

ORDINANCE 20-105

AN ORDINANCE REPLACING EXISTING CHAPTER 717 OF THE CODIFIED ORDINANCES TO ESTABLISH NEW REGULATIONS REGARDING PEDDLERS AND CANVASSERS IN THE VILLAGE, IN COMPLIANCE WITH CURRENT LAW

WHEREAS, existing Chapter 717 of the Codified Ordinances was enacted in 1978, with several subsequent amendments; and

WHEREAS, the Village Police Department and various Council members have received complaints regarding door-to-door solicitation activities; and

WHEREAS, there have been multiple legal developments involving the intersection between First Amendment rights and door-to-door solicitation issues, and recent case law has established various standards for regulation of such solicitation in municipalities; and

WHEREAS, NOPEC (Northeast Ohio Public Energy Council) has suggested parameters for door-to-door solicitation activities that the Village Council has reviewed and agree with the parameters set by NOPEC; and

WHEREAS, it is necessary to amend existing Chapter 717 to revise the Village's door-to-door solicitation regulations so that they balance the Village's interest in crime prevention and protection of the privacy of Village residents against the First Amendment rights of persons wishing to engage in door-to-door peddling and canvassing; and

WHEREAS, the Council finds that the adoption of this Ordinance furthers the Village's interest in crime prevention and the protection of residents' privacy while, consistent with First Amendment jurisprudence, balancing the rights of persons wishing to engage in door-to-door solicitation.

NOW, THEREFORE be it ordained by the Council of the Village of Middlefield, County of Geauga, and State of Ohio, that:

SECTION 1. Existing Chapter 717 of the Codified Ordinances is hereby amended by enacting new Chapter 717, "Peddlers and Canvassers", which shall read, in its entirety as follows:

CHAPTER 717

PEDDLERS AND CANVASSERS

721.01 PURPOSE.

This Chapter is intended to balance the First Amendment rights of individuals wishing to engage in door-to-door peddling and canvassing activities in the Village with the privacy, health, safety and welfare of the Village's residents.

721.02 DEFINITIONS.

As used in this Chapter:

- (a) "Canvasser" means any person traveling from residence to residence within the Village, without having a previous appointment to visit the residence or residences visited, for the purpose of disseminating any lawful message, either with or without soliciting funds or donations.
- (b) "Chief of Police" includes the appropriate designee of the Chief of Police.
- (c) "Peddler" means any person traveling, by foot, automobile, truck or other type of conveyance, from place to place, door to door, or street to street, without having a previous appointment to visit the residence or residences visited, for the purpose of soliciting or taking or attempting to take orders for profit by the sale of goods, wares and merchandise or personal property of any nature whatsoever, for immediate or future delivery or for services to be furnished or performed in the future. However, under this Chapter, any person engaging in such activities for a legitimate not-for-profit organization shall not be defined as a "Peddler", but shall instead be deemed to be a "Canvasser."
- (d) "Solicitor" means any person who obtains or seeks to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck or any other type of conveyance upon private residences, including any residence, house, apartment or other dwelling, within the Village.

721.03 LICENSE REQUIRED, EXCEPTIONS.

- (a) No Peddler may peddle within the Village without holding a valid license issued by the Chief of Police. A separate license shall be

obtained for every Peddler, agent or employee peddling within the Village.

- (b) The following individuals shall not be required to obtain a license:
 - (1) Children under the age of eighteen (18) years;
 - (2) Newspaper carriers seeking customers for a newspaper which he or she regularly delivers or intends to regularly deliver; and
 - (3) Canvassers, as defined above.
- (c) Individuals who are not required to obtain a license under this Chapter are encouraged to advise the Police Department that they will be going door-to-door in the Village in case members of the public seek information from the Police Department about whether the Village is aware that such activity is occurring and about whether such activity complies with the limitations of this Chapter.

721.04 APPLICATIONS FOR LICENSE.

- (a) Each applicant for a Peddler's license shall furnish the Chief of Police with the following information on forms provided by the Village:
 - (1) Name, age and physical description of applicant; date of birth and social security number of applicant;
 - (2) Complete permanent and local address of applicant;
 - (3) Name and address of the person, firm, corporation or association for whom the solicitation is presently being made and any other person, firm, corporation or association for whom the applicant has solicited during the past three (3) years;
 - (4) A description of the nature of the business and the goods, services or wares to be sold sufficient to identify the subject matter of the peddling in which the applicant intends to engage;
 - (5) The proposed dates and times of the peddling and the routes to be followed in conducting same;
 - (6) Whether the applicant or business has ever been denied a license or permit to peddle or solicit or had such license or permit revoked, including the time and place of such denial or revocation and the reasons given therefor; and
 - (7) Whether the applicant has ever been convicted of a felony violation; a misdemeanor violation involving moral turpitude; or an "offense of violence" as defined by Section 2901.01 of the Ohio

Revised Code. In the event of such conviction(s), the applicant shall state the dates and jurisdictions of all such conviction(s).

- (b) A nonrefundable fee in the amount of twenty-five dollars (\$25.00) shall be submitted with each application provided for herein.

721.05 ISSUANCE OF LICENSE; DURATION.

- (a) The Chief of Police shall issue a license to the applicant unless it is determined:
 - (1) The applicant has made a false, misleading or deceptive statement in providing the information required under Section 721.04; or
 - (2) The applicant has been convicted of a felony violation, a misdemeanor violation involving moral turpitude, or an "offense of violence" as defined by Section 2901.01 of the Ohio Revised Code during the past five (5) years.
- (b) Such license shall be valid for a period not to exceed six (6) months

721.06 RESTRICTIONS.

- (a) From October 1st through April 30th, the permitted hours of solicitation are between 9:00 a.m. and 6:00 p.m.
- (b) From May 1st through September 30th, the permitted hours of solicitation are between 9:00 a.m. and 9:00 p.m.
- (c) No solicitation shall occur at any residence where a "No Soliciting" sign is displayed or where the residence is listed on the Village's "Do Not Knock" registry for peddlers and canvassers, or any similar registry designated as the official registry for the Village by the Village Council.
- (d) No person shall peddle or canvass on Sunday or on any legal holiday as defined in Revised Code Section 1.14.
- (e) No Peddler or Canvasser shall enter or attempt to enter the house or apartment of any resident in the Village without an express invitation from the occupant of that house or apartment.
- (f) No Peddler shall engage in or transact any type of business or solicitation other than that specified on the Peddler's license application as filed with the Village.

- (g) No license issued hereunder shall be assigned or transferred to any other person.
- (h) No person licensed pursuant to this Chapter shall have any exclusive right to any location in the public streets or sidewalks, nor shall the licensee be permitted a stationary location, nor shall the licensee be permitted to operate in any congested area where peddling operations impede or inconvenience the public, nor shall peddling or business of any type be conducted directly from a motor vehicle.

721.09 REVOCATION OF LICENSE.

- (a) A license issued under this Chapter shall be revoked by the Chief of Police for any of the following causes:
 - 1. It is subsequently determined that the licensee provided false, misleading or deceptive information in completing the application set forth in Section 721.04.
 - 2. The licensee is convicted of a felony violation or misdemeanor violation involving moral turpitude or an offense of violence.
 - 3. The licensee is convicted of a violation of any provision of this Chapter.
 - 4. The licensee solicits in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
- (b) Written notice shall be given to the licensee by personal service or by certified mail immediately upon such revocation.

721.10 APPEAL PROCEDURE.

- (a) In the event an application for a license is not approved, or in the event any license issued pursuant to the provisions of this Chapter is revoked, written notice shall be given to the applicant or licensee by personal service or by certified mail.
- (b) The applicant or licensee shall have ten (10) days after the receipt of such notice to appeal such refusal or revocation. Such appeal shall be perfected by filing a notice of the appeal with the Mayor; thereupon, the applicant shall have not less than ten (10) days' notice of the date and place of the hearing.
- (c) The Mayor shall have the power, after such hearing, to either affirm or overrule the decision of the Chief of Police. The Mayor shall cause notice of the decision to be transmitted to the applicant or licensee by certified mail within thirty (30) days of the date of hearing. Failure

of the applicant or licensee to receive the certified mail shall not affect the validity of the decision.

- (d) Thereafter, any further appeal may be made to the Common Pleas Court of Geauga County pursuant to Chapter 2506 of the Revised Code.

721.11 TRESSPASSING IN VIOLATION OF POSTED SIGNS

- (a) No peddler or canvasser shall knock at the door or ring the bell of any place of business or residence in the Village upon which is displayed at the entrance a notice which reads "No Soliciting" or "No Peddlers or Canvassers Allowed" or "Do Not Knock", or which otherwise clearly purports to prohibit peddlers or canvassers on the premises unless such peddler or canvasser is or has been affirmatively invited upon the premises by the owner, lessee or occupant thereof.
- (b) Such notice shall be no less than 3 inches by 4 inches nor more than one square foot in total surface area.
- (c) The non-solicitation notice provided for by this section shall be exempt from any requirements of the zoning code.

721.12 RESIDENT PROHIBITION BY NOTICE.

- (a) The Chief of Police shall establish a "Do Not Knock Registry" for Peddlers and Canvassers.
- (b) If requested by the Village, and for as long as the Northeast Ohio Public Energy Council ("NOPEC") shall agree to do so, NOPEC shall establish and maintain for the Village a "Do Not Knock Registry" ("Registry") and is authorized to contact individuals on the Registry to distribute "Do Not Knock" stickers to them and to update the Registry annually at no cost to the Village or the individuals.
- (c) The decision of whether to place a residence, house, apartment or other dwelling on the "Do Not Knock Registry" shall be solely that of the lawful possessor and occupant thereof.
- (d) Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling in the Village may request NOPEC to place and maintain his or her residence, house, apartment or other dwelling on the "Do Not Knock Registry" by submitting a request on form(s) supplied by the Village, or by submitting a request online to www.blocktheknock.com, which shall contain the following information:

1. The name and signature of the person completing the form(s), unless the submission is done electronically;
 2. The complete address of the residence, house, apartment or other dwelling to be placed on the Do Not Knock Registry;
 3. A valid email address of the person completing the form(s);
 4. The Date the form was completed; and
 5. A statement that "No Solicitors or Peddlers" shall call at this address or words of similar import.
- (e) A residence, house, apartment or other dwelling, after being lawfully placed on the "Do Not Knock Registry," shall remain on said registry until the earliest of any of the following:
1. The Village or NOPEC receives notice of removal pursuant to subsection (e) hereof; or
 2. The Village or NOPEC receives formal notice that the person who submitted the form pursuant to subsection (c) hereof is not or is no longer a lawful possessor and occupant of the premises.
- (f) Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling may request the Village or NOPEC to remove his or her residence, house, apartment or other dwelling from the "Do Not Knock Registry" by submitting a "Notice of Removal" form(s) supplied by the Director of Public Safety, or by submitting a request online at www.blocktheknock.com which shall contain the following information:
- 1) The name and signature of the person completing the form;
 - 2) The complete address of the residence, house, apartment or other dwelling to be removed from the registry;
 - 3) The date the form was completed; and
 - 4) A statement that the residence be removed from the "Do Not Knock Registry."
- (g) A copy of the "Do Not Knock Registry" shall be made available for public inspection at all times during normal business hours at the office of the Director of Public Safety of the Village and shall be given to every person who applies for a license pursuant to Section _ or registers as a solicitor or peddler pursuant to that section.

721.99 PENALTY.

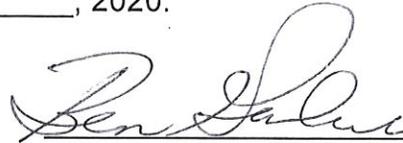
Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the fourth degree on the first offense and shall be guilty of a misdemeanor of the first degree for a second or subsequent violation of this Chapter or of any substantially similar Chapter of these Codified Ordinances.

A violation of this section, in addition to other penalties provided for in this Chapter, is deemed as trespass and shall be punishable as set forth in these Codified Ordinances.

SECTION 2. Existing Chapter 717 of the Codified Ordinances is hereby repealed, and any and all ordinances or parts thereof in conflict herewith are repealed to the extent of the conflict.

SECTION 3. This Ordinance shall take effect at the earliest date permitted by law.

PASSED this 14 day of MAY, 2020.



MAYOR

PRESIDENT PRO TEMPORE

ATTEST:



FISCAL OFFICER

