

1<sup>st</sup> reading 12-5-18  
2<sup>nd</sup> reading 12-12-18  
3<sup>rd</sup> reading 1-3-19  
Voted On 1-3-19  
Ayes: 5 Nays: 1  
PASSED  DEFEATED

**ORDINANCE NO. 2018-47**

**AN ORDINANCE  
AMENDING EXISTING CHAPTER 721, PEDDLERS, OF THE  
CODIFIED ORDINANCES OF ORANGE VILLAGE BY  
ENACTING A NEW CHAPTER 721, PEDDLERS AND  
CANVASSERS, AND REPEALING CERTAIN ORDINANCES.**

WHEREAS, existing Chapter 721, Peddlers, of the Codified Ordinances of Orange Village was enacted in 1950 and subsequently amended in 1965 and 1984; and

WHEREAS, the Police Department has received complaints regarding door-to-door solicitation activities; and

WHEREAS, the U.S. Supreme Court, in *Schneider v. State of New Jersey, Town of Irvington*, 308 U.S. 147 (1939), recognized the legitimate interests a municipality may have in regulating door-to-door solicitation, particularly when the solicitation of money is involved; and

WHEREAS, the U.S. Supreme Court, in *Martin v. Struthers*, 319 U.S. 141 (1943), recognized that crime prevention is a legitimate government interest and held that door-to-door activities pose a risk of crime; and

WHEREAS, the U.S. Supreme Court, in *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton*, 536 U.S. 150 (2002), acknowledged that the interest of fraud and crime prevention and protection of the privacy of residents are important, and a local government may seek to safeguard those interests; and

WHEREAS, in *Watchtower*, the U.S. Supreme Court also required a balance between these governmental interests and “the effect of the regulations on First Amendment rights;” and

WHEREAS, it is necessary to amend existing Chapter 721 to provide for door-to-door solicitation regulations that balance the Village’s interests in crime prevention and protection of the privacy of the occupant of a residence and the First Amendment rights of persons wishing to engage in door-to-door peddling and canvassing; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. That existing Chapter 721, Peddlers, be and the same hereby is amended by enacting new Chapter 721, Peddlers and Canvassers, which shall read and provide, in its entirety, as follows:

**“CHAPTER 721  
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 traveling from residence to residence within the City, 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 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. Any person engaging in such activities for a not-for-profit organization shall be deemed to be a Canvasser.

**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);
  - (2) Newspaper carriers seeking customers for a newspaper which he or she regularly delivers or intends to regularly deliver; and
  - (3) Canvassers.

Individuals who are not required to get a license 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 whether the Village is aware that such activity is occurring.

**721.04 APPLICATIONS FOR LICENSE.**

Each applicant for a Peddler's license shall furnish the Chief of Police with the following information on forms provided by the Village:

- (a) Name, age and physical description of applicant; Date of birth and social security number of applicant;
- (b) Complete permanent and local address of applicant;
- (c) 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;
- (d) A description of the nature of the business and the goods, services or wares to be sold or otherwise sufficient to identify the subject matter of the peddling in which the applicant shall engage;
- (e) The proposed dates and times of the peddling and the routes to be followed in conducting same;
- (f) 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
- (g) 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 501.01 of the Orange Village Codified Ordinances. Applicant shall state the time and place of such conviction(s).

A nonrefundable fee in the amount of thirty-five dollars (\$35.00) shall be submitted with each application provided for herein.

**721.05 ISSUANCE OF LICENSE; DURATION.**

The Chief of Police shall issue a license to the applicant unless it is determined:

- (a) The applicant has made a false, misleading or deceptive statement in providing the information required under Section 721.04;
- (b) The applicant has been convicted of a felony violation, a misdemeanor violation involving moral turpitude, or an "offense of violence" as defined by Section 501.01 of the Orange Village Codified Ordinances during the past five (5) years.

Such license shall be valid for a period not to exceed six (6) months.

**721.06 RESTRICTIONS.**

Every person who wishes to peddle or canvass in the Village shall be governed by the following rules and regulations:

- (a) No person shall peddle or canvass except between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday.
- (b) No person shall peddle or canvass on Sunday or on any legal holiday as defined in Ohio R.C. 1.14.
- (c) 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 the house or apartment.
- (d) No Peddler shall engage in or transact any type of business or solicitation other than that specified on the license application.

- (e) No license issued hereunder shall be assigned or transferred to any other person.
- (f) 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 from a motor vehicle.

#### **721.09 REVOCATION OF LICENSE.**

A license issued under this chapter shall be revoked by the Chief of Police for any of the following causes:

- (a) It is subsequently determined that the licensee provided false, misleading or deceptive information in completing the application form set forth in Section 721.04.
- (b) The licensee is convicted of a felony violation or misdemeanor violation involving moral turpitude or an offense of violence.
- (c) The licensee is convicted of a violation of any provision of this chapter.
- (d) 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.

Written notice shall be given to the licensee by personal service or by certified mail immediately upon such revocation.

#### **721.10 APPEAL PROCEDURE.**

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. 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. 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.

#### **721.11 RESIDENT PROHIBITION BY NOTICE.**

- (a) The Chief of Police shall establish a "Do Not Knock Registry" for Peddlers and Canvassers.
- (b) Any person in lawful possession and occupancy of any residence or dwelling unit in the Village may request that the Village place and maintain his or her residence on the Do Not Knock Registry by submitting a request on form(s) supplied by the Chief of Police, which shall contain the following information:
  - (1) The signature of the person completing the form(s);
  - (2) The complete address of the residence, house, apartment or other dwelling unit to be placed on the Registry;

- (3) The date the form was completed; and
  - (4) A statement that there are “no solicitors” or “no peddlers or canvassers” allowed to call at this address, or words of similar import.
- (c) Any person in lawful possession and occupancy of any residence in the Village may request that the Village remove his or her residence, house, apartment or other dwelling from the Do Not Knock Registry by submitting a “Notice of Removal” on form(s) supplied by the Chief of Police, which shall contain the following information:
- (1) The signature of the person completing the form(s);
  - (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, house, apartment or other dwelling be removed from the Registry for Peddlers and/or Canvasser.
- (d) The decision whether to place a residence on the “Do Not Knock Registry” shall be solely that of the lawful possessor and occupant thereof, and such decision must be communicated in writing to the Chief of Police, which writing may include electronic mail.
- (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 receives notice of removal pursuant to division (c) hereof; or
  - (2) January 1 of every odd numbered year, at which time the Village shall notify residents of the lapse of the Do Not Knock Registry via printed newsletter, or electronic means (e.g. email or text message), or other means reasonably likely to inform the recipient of the expiration of the Do Not Knock Registry.
- (f) 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 Chief of Police, or may be obtained via mail or email, and shall be given to every person who is issued a license pursuant to Section 721.05.
- (g) Notwithstanding any other provision of this chapter, no Peddler or Canvasser, while soliciting or canvassing, shall call upon, knock at the door or ring the doorbell of any residence, house, apartment or other dwelling in the Village which is at that time on the respective Do Not Knock Registry established and maintained pursuant to this chapter or upon which there is posted at the entrance a notice which reads “No Solicitors” or “No Peddlers or Canvassers Allowed,” or words of similar import, which clearly seeks prohibit uninvited parties from knocking on the door on which the notice is posted.

**721.99 PENALTY.**


Whoever violates any provision of this chapter is guilty of a minor misdemeanor for a first offense. Anyone convicted of a second or any subsequent violation of the same provision of this chapter shall be guilty of a misdemeanor of the fourth degree.”

**SECTION 2.** That existing Chapter 721, Peddlers, of the Codified Ordinances of Orange Village is hereby repealed, and any and all ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict.

SECTION 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Chapter 105 of the Codified Ordinances of Orange Village.

SECTION 4. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

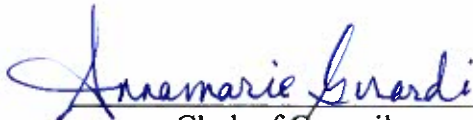
PASSED: 1-2, 2018/2019

  
\_\_\_\_\_  
Council President

Submitted to the Mayor for approval on this 2<sup>ND</sup> day of JANUARY 2018/2019

Approved by the Mayor this 2<sup>ND</sup> day of JANUARY, 2018/2019

ATTEST:

  
\_\_\_\_\_  
Clerk of Council

  
\_\_\_\_\_  
Mayor

**721.01 IDENTIFICATION CARD REQUIRED.**

No person shall enter upon the premises of any residence in the Municipality for the purpose of soliciting orders for or selling goods, wares, merchandise or services of any kind unless such person has first obtained an identification card as provided in Section 721.02.

**721.02 APPLICATION FOR IDENTIFICATION CARD; FEE AND TERM.**

(a) Whoever desires the issuance of the identification card required by Section 721.01, shall file with the Mayor a written application on a form to be provided by the Mayor, containing the following information:

- (1) The full name of the applicant;
- (2) The applicant's address;
- (3) The applicant's birthdate, height, weight and color of eyes and hair;
- (4) If the applicant uses a motor vehicle, the make, model, year and current registration number thereof;
- (5) The state of issuance of the applicant's driver's license and the number thereof;
- (6) The name and address of the applicant's employer;
- (7) A brief description of the goods, wares, merchandise or services involved; and
- (8) A statement as to whether or not the applicant has ever been convicted of a crime and, if so, the nature thereof and the penalties therefor.

(b) Concurrent with the filing of the application, the applicant shall pay a fee of five dollars (\$5.00) to compensate for the costs incident to the issuance of the card. Upon compliance with the foregoing, an identification card shall be issued without delay to the applicant and the card shall be valid for one year from the date of issuance.

**721.03 REVOCATION OF IDENTIFICATION CARD; APPEAL TO COUNCIL.**

(a) Should any subsequent investigation disclose that the applicant for a peddler's identification card has falsified any information required in an application which was the basis upon which an identification card was issued, the Mayor shall revoke the card without delay and notify the holder thereof, either in person or by certified mail, of such revocation.

(b) Any person whose card is revoked may, within ten days after receipt of the revocation notice, appeal to Council by filing with the Mayor a signed written statement briefly setting forth his or her grounds of appeal. The appellant shall be given notice of the time and place of hearing by certified mail and may appear before Council in person or by an attorney. The decision of Council on the appeal shall be final.

**721.04 PEDDLER'S LICENSE REQUIRED.**

No peddler, huckster or other itinerant person shall engage in the business of selling, bartering, or offering for sale or barter, any fruits, vegetables, provisions, wares or other goods or articles of any kind or engage in the solicitation of subscriptions for the purchase of any article in the Municipality, unless such person has first secured a license from the Mayor. No such license shall be issued for a period in excess of the remainder of the calendar year in which issued. Such license shall be issued only pursuant to a written application therefor in such form as shall be prescribed by the Mayor.

**721.05 APPLICATION FOR PEDDLER'S LICENSE.**

An application for a peddler's license shall contain the name of each person interested in such license; the residence and business addresses of the applicant; the type of articles or goods to be sold, together with the source of acquisition of such articles or goods; the period of time for which such license is requested; and such other information as may be required by the Mayor.

**721.06 DISPLAY OF PEDDLER'S LICENSE.**

A peddler's license shall at all times be prominently displayed upon any truck or other vehicle which may be used by the holder thereof and, in all other cases, the holder shall exhibit such license upon the demand of any person.

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**721.99 PENALTY.**

Whoever violates or fails to comply with any provision of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days or both for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 1984-38. Passed 12-12-84. )