

this kind of prior restraint on speech that is afforded the highest levels of protection by the First Amendment. For these reasons, Plaintiffs seek a declaratory judgment that the Ordinance is unconstitutional both on its face and as applied to these Plaintiffs, injunctive relief barring the City from enforcing this Ordinance, and nominal damages.

2. This action arises under the provisions of the First and Fourteenth Amendments to the United States Constitution pursuant to 42 U.S.C. § 1983, and the provisions of Article 2 of the Arkansas Constitution pursuant to the Arkansas Religious Freedom Restoration Act, Ark. Code Ann. §§ 16-123-401 to -407.

THE PARTIES

3. The Arkansas-Louisiana Conference of Seventh-day Adventists is an unincorporated religious membership organization with numerous members and churches located in the states of Arkansas and Louisiana and the City of Texarkana, Texas, including within Jefferson County, Arkansas. The Conference is part of the Southwestern Union of Seventh-day Adventists which is part of the General Conference of Seventh-day Adventists, and has been in existence for decades.

4. As one of its evangelistic ministries, the Conference works in partnership with a Student Literature Evangelism Program with Ouachita Hills College. The College is an entity of Ouachita Ministries, Inc., which is a member of Adventist-laymen's Services and Industries (ASI), and is a supporting ministry of the Seventh-day Adventist Church.

5. Josiah Hill is a resident and citizen of the State of Arkansas. He is the director of the Literature Evangelism Program for Ouachita Hills College. He is a member of the Arkadelphia Seventh-day Adventist Church in Arkadelphia Arkansas, which is a member of the

Arkansas-Louisiana Conference of Seventh-day Adventists. At all times materials to this lawsuit, he participated in the Literature Evangelism Program as a Literature Evangelist.

6. Elissa Amie Tesch is a resident and citizen of the State of Louisiana. She has participated in the Program for the past two years, and will participate in the 2016 Program scheduled for April 2016. She is a member of the Lafayette Seventh-day Adventist Church in Lafayette, Louisiana, which is a member of the Arkansas-Louisiana Conference of Seventh-day Adventists. At all times materials to this lawsuit, she participated in the Program as a Literature Evangelist.

7. The Program has scheduled, planned, and made the necessary preparations for, engaging in protected speech within the city limits of the City of White Hall during the 2016 Student Literature Evangelism Program. These plans were implemented in late 2015, and include but are not limited to the transportation and housing of students in the vicinity of the City so that their evangelistic activities may be conducted within the City and surrounding area. Despite these preparations undertaken in good faith, Plaintiffs' evangelistic activities were immediately suspended when Josiah Hill received information from the City of White Hall that the City was interpreting and enforcing its laws to prohibit this religious speech without City-issued permits. The Conference actively seeks for the Program to resume evangelism within the City of White Hall, and Plaintiffs Josiah Hill, Elissa Amie Tesch and their colleagues stand ready, willing and able to resume these efforts to engage in religious speech once the impermissible "chill" on these efforts is removed on or about April 6, 2016.

8. Defendant City of White Hall, Arkansas is a municipal corporation organized, existing and operating under Arkansas law, and located in Jefferson County, Arkansas, with the

capacity to sue and to be sued in this name. All actions by the City are actions taken under color of state law.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

10. This Court has personal jurisdiction over the Defendant.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

The City's Solicitation Ordinance

12. In November 2014, the City enacted Ordinance No. 473 pertaining to "Solicitors and Peddlers." The Ordinance imposes restraints upon any individual or group engaged in expressive conduct which includes door-to-door charitable or religious solicitation anywhere within the City limits. A true and correct copy of the Ordinance is attached as Exhibit 1.

13. The Ordinance was enacted "to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and disruption of privacy and to otherwise preserve the public health, safety and welfare by regulating and licensing door-to-door solicitors and peddlers."

14. The Ordinance enacted by the City is not content neutral, and is not narrowly tailored to serve these articulated governmental interests.

15. The Ordinance defines three groups of individuals:

A. A "Canvasser" is defined as "any person who attempts to make personal contact with a resident at his/ her residence without prior specific invitation or

appointment from the residence for the primary purpose of (1) attempting to solicit support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such case, or (2) distributing a handbill or flyer advertising a non-commercial event or services.” (Ordinance Sec. 101(a).) A “Canvasser” is exempt from the provisions of the Ordinance. (Ordinance Sec. 102(e).)

B. A “Peddler” is defined as “any person who goes upon the premises of any private resident in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as [a] separate transaction makes deliveries to purchasers as part of the scheme to evade the provision of the Ordinance. Peddler does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity or good, or services that is offered to a resident for purchase at a location away from his/her resident [*sic*] or at a time different from the time of visit.” (Ordinance Sec. 101(f).) A “Peddler” is required to comply with the permit requirements set forth in the Ordinance. (Ordinance Sec. 102.)

C. A “Solicitor” is “any person who goes upon the premises of any private resident in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, to request contribution of funds of anything of value, or sell goods or

services for political, charitable, religious, or other non-commercial purposes.” (Ordinance Sec. 102(i).) A “Solicitor” must comply with the permit requirements set forth in the Ordinance. (Ordinance Sec. 102.)

16. The Ordinance makes it “unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of White Hall, Arkansas without first obtaining a permit issued by the White Hall Police Department.” (Ordinance Sec. 102.)

17. There are several exemptions to the Ordinance. As noted above, Canvassers are entirely exempt from the provisions of the Ordinance. (Ordinance Sec. 102(e).) Also exempt from the provisions of the Ordinance is “[a]ny solicitations for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over the named beneficiary.” (Ordinance Sec. 102(d).)

18. As set forth in the Ordinance, “[v]iolation of any of the provisions of this Ordinance shall be penalized, per occurrence, as follows:

First Offense: \$200.00 fine

Second Offense: Mandatory Court Appearance with fine not to exceed \$500.00 or imprisoned not more than 30 days or both fined and imprisoned in the discretion of the Court.”

(Ordinance Sec. 119(a).)

19. With the exception of a limited number of preferred speakers (none of which includes Plaintiffs), the Ordinance requires that, in order to obtain the required permit, every

person must “file with the White Hall Police Department an application in writing on a form to be furnished by the Department.” (Ordinance Sec. 104.)

20. In order to obtain the required permit, the Ordinance imposes substantial disclosure obligations on persons who wish to speak on religious matter. The application must contain seven categories of information:

A. “Proof of age, address and government issued identification of the applicant, to be provided through the applicant’s driver’s license . . . or other legally recognized form of identification. (Ordinance Sec. 104(a).) The Ordinance fails to describe or define what constitutes an “other legally recognized form of identification” that would be considered acceptable.

B. “A brief description of the business or activity to be conducted.” (Ordinance Sec. 104(b).)

C. “The hours and location for which the right to peddle or solicit is desired.” (Ordinance Sec. 104(c).)

D. “If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be.” (Ordinance Sec. 104(d).)

E. “A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and where such offense occurred, and other pertinent details thereof.” (Ordinance Sec. 104(e).)

F. “Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulations, would exempt the applicant from the licensing requirements of this Ordinance.” (Ordinance Sec. 104(f).) The Ordinance does not describe or define the kind of laws to which this section refers, what constitutes an acceptable form of “license or permit,” or what kind of documentation properly can establish that the applicant is exempt from “the licensing requirements of this Ordinance.”

G. “Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing for the application. The photographs shall measure two inch(es) by two inches) and show the head and shoulders of the applicant in a clear and distinguishing manner.” (Ordinance Sec. 104(g).)

21. At the time an applicant submits the completed application to the City of White Hall Police Department, the applicant also must pay a flat fee of \$50.00 “to cover the cost to the City of processing the application and investigating the facts stated therein. (Ordinance Sec. 105.) This flat “permit fee” must be paid by each solicitor or peddler. This fee imposes an impermissible “tax” upon applicants before they may exercise their protected First Amendment rights within the City.

22. The Ordinance provides that once an application is received, the Chief of Police, or an unnamed and undesignated “authorized representative” “shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.” (Ordinance Sec. 107(a).) The scope of this review is not specified, nor are any standards provided to limit the exercise of discretion in deciding what “ensure[s] the protection of the

public health, safety and general welfare.” Further, the requirement that a person pass a discretionary and standardless review process as a pre-condition for exercising the protected right to engage in religious speech violates the First Amendment.

23. After this discretionary review, the Ordinance further vests the Chief of Police with added discretion to determine whether an application is “satisfactory.” (Ordinance Sec. 107(b).) The scope of this review also is not specified, nor are any standards provided to limit the exercise of discretion in deciding whether an application is “satisfactory.” Only after this additional discretionary review and determination that the application is “satisfactory” will the Chief of Police approve the permit and deliver it to the applicant “upon payment of the prescribed fee.” (*Id.*)

24. Once issued, “[t]he permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect.” (Ordinance Sec. 107(c).) Nowhere does the Ordinance set forth the different “class[es] of permit to which this Section refers.

25. Even the length of time in which a given permit shall be valid is ambiguous. Section 109 states that “[a]ll permits issued under the provisions of this Ordinance shall expire one (1) year from the date of issuance, unless an earlier expiration date is noted on the permit.” The Ordinance fails to set forth who is authorized to make this determination, what standards are to be used in deciding whether to shorten the expiration period and whether there is any restriction on how brief a period a permit may be valid. As a result, an individual applying for a permit cannot determine from the face of the Ordinance how often he/she must apply, pay the required permit fee and be subject to additional discretionary reviews by the Chief of Police.

26. The Ordinance indicates that the Chief of Police “may refuse to issue a permit, and enumerates six “reasons,” but does not state that this list is exhaustive. (Ordinance Sec. 108(a).) These “reasons” include such things as “[t]he location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers.” (Ordinance Sec. 108(a)(1).) The scope of this review is not specified, nor are any standards provided to limit the exercise of discretion in deciding whether “[t]he location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers.”

27. The Chief of Police also may refuse to issue a permit to the applicant if “[t]he applicant has been denied a permit under this Ordinance within the immediate past year, unless the applicant can and does show to the satisfaction of the Police Chief that the reason for such earlier denial no longer exists.” (Ordinance Sec. 108(a)(6).) Again, the scope of this review is not specified, nor are any standards provided to limit the exercise of discretion in deciding whether the Police Chief is “satisfied.” As a result, an applicant – once refused a permit – may be precluded from securing a permit for 12 months after his/her application is denied. This never-ending loophole denies an applicant any ability to exercise the protected right to engage in religious speech in violation of the First Amendment.

28. The Ordinance does not specify that the six enumerated “reasons” are the only grounds on which the Chief of Police may deny a permit. As shown above, in addition to the six “reasons” set forth in Section 108, the Chief of Police is further authorized not to grant an application if he finds that an unspecified initial review is “necessary to ensure the protection of the public health, safety and general welfare,” or if the Chief of Police finds that the application is not “satisfactory.”

29. The Ordinance imposes significant delays upon attempts to exercise free speech and religious liberty rights. The Ordinance fails to contain any time limit for the approval or denial of an application. By granting itself an unlimited amount of time to consider an application, the City has created an impermissible prior restraint on speech: a speaker effectively may be denied the right of religious speech simply through the inaction of the City.

30. The Ordinance does not contain any provision which would permit the protected religious speech to proceed if such delays occasioned by the City's inaction and indecision were to occur.

31. After a permit is issued, a person still may not freely engage in religious speech protected by the First Amendment. Under the Ordinance, a Peddler or Solicitor cannot "enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 7:00 p.m. and 9:00 a.m." (Ordinance Sec. 114.) This arbitrary limitation is not a reasonable time, place or manner restriction, and is not narrowly tailored to serve the City's governmental interests.

32. Residents of the City remain free to keep permit holders off of their property. Under the Ordinance, the "owner, occupant or person legally in charge" of a premises may post "a sign bearing the words, 'NO PEDDLER,' 'NO SOLICITORS,' or words of similar import, or they may file "a 'No Solicitation Registration Form' with the City, a copy of which "shall be provided to each recipient of a permit to engage in solicitation." (Ordinance Sec. 113.) As a result, City residents are more than able to minimize any unwelcome disturbances or disruption of privacy" without the cumbersome, standardless and overbroad permit process imposed by the City.

33. Even after the City issues a permit, the Chief of Police retains the limitless discretion to revoke or suspend it at any time. Under Section 115 of the Ordinance, the Chief of Police may revoke or suspend an issued permit for any one of five reasons, one of which is “[c]onducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.” The Ordinance does not provide any standards to define these terms or to limit the exercise of discretion for deciding whether activities “create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.”

34. The Ordinance does state that a permit may not be revoked or suspended until after notice and hearing. However, the Ordinance does not contain any provision which would permit the protected religious speech to proceed during the period after notice is given but before the hearing produces a result.

35. The Ordinance does not contain any provision allowing for judicial review of an action or decision by the City. The Ordinance also does not require the City to bear the burden to obtain a judicial ruling if it seeks to prevent the speech from occurring.

36. The only appeal provided by the Ordinance is to the Mayor, and under the Ordinance, “[t]he decision of the Mayor on the appeal shall be final and binding on all parties concerned.” (Ordinance Sec. 117(f).) The Ordinance does not contain any written standards under which the appeal may be taken or is to be decided.

37. The “appeal” provided by the Ordinance imposes significant, impermissible delays upon attempts to exercise free speech rights. Once an aggrieved person starts the appellate process by filing with the Chief of Police a written statement setting forth the grounds for appeal, the Police Chief has ten days in which merely to “transmit the written statement to the

Mayor.” (Ordinance Sec. 117(c).) The Mayor then is required to set a hearing for “not later than twenty (20) days from the date of receipt of the appellant’s written statement.” (Ordinance Sec. 117(d).) Even after this protracted 30-day period, the Ordinance fails to contain any time limit for the Mayor to rule on the appeal after the hearing. Once again, by granting itself an unlimited amount of time to dispose of an appeal, the City has created an impermissible prior restraint on speech: a speaker effectively may be denied the right of religious speech simply through the Mayor’s inaction in deciding an appeal.

38. The Ordinance does not contain any provision which would permit the protected religious speech to proceed during the pendency of the single avenue for “appeal” afforded by the Ordinance.

39. “Any person claiming to be legally exempt from the regulations set forth in this Ordinance . . . shall cite to the Police Chief the statute or other legal authority under which exemption is claimed, and shall present to the Police Chief proof of qualification for such exemption.” (Ordinance Sec. 118.) The Police Chief has unlimited discretion in considering a claim for exemption. The Ordinance does not provide any standards by which the Police Chief is to determine which speakers and which speech will be allowed to occur without the prior restraint and restrictions imposed by the Ordinance.

The Religious Nature of the Canvassing Program

40. Each of the individual Plaintiffs is an observant member of the Seventh-day Adventist faith and attends a church within the Arkansas-Louisiana Conference of Seventh-day Adventists.

41. The Seventh-day Adventist faith is a conservative Protestant Christian faith. As a result, one of the primary tenets of the Seventh-day Adventist faith is follow the “Great

Commission” given by Jesus Christ to “spread the Gospel.” *See* Matthew 28:18-20 (“Therefore go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you.”)

42. One of the methods by which the individual Plaintiffs, the Arkansas-Louisiana Conference and its members historically have communicated their religious views is through door-to-door witnessing, evangelism, and the distribution of literature about the Seventh-day Adventist faith to interested persons. Plaintiffs currently are following these traditional methods, and they will continue to follow these practices for the foreseeable future as an integral part of their faith.

43. These evangelistic efforts involve, *inter alia*, verbal testimonies about the acts and mercies of the God of the Bible, the redemption and salvation offered to humankind through Jesus Christ, offers of prayer and religious instruction and counseling to those who are willing to receive it, as well as an effort to distribute printed religious literature and to obtain a commitment from the persons so evangelized in the form of a voluntary financial contribution to demonstrate this commitment.

44. For many years, the Arkansas-Louisiana Conference of Seventh-day Adventists has partnered with religious (non-profit) supporting ministries of the Seventh-day Adventist Church to conduct evangelistic activities. One such missionary and evangelistic activity is the on-going Student Literature Evangelism Program run by Ouachita Hills College. The Conference provides monetary and “in kind” support for the Program.

45. Church members, such as the individual Plaintiffs, who participate in missionary efforts that involve the distribution of religious literature are recognized by the Seventh-day

Adventist Church as “Literature Evangelists.” The literature that they distribute is the “seed” that is referred to in biblical parable of the sower. *See* Matthew 13:3-8.

46. Although not all who hear are receptive, the Conference and the individual Plaintiffs currently, and for some time, have participated in evangelistic activities through the Program in the State of Arkansas and similar programs in other states.

47. One of the locations in which the individual Plaintiffs actively seek to engage in missionary activities as Literature Evangelists for the Program is within the city limits of the City of White Hall.

48. The Conference will continue the Program this coming Spring, and in regular intervals thereafter for the foreseeable future, just as it previously has done for many years. Each of the individual Plaintiffs is committed to serving the Church as a Literature Evangelist within the City of White Hall during the 2016 Programs, and each of them has taken concrete steps in order to make this happen with the Program.

49. In the Student Literature Evangelism Program, church members (typically college students) travel in teams to various locations during designated time periods both during the school year and the summer. In the instant case, the next dates on which the Program seeks to operate in the City of White Hall are April 6-12, 2016.

50. These teams generally consist of a leader/driver and other members who are divided into teams of several members.

51. During the Program, the teams travel to a pre-determined destination and witness door to door, offering literature about the Seventh-day Adventist faith to interested persons, engaging in verbal evangelism by sharing testimonies and religious information, offering prayer,

religious instruction and counseling to persons who are willing to receive it, and seeking voluntary donations to help support the Program and further its evangelistic purpose.

52. Such requests for voluntary donations are integral to the religious message that is presented by Literature Evangelists. The simple act of making such a donation often is the first step toward the religious conversion of the hearer. This aspect of the evangelistic activities of the student missionaries is fundamental component for spreading the Seventh-day Adventist faith.

The Actions Taken By The City

53. In the Fall of 2015, Literature Evangelists, who included the individual Plaintiffs, were scheduled to spend several days in December 2015 evangelizing under the Program in the City of White Hall.

54. Before any missionary activities commenced, the City was informed by letter of the Plaintiffs' intended activities within the City of White Hall. In response, the City provided a copy of its Ordinance.

55. Thereafter, the City has interpreted and continued to interpret the Ordinance to apply to and restrict Plaintiffs' missionary activities, and has communicated its intent to continue applying and enforcing this Ordinance against them. Specifically:

A. After receiving a copy of the Ordinance, Plaintiff Josiah Hill spoke with Richard Wingard, the City of White Hall Chief of Police. Plaintiff Hill explained the planned evangelistic activities of the student missionaries and asked Chief Wingard whether the City would apply the Ordinance to the Literature Evangelists, even though they were not engaging in any sales activity but were only engaging in verbal evangelistic activities, distributing religious literature and asking for voluntary charitable

contributions. Plaintiff Hill also inquired about what information would be necessary for the Program to qualify for an exemption from the regulations set forth in the Ordinance.

B. In response to this query, the Police Chief stated that he met earlier with both the City Attorney and the Mayor, and the three of them already had concluded that Plaintiffs would not be granted an exemption from the Ordinance. This decision had been made before Plaintiffs were given the opportunity to cite to the Police Chief the statute or other legal authority under which exemption is claimed, and to present proof of qualification for such exemption, as provided under Section 118 of the Ordinance.

C. On December 14, 2015, counsel for the General Conference of Seventh-day Adventists wrote a letter to Tom Owens, who had been identified as the City Attorney for the City of White Hall. The letter again explained the nature of the Literature Evangelist Program. The letter also set forth an analysis of the Ordinance and an explanation as to why the Ordinance failed to pass constitutional muster. And, despite the earlier comments from the Chief of Police, the letter expressly asked the City Attorney to consider the letter as a "Claim of Exemption" submitted under Section 118 of the Ordinance. Finally, the letter requested a meeting to see if a mutually agreeable resolution of these issues may be possible.

D. In response to this letter, Mr. Owens sent an email to counsel for the General Conference on December 14, 2015. In that communication, Mr. Owens reiterated the City's position that the Ordinance properly could be applied to Plaintiffs and their evangelistic activities. He also indicated that the City would be willing to discuss this matter further.

E. Over the next week, counsel for the General Conference attempted to contact Mr. Owens several times: in a return email, and by phoning Mr. Owens at his office on at least three different occasions. Although counsel for the General Conference left messages for Mr. Owens to return the phone calls, to-date, neither Mr. Owens nor any other representative of the City has replied.

F. In each of these communications from the General Conference, it was made clear that – because time was of the essence – if the City continued to insist on enforcement of the Ordinance, a lawsuit would be unavoidable.

56. As a result of this series of communications, the City of White Hall has made clear that it intends to enforce its Ordinance against the evangelistic activities of the Plaintiffs, despite the fact that they fall within the core of speech and religious liberty protected by the First Amendment. Moreover, the City consistently has rebuffed or ignored the good-faith efforts of the Plaintiffs and their counsel to resolve this dispute without the need for court intervention.

57. As a direct and proximate result of the City's threatened enforcement of its Ordinance, Plaintiffs have avoided, and have not engaged in, any evangelistic activities or religious speech within the City of White Hall.

58. Due to the nature of the Program, Plaintiffs will have insufficient time to minister unless and until a Preliminary Injunction is issued before the end of March 2016. Unless the City of White Hall is enjoined from enforcing the Ordinance, the residents of the City will be denied the gospel message, and Plaintiffs will be denied their right to engage in religious speech protected by the First Amendment.

59. Because Plaintiffs have avoided evangelizing within the City, none of the Plaintiffs or other Literature Evangelists has been arrested, prosecuted, or charged with an

offense within the City. However, the City, acting through its officials, has made clear that Plaintiffs and other Literature Evangelists who engage in religious speech within the City without securing the required permits will be arrested and prosecuted.

60. As a direct and proximate result of the actions and threats by the City, acting through its officials, the Program and its missionaries, including but not limited to the Plaintiffs, suspended their plans to engage in evangelistic activities within the City and instead devoted their time and efforts to neighboring communities.

61. Unless and until the City of White Hall's enforcement of its Ordinance is enjoined, Plaintiffs will be unable to witness to the citizens of the City in the Spring 2016 and subsequent Programs.

**COUNT I
CIVIL RIGHTS CLAIM
DEPRIVATION OF FREE SPEECH AND ASSOCIATIONAL RIGHTS
IN VIOLATION OF FEDERAL CONSTITUTION**

62. Plaintiffs reallege and incorporate by reference paragraphs 1 through 61 and all subparagraphs as if they were fully set forth herein.

63. By prohibiting, constraining, conditioning, taxing and excessively limiting protected religious speech, the City of White Hall is violating the free speech rights of Plaintiffs and Conference members protected and guaranteed by the First and Fourteenth Amendments of the United States Constitution

64. The denial of rights guaranteed by the First and Fourteenth Amendments by the City of White Hall under color of state law is actionable under 42 U.S.C. § 1983.

65. The Ordinance is directed specifically at protected expression and conduct commonly associated with such expression, and imposes substantial burdens upon that protected expression.

66. The Ordinance is overbroad and impermissibly limits religious discourse and speech.

67. The Ordinance is both facially unconstitutional and as applied to Plaintiffs' activities which involve only verbal evangelism, prayer and religious counseling, distribution of literature and requests for voluntary donations.

68. Because Plaintiffs are required to obtain the City of White Hall's prior permission before engaging in constitutionally protected speech, the Ordinance is an unlawful prior restraint and is not narrowly tailored to serve the City's purported governmental interests.

69. The Ordinance unconstitutionally vests the City of White Hall's agents with excessive, standardless discretion to investigate, approve, deny, revoke and suspend permits

without adequate objective limitations or procedural safeguards. Further, the Ordinance on its face creates preferred categories of speakers and speech to which the Ordinance does not apply.

70. The Ordinance unconstitutionally grants the City of White Hall's agents excessive, standardless discretion to investigate, approve, deny, revoke and suspend permits without any provision for judicial appeal or review. The Ordinance fails to contain any objective criteria or standards which the City's agents must comply in their decision to approve or deny an application for a permit, their decision to revoke or suspend a permit, or their consideration of any appeals to the extent that such review even is authorized.

71. The Ordinance is not a reasonable time, place or manner restriction. It prohibits certain speech (including that of the Plaintiffs) from 7:00 p.m. until 9:00 a.m., but allows other speech during this time depending on its content. It is a content-based and discriminatory restriction which prohibits protected speech within the entire City limits. Even if it were content neutral, which it is not, the regime created by the Ordinance is unreasonable and leaves insufficient alternatives for expression.

72. The Ordinance violates the federal constitution and chills and substantially burdens protected speech by requiring individuals to disclose personal information and subject themselves to standardless review and investigation as a pre-condition for obtaining a permit to speak on religious subjects simply because that speech may also include a request for voluntary donations or contributions.

73. The Ordinance violates the federal constitution and chills and substantially burdens protected speech by requiring the payment of a fee or "tax" as a condition of obtaining a permit to speak on religious subjects simply because that speech may also include a request for voluntary donations or contributions.

74. Through the enactment, enforcement, and threatened enforcement of the Ordinance, the City of White Hall has, under color of state law, deprived and continues to deprive Plaintiffs and their members of rights, privileges or immunities guaranteed, secured and protected by the Constitution or laws of the United States, in violation of 42 U.S.C. § 1983.

75. The injuries suffered by Plaintiffs cannot be fully compensated by monetary damages. If enforcement of the Ordinance is not enjoined, Plaintiffs and Conference members will suffer irreparable injury which cannot adequately be remedied at law, including but not limited to, the chilling of their free speech rights.

COUNT II
CIVIL RIGHTS CLAIM
DEPRIVATION OF FREEDOM OF RELIGION
IN VIOLATION OF FEDERAL CONSTITUTION

76. Plaintiffs reallege and incorporate by reference paragraphs 1 through 75 and all subparagraphs as if they were fully set forth herein.

77. The individual Plaintiffs are members of the Seventh-day Adventist Church. They follow, and have a sincere religious belief in, the teachings, tenets, beliefs and doctrines of the Church.

78. One of the primary doctrines of the Seventh-day Adventist faith is to follow the “Great Commission” given by Jesus Christ so “spread the Gospel.” *See* Matthew 28:18-20 (“Therefore go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you.”)

79. One of the methods by which the Plaintiffs and other members of the Seventh-day Adventist Church historically have communicated their religious views is through door-to-door witnessing, evangelism, and the distribution of literature about the Seventh-day Adventist faith to interested persons.

80. Plaintiffs currently follow these traditional methods, and will continue to follow these practices for the foreseeable future as an integral part of their faith.

81. The City of White Hall, through its Ordinance, has placed a substantial burden on Plaintiffs' ability to act on their sincerely-held religious beliefs. In particular:

A. The Ordinance violates the federal constitution and substantially burdens the free exercise of religion by requiring individuals to disclose personal information and subject themselves to standardless review and investigation as a pre-condition for obtaining a permit to engage in evangelistic activities required by Plaintiffs' faith simply because those activities also may include a request for voluntary donations or contributions.

B. The Ordinance violates the federal constitution and substantially burdens the free exercise of religion by requiring the payment of a fee or "tax" as a condition of obtaining a permit to engage in evangelistic activities required by Plaintiffs' faith simply because those activities also may include a request for voluntary donations or contributions.

C. The Ordinance violates the federal constitution and substantially burdens the free exercise of religion by arbitrarily limiting the ability of Literature Evangelists to engage in door-to-door witnessing and the distribution of literature about the Seventh-day Adventist faith to interested persons during the hours of 7:00 p.m. and 9:00 a.m.

82. The Ordinance does not further a compelling state interest.

83. By enacting the Ordinance, the City has not pursued a compelling government interest in the manner least restrictive, or least burdensome, to religion.

84. Through the enactment, enforcement, and threatened enforcement of the Ordinance, the City of White Hall has, under color of state law, deprived and continues to deprive Plaintiffs and their members of rights, privileges or immunities guaranteed, secured and protected by the Constitution or laws of the United States, in violation of 42 U.S.C. § 1983.

85. The injuries suffered by Plaintiffs cannot be fully compensated by monetary damages. If enforcement of the Ordinance is not enjoined, Plaintiffs and Conference members will suffer irreparable injury which cannot adequately be remedied at law, including but not limited to, the deprivation of their right to act on their sincerely-held religious beliefs.

COUNT III
CIVIL RIGHTS CLAIM
DEPRIVATION OF LIBERTY INTERESTS WITHOUT DUE PROCESS OF LAW
IN VIOLATION OF THE FEDERAL CONSTITUTION

86. Plaintiffs reallege and incorporate by reference paragraphs 1 through 85 and all subparagraphs as if they were fully set forth herein.

87. The Ordinance deprives Plaintiffs and Conference members of their speech, religion and liberty interests without due process of law in violation of the Fourteenth Amendment of the United States Constitution.

88. The Ordinance is void for vagueness.

89. The Ordinance unconstitutionally vests the City of White Hall's agents with excessive, standardless discretion to investigate, approve, deny, revoke and suspend permits without adequate objective limitations or procedural safeguards.

90. The Ordinance unconstitutionally grants the City of White Hall's agents excessive, standardless discretion to investigate, approve, deny, revoke and suspend permits without any provision for judicial appeal or review. The Ordinance fails to contain any objective criteria or standards which the City's agents must comply in their decision to approve or deny an

application for a permit, their decision to revoke or suspend a permit, or their consideration of any appeals to the extent that such review even is authorized.

91. The City abused its discretion and chose to interpret and enforce the Ordinance in a manner that is arbitrary, capricious, unsupported by substantial evidence and otherwise not in accordance with the law. More particularly:

A. The only reason articulated by the Chief of Police for applying the Ordinance to the missionary activities of the Literature Evangelists is that they would be asking for donations. According to the Police Chief, once a person asks for donations, he or she becomes a “Solicitor” under the Ordinance. Yet a Canvasser may “accept[] the donation of money,” and a Canvasser is exempt from the provisions of the Ordinance. The Chief of Police has provided no reasoned rationale for pigeon-holing Plaintiffs as “Solicitors” subject to the Ordinance rather than as “Canvassers” who are exempt from the Ordinance.

B. In response to an oral inquiry about what information would be necessary for the Program to qualify for an exemption, the Police Chief stated that he met earlier with both the City Attorney and the Mayor, and the three of them already had concluded that Plaintiffs would not be granted an exemption from the Ordinance. This uninformed and biased decision was made before Plaintiffs were given the opportunity to cite to the Police Chief the statute or other legal authority under which exemption is claimed, and to present proof of qualification for such exemption, as provided under Section 118 of the Ordinance.

C. Further, the Mayor – who is the only person designated by the Ordinance to hear any appeals from the decision of the Chief of Police – participated in the initial

decision to deny an exemption. This improper participation by the Mayor deprived Plaintiffs of their right to an impartial hearing officer.

92. The Ordinance is silent as to any time or means for seeking judicial review of the denial, revocation or suspension of a permit.

93. The Ordinance fails to contain any time limit for the approval or denial of an application. Similarly, the Ordinance fails to contain any time limit for the Mayor to rule on an appeal after a hearing.

94. Through the enactment, enforcement, and threatened enforcement of the Ordinance, the City of White Hall has, under color of state law, deprived and continues to deprive Plaintiffs and Conference members of rights, privileges or immunities guaranteed, secured and protected by the Constitution or laws of the United States, in violation of 42 U.S.C. § 1983.

95. The injuries suffered by Plaintiffs cannot be fully compensated by monetary damages. If enforcement of the Ordinance is not enjoined, Plaintiffs will suffer irreparable injury which cannot adequately be remedied at law, including but not limited to, the chilling of their free speech rights and rights to the free exercise of their religion.

COUNT IV
STATE LAW CLAIM
DEPRIVATION OF PLAINTIFFS' EXERCISE
OF RELIGION IN VIOLATION OF THE ARKANSAS CONSTITUTION
AND THE ARKANSAS RELIGIOUS FREEDOM RESTORATION ACT

96. Plaintiffs reallege and incorporate by reference paragraphs 1 through 95 and all subparagraphs as if they were fully set forth herein.

97. The individual Plaintiffs are members of the Seventh-day Adventist Church. They follow, and have a sincere religious belief in, the teachings, tenets, beliefs and doctrines of the Church.

98. One of the primary doctrines of the Seventh-day Adventist faith is to follow the “Great Commission” given by Jesus Christ so “spread the Gospel.” *See* Matthew 28:18-20 (“Therefore go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you.”)

99. One of the methods by which the Plaintiffs, including the individual Plaintiffs and other members of the Seventh-day Adventist Church, historically have exercised their religion is to communicate their religious views through door-to-door witnessing, evangelism, and the distribution of literature about the Seventh-day Adventist faith to interested persons.

100. Plaintiffs currently follow these traditional methods, and will continue to follow these practices for the foreseeable future as an integral part of their faith.

101. The City of White Hall, through its Ordinance, substantially burdened Plaintiffs’ exercise of their religion including their ability to act on their sincerely-held religious beliefs. In particular:

A. The Ordinance violates the Arkansas Constitution, Article 2, Section 24, and the Arkansas Religious Freedom Restoration Act, Ark. Code Ann. §§ 16-123-401 to -407 (“RFRA”), as it substantially burdens the exercise of religion by requiring individuals to disclose personal information and subject themselves to standardless review and investigation as a pre-condition for obtaining a permit to engage in

evangelistic activities required by Plaintiffs' faith simply because those activities also may include a request for voluntary donations or contributions.

B. The Ordinance violates the Arkansas Constitution, Article 2, Section 24, and the Arkansas RFRA, as it substantially burdens the free exercise of religion by requiring the payment of a fee or "tax" as a condition of obtaining a permit to engage in evangelistic activities required by Plaintiffs' faith simply because those activities also may include a request for voluntary donations or contributions.

C. The Ordinance violates the Arkansas Constitution, Article 2, Section 24, and the Arkansas RFRA, as it substantially burdens the free exercise of religion by arbitrarily limiting the ability of Literature Evangelists to engage in door-to-door witnessing and the distribution of free literature about the Seventh-day Adventist faith to interested persons during the hours of 7:00 p.m. and 9:00 a.m.

102. The Ordinance does not further a compelling governmental interest.

103. By enacting the Ordinance, the City has not pursued a compelling government interest in the manner least restrictive to religion.

104. Through the enactment, enforcement, and threatened enforcement of the Ordinance, the City of White Hall has substantially burdened, and continues substantially to burden, the exercise of religion by Plaintiffs, including Plaintiff Arkansas-Louisiana Conference of Seventh-day Adventists, its members, and the individual Plaintiffs, protected by the Arkansas Constitution, Article 2, Section 24, and Arkansas RFRA, in violation of Ark. Code Ann. §§ 16-123-404(a) & 404(b).

105. The injuries suffered by Plaintiffs cannot fully be compensated by monetary damages. If enforcement of the Ordinance is not enjoined, Plaintiffs, the Conference and its

members will suffer irreparable injury which cannot adequately be remedied at law, including but not limited to, the deprivation of their right to act on their sincerely-held religious beliefs.

PRAYER FOR RELIEF

Plaintiffs request that the Court enter a judgment in their favor and against Defendant for the following:

1. Declaratory relief that that the Ordinance is unconstitutional both on its face and as applied to these Plaintiffs;
2. Preliminary and permanent injunctive relief, enjoining Defendant, its employees, officers, agents and persons acting on its behalf from enforcing or threatening to enforce the Ordinance against Plaintiffs and other participants in the Program;
3. An award of nominal damages of \$1.00 to each Plaintiff;
4. Reasonable attorneys' fees and costs of suit under 42 U.S.C. § 1988, or such other authority as may authorize such an award; and
5. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

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PLEASE feel
free to
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870-247-1415
Chief
Wya

ORDINANCE NO. 473

AN ORDINANCE AMENDING THE CODE OF
THE CITY OF WHITE HALL, ARKANSAS

WHEREAS, the City Council of White Hall, Arkansas desires to amend Title XI: General Regulations of the City of White Hall as it pertains to SOLICITING AND PEDDLING within the city limits; and

WHEREAS, it has been expressly stated by the City Council of the City of White Hall that the General Regulations of the City of White Hall should be amended to provide for a new Chapter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE HALL, ARKANSAS:

SECTION 1. Chapter 98, Title XI: General Regulations shall be replaced with the following:

CHAPTER 98: SOLICITORS AND PEDDLERS

Sections:

- 101 Definitions
- 102 Permit Requirements and Exemptions
- 103 Permit for Sponsoring Juvenile Peddlers
- 104 Permit Application
- 105 Fees
- 106 Bond
- 107 Application Review and Permit Issuance
- 108 Denial of Permit
- 109 Permit Expiration
- 110 Identification Badges
- 111 Permit Exhibition
- 112 Transfer Prohibited
- 113 Entry Upon Premises Unlawful

I NOTICED YOU
SAID IN YOUR LETTER
YOU WERE ASKING
FOR DONATIONS, ONCE
YOU DO THAT, IT BECOMES
SOLICITATION.

Thanks



114	Hours of Solicitation
115	Permit Revocation
116	Notice and Hearing
117	Appeals
118	Claims of Exemption
119	Violations and Penalty
120	Severability

An Ordinance to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy and to otherwise preserve the public health, safety and welfare by regulating, controlling and licensing door-to-door solicitors and peddlers.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE HALL, ARKANSAS:

SECTION 101. Definitions.

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

- (a) *Canvasser* means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such case, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- (b) *Charitable* means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.
- (c) *Contributions* mean and include the works, money, subscription, property or any donations under the guise of a loan or money or property.
- (d) *Department* means the Police Department.
- (e) *Police Chief* means the current chief of the White Hall Police Department or his designee.

- (f) *Peddler* means any person who goes upon the premises of any private resident in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as separate transaction makes deliveries to purchasers as part of the scheme to evade the provision of the Ordinance. Peddler does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a location away from his/her resident or at a time different from the time of visit.
- (g) *Peddling* includes all activities ordinarily performed by a peddler as indicated under paragraph (e) of this Section.
- (h) *Person* means a natural person or any firm, corporation, association, club, society or other organization.
- (i) *Solicitor* means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, to request contribution of funds of anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.
- (j) *Solicitation* includes all activities ordinarily performed by a solicitor as indicated under paragraph (h) of this Section.

SECTION 102. Permit Requirements and Exemptions.

It shall be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of White Hall, Arkansas without first obtaining a permit issued by the White Hall Police Department; provided, however, that the following are exempted from the provisions of this Section:

- (a) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
- (b) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;

- (c) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person; or
- (d) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.
- (e) A "canvasser" as defined in SECTION 101.

SECTION 103. Permit for Sponsoring Juvenile Peddlers.

- (a) No person under the age of eighteen (18) shall be permitted to engage in peddling except as provided in this Section.
- (b) A permit shall be obtained by a sponsoring person, company, or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales for of one (1) or more persons under eighteen (18) years of age
- (c) The sponsor shall be responsible for supervising and controlling the conduct of all persons including juveniles, peddling under the sponsor's permit.

SECTION 104. Permit Application.

Every person subject to the provisions of this Ordinance shall file with the White Hall Police Department an application in writing on a form to be furnished by the Department, which shall provide the following information:

- (a) Proof of age, address and government issued identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;
- (b) A brief description of the business or activity to be conducted;
- (c) The hours and location for which the right to peddle or solicit is desired;
- (d) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the

employer or principal, as the case may be;

- (e) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;
- (f) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulations, would exempt the applicant from the licensing requirements of this Ordinance; and
- (g) Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing for the application. The photographs shall measure two inch(es) by two inch(es) and show the head and shoulders of the applicant in a clear and distinguishing manner.

SECTION 105. Fees.

At the time of the application is filed with the Department, the applicant shall pay a fee to cover the cost to the City of processing the application and investigating the facts stated therein. The permit fee shall be fifty (\$50.00) dollars for each solicitor or peddler.

SECTION 106. Bond.

All solicitors requiring cash deposits or taking orders for cash on delivery purchases (C.O.D.) Or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the Department a bond in the amount of one thousand (\$1,000.00) dollars.

SECTION 107. Application Review and Permit Issuance.

- (a) Upon receipt of an application, Chief of Police, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety, and general welfare.
- (b) If the Police Chief finds the application to be satisfactory, the Police Chief shall endorse his approval on the application and shall, upon payment of the prescribed fee, deliver the required permit to the applicant.

- (c) The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.
- (d) A record of all permits issued shall be maintained by the Department for a period of two (2) years.

SECTION 108. Denial of Permit.

- (a) Upon the Police Chief review of the application, the Police Chief may refuse to issue a permit to the applicant under this Ordinance for any of the following reasons:
 - (1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - (2) An investigation reveals that the applicant falsified information on the application;
 - (3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;
 - (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of the application;
 - (5) There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 - (6) The applicant has been denied a permit under this Ordinance within the immediate past year, unless the applicant can and does show to the satisfaction of the Police Chief that the reason for such earlier denial no longer exist;
- (b) The Police Chief's disapproval and the reasons for disapproval shall be

noted on the application, and the applicant shall be notified that his application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

SECTION 109. Permit Expiration.

All permits issued under the provisions of this Ordinance shall expire one (i) year from the date of issuance, unless an earlier expiration date is noted on the permit.

SECTION 110. Identification Badges.

- (a) At the same time as the permit is issued, the Police Chief may issue to each permittee a badge, which shall be worn by permittee, if issued, in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the City.
- (b) A canvasser, otherwise exempt from the provisions of the Article, may request the issuance of an identification badge from the City for the purpose of assuring city residents of the canvasser's good faith.

SECTION 111. Permit Exhibition.

Every person required to obtain a permit under the provisions of this Ordinance shall exhibit the permit when requested to do so by any prospective customer or Police Department employee and shall keep the permit upon his/her person at all times.

SECTION 112. Transfer Prohibited.

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this Ordinance.

SECTION 113. Entry Upon Premises Unlawful.

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a canvasser, peddler, or solicitor, to enter upon any residential premises in the City where the owner, occupant or person legally in charge of the premises has:

- (a) Posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words, "NO PEDDLERS," "NO SOLICITORS," or words of similar import; or

- (b) Filed a "No Solicitation Registration Form" with the City on a form furnished by the City for that purpose. The City will maintain a "No Solicitation" list of those persons who wish to restrict solicitation on their property by canvassers, peddlers, and solicitors. The "No Solicitation" list shall be a public document and a copy of the list shall be provided to each recipient of a permit to engage in solicitation. If a canvasser choose not to apply for an identification card, it will be the responsibility of that canvasser to obtain a copy of the "No Solicitation" list.

SECTION 114. Hours of Solicitation.

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 7:00 p.m. and 9:00 a.m.

SECTION 115. Permit Revocation.

Any permit issued under this Ordinance may be revoked or suspended by the Police Chief, after notice and hearing, for any of the following reasons:

- (a) Fraud, misrepresentation or false statement contained in the application for a permit;
- (b) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
- (c) Conducting peddling or solicitation activities contrary to the provisions contained in the permit;
- (d) Conviction for any crime involving moral turpitude; or
- (e) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

SECTION 116 Notice and Hearing.

Notice of a hearing for revocation of a permit issued under this Ordinance shall be provided in written and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.

SECTION 117. Appeals.

- (a) Any person aggrieved by the action or decision of the Police Chief to deny, suspend or revoke a permit applied for under the provisions of this Ordinance shall have the right to appeal such action or decision to the Mayor within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or to his last known address.
- (b) An appeal shall be taken by filing with the Police Chief a written statement setting forth the grounds for appeal.
- (c) The Police Chief shall transmit the written statement to the Mayor within ten (10) days of its receipt and the Mayor shall set a time and place for a hearing on the appeal.
- (d) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.
- (e) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- (f) The decision of the Mayor on the appeal shall be final and binding on all parties concerned.

SECTION 118. Claims of Exemption.

Any person claiming to be legally exempt from the regulations set forth in this Ordinance, or from the payment of a permit fee, shall cite to the Police Chief the statute or other legal authority under which exemption is claimed and shall present the Police Chief proof of qualification for such exemption.

SECTION 119. Violations and Penalty.

- (a) Violation of any of the provisions of this Ordinance shall be penalized, per occurrence, as follows:

First offense: \$200.00 fine

Second offense: Mandatory Court Appearance with fine not to exceed \$500.00 or imprisoned not more than 30 days or both fined and imprisoned in the discretion of the Court.

- (b) In addition to any criminal enforcement, the City or any individual may pursue any available civil remedies deemed appropriate and necessary.

SECTION 120. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not effect the validity of the remaining sections, sentences, clause, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

SECTION 2. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

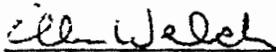
SECTION 3. This ordinance being necessary for the public peace, health, comfort, convenience, morals, and welfare of the City of White Hall, an emergency is declared to exist and this ordinance shall be in full force and effect from the date of its adoption.

PASSED AND APPROVED ON THIS 18TH DAY OF AUGUST, 2014.



Noel Foster, Mayor

ATTEST:



Elen Welch, City Clerk