

ORDINANCE NO. 2016- 03
INTRODUCED BY: MRS. LUTZ

AN ORDINANCE
AMENDING CHAPTER 711, "CANVASSERS, PEDDLERS
AND SOLICITORS," AND REPEALING SECTION 503.03,
"THROWING OR DISTRIBUTING COMMERCIAL OR
BUSINESS ADVERTISEMENTS," OF THE CODIFIED
ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS,
AND DECLARING AN EMERGENCY.

WHEREAS, existing Chapter 711, "Canvassers, Peddlers and Solicitors," of the Codified Ordinances of the Village of Chagrin Falls currently permits only non-profit and charitable organizations to engage in door-to-door solicitation in the Village; and

WHEREAS, the Village has received requests from private businesses to engage in door-to-door solicitation in the Village; 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 *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 interest and "the effect of the regulations on First Amendment rights;" and

WHEREAS, it is necessary to amend existing Chapter 711 to provide for door-to-door solicitation regulations that balance the Village's interests in crime prevention and protection of the occupants of a residence and the First Amendment rights of persons wishing to engage in door-to-door peddling and canvassing; and

WHEREAS, it is necessary to repeal existing Section 503.03 which was enacted in 1955 and does not comport with current law; 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 THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:

SECTION 1. That Chapter 711, Canvassers, Peddlers and Solicitors, of the Codified Ordinance of the Village of Chagrin Falls, be and is hereby amended to read in its entirety as follows:

**“CHAPTER 711
PEDDLERS AND CANVASSERS**

711.01 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.

711.02 DEFINITIONS.

As used in this chapter:

- (a) “Canvasser” means 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 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.

711.03 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 regarding whether the Village is aware that such activity is occurring.

711.04 APPLICATION 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 the applicant and provide a valid photographic identification card;
- (b) Date of birth of applicant;
- (c) Complete permanent and local address of applicant;
- (d) 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 for the past three (3) years;
- (e) 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;
- (f) The proposed dates and times of the peddling and the routes to be followed in conducting same;
- (g) 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 date and place of such denial or revocation; and
- (h) 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 Codified Ordinances of the Village of Chagrin Falls. The applicant shall state the date and place of such conviction(s).

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

711.05 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 711.04;
- (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 Codified Ordinances of the Village of Chagrin Falls during the past five (5) years.
- (c) Each applicant who is issued a license shall carry the license required by Chapter 711 and a photographic identification card at all times while peddling and shall, upon demand, exhibit the license and photographic identification

card to any official of the Village or any occupant of any residence or business establishment being contacted.

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

711.06 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 the later of sunset or 9 P.M.
- (b) No Peddler or Canvasser shall enter or attempt to enter the house, condominium unit, or apartment of any resident in the Village without an express invitation from the occupant of the house or apartment.
- (c) No Peddler shall engage in or transact any type of business or solicitation other than as specified on the license application.
- (d) No license issued hereunder shall be assigned or transferred to any other person.
- (e) 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 be conducted from a motor vehicle.
- (f) No person shall knock at the door or ring the doorbell of any residence, apartment, or other dwelling unit in the Village upon which is clearly displayed at the entrance a notice that reads "No Solicitors" or that otherwise clearly purports to prohibit peddlers, canvassers, vendors, solicitors, or persons requesting contributions, unless such person is or has been invited upon the premises by the occupant thereof.

711.07 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 711.04.
- (b) The licensee has been convicted of a felony violation or misdemeanor violation involving moral turpitude or an offense of violence.
- (c) The licensee has been 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.
- (e) Violates any of the provisions of this Chapter 711.

Written notice shall be given to the licensee by personal service or by certified mail to any of the addresses required to be provided by Section 711.04(c) immediately upon such revocation.

711.08 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 and the reason(s) for revocation shall be given to the applicant or licensee by personal service or by certified mail to any of the addresses required to be provided by Section 711.04(c). The applicant or licensee shall have ten (10) days after the receipt of such notice to appeal such refusal or revocation. Such appeals shall be perfected by filing a written 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 hearing. Failure of the applicant or licensee to receive the certified mail shall not affect the validity of the decision.

711.09 FALSIFICATION; MISREPRESENTATION.

No person required to obtain a license to peddle under this Chapter shall register a false or fictitious name or address or represent by word, or action that he or she is the employee, agent, partner or representative of any person, firm, corporation, association or organization, when in fact, he or she is not the employee, agent, partner or representation of such person, firm, corporation, association or organization.

711.99 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. Each day any violation continues shall constitute a separate offense."

SECTION 2. That existing Chapter 711 of the Codified Ordinances of the Village of Chagrin Falls, and any other ordinance in conflict herewith, be and the same is hereby repealed.

SECTION 3. That existing Section 503.03 of the Codified Ordinances of the Village of Chagrin Falls be and the same is hereby repealed.

SECTION 4. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.


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SECTION 5. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 6. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the Village and for the further reason that this Ordinance must be immediately effective so that the Village can administer and enforce the foregoing canvassing and peddling provisions at the earliest time possible; wherefore, provided it receives two-thirds (2/3) of the votes of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: January 25, 2016


Karl Maersch, Council President

Submitted to the Mayor for
his approval on this

26 day of January, 2016

Approved by the Mayor

January 26, 2016


Mayor William Tomko

I hereby certify that Ordinance No. 2016-03 was duly enacted on the 25 day of January, 2016, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.


Clerk of Council