adoption, this Ordinance shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in the Town of Limon book of ordinances. This Ordinance shall take effect thirty (30) days after publication as required by law.

INTRODUCED, READ, ADOPTED,
AND ORDERED PUBLISHED this 7th day of
June, 2012.

/S/ Julie Coonts, Mayor

ATTEST:

/S/ Chris Snyder, Town Clerk
(Published in The Limon Leader on Thursday June 14, 2012)