

AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 840, CANVASSING AND DOOR-TO- DOOR SOLICITATION.

WHEREAS, the Police Chief and Public Safety and Health Committee recommended amending Codified Ordinance Chapter 840; and

WHEREAS, Council coming now to consider said recommendation approves it in full.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Codified Ordinance Section 840 is amended as follows:

840.01 DEFINITIONS.

As used in this chapter, unless a different meaning clearly appears from the context:

(a) Solicitor means any person traveling either by foot, automobile, truck, or any other type of conveyance from place to place, door to door or from street to street, taking or attempting to take orders for profit by the sale of goods, wares, and merchandise or personal property of any nature whatsoever for future delivery or for the services to be furnished or performed in the future;

~~(a) "Canvassing," "canvasser," "solicitation" and "solicitor" include any person who calls at residences or places of business without the invitation or previous consent of the owners or occupants of such premises for the purpose of any one or more of the following activities:~~

~~— (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever, for either present or future delivery;~~

~~— (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character;~~

~~— (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and any other type or kind of publication;~~

~~— (4) Seeking to obtain contributions or to sell any goods, articles or services of any kind for the support or benefit of any charitable, religious or nonprofit association, organization, corporation or project;~~

~~— (5) Seeking to obtain, from an occupant of any residence, an indication of such occupant's belief in regard to any social, political or religious matter;~~

~~— (6) Seeking to influence the personal belief of the occupant of any residence in regard to any social, political or religious matter; or~~

~~— (7) Taking a poll or census by any person, firm or corporation other than a governmental body or agency thereof.~~

~~(b) "Canvasser for charitable or religious purposes" means any person who calls at residences or places of business without the invitation or previous consent of the owners or occupants of such premises for the purpose of soliciting or receiving contributions or pledges for charitable or religious purposes, or to offer or attempt to sell, or request a donation for, any advertisement, advertising space, book, card, chance, coupon, device, magazine, merchandise, ticket, token, flag, souvenir, foodstuff, service or any other article or thing in connection with which any appeal is made for any charitable or religious purpose, or when or where, in connection with any such sale, donation or contribution, any statement is made that the whole or any part of the proceeds of any such sale will go to or be donated to any charitable or religious purpose.~~

(b) Canvasser means any person traveling either by foot, automobile, truck, or any other type of conveyance from place to place, door to door or from street to street who obtains or seeks to obtain or influences the opinions of the residents of the City, upon the private residences including any house, apartment, or other dwelling in the City, who also may or may not obtain or seek to obtain funds for any cause whatsoever;

(c) Peddler means any person traveling either by foot, automobile, truck, or any other type of conveyance from place to place, door to door or from street to street, 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 delivery.

~~(c) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veteran's, medical and social research, either actual or purported.~~

~~—(d) "Contribution" includes the words gift, food, clothing, money, property or donations of any kind, including those made under the guise of a loan of money or property.~~

~~(e) "Door-to-door salesperson in interstate commerce" means a person who travels from door-to-door calling on private residences or places of business in the City for the purpose of taking orders for future delivery of goods or services to be furnished, supplied or delivered from sources outside the State and which is not done in connection with any appeal for any charitable or religious purpose.~~

~~—(f) "Door-to-door salesperson in intrastate commerce" means a person who travels from door-to-door calling on private residences or places of business in the City for the purpose of taking orders for future delivery of goods or services to be furnished, supplied or delivered from sources within the State and which is not done in connection with any appeal for any charitable or religious purpose.~~

~~(g) "Peddler" means any person who sells or offers for sale and immediate delivery goods or merchandise or services of any kind or description other than from a fixed and established place of business, including those who sell from vehicles on the public streets or from goods carried from door-to-door.~~

(h) "Person" means any individual, firm, partnership, corporation, company, association, joint stock company, church, religious sect, religious denomination, society, organization or league, or any combination of them, and includes any trustee, member, receiver, assignee, agent or other representative thereof.

~~(i) "Religious" and "religion" do not include the word "charitable," but shall be given their commonly accepted definitions.~~

~~(j) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit that gathers in common membership for regular worship and religious observances.~~

~~(k) "Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any building or structure.~~

~~(Ord. 53-98. Passed 3-23-98.)~~

840.02 PERMIT AND REGISTRATION REQUIRED

(a) No peddler or solicitor shall peddle or solicit within the City unless he or she is registered pursuant to Section 840.03 and the holder of a valid permit issued pursuant to Section 840.04.

(b) Any canvasser is encouraged to notify the Division of Police before obtaining, seeking to obtain, or influencing the opinions of the residents of the City. Any canvasser is urged to provide the Division of Police in writing with his or her name and address, the name and address of the organization represented, and the dates, times, and particular locations where canvassing is to be performed. No fee shall be charged for the notification of any canvasser. Canvassers are required to comply with the hours of restrictions listed in Section 840.05. Canvassers are also required to comply with the restrictions listed in Section 840.10 related to the "Do Not Knock" Registry and residents posting notices prohibiting Soliciting, Canvassing, or Peddling.

840.063 INFORMATION REQUIRED FOR REGISTRATION.

Each applicant for a ~~certificate of registration~~ **permit** shall, within five days of application therefor, furnish the ~~Safety Director~~ **Chief of Police** or his or her authorized representative with the following information on forms provided by the City:

- (a) The name, age, Social Security number and physical description of the applicant;
- (b) A complete permanent and local address of the applicant along with the Social Security number or the tax identification number of the applicant's employer;
- (c) The name and address of the person, firm, corporation, or association for whom or which the ~~canvassing~~, soliciting, or peddling is presently being made and any other person, firm, corporation, or association for whom or which the applicant has solicited during the past three years;
- (d) A general description of the nature of the business and the goods, services, or wares to be sold, or a description that is otherwise sufficient to identify the subject matter of the ~~canvassing~~, soliciting, or peddling in which the applicant will engage;
- (e) The names of all other municipalities in which the applicant has conducted canvassing, soliciting or peddling activities during the past twelve months;
- (f) A statement as to whether the applicant has complied with the requirements of Ohio R.C. Chapter 1716 pertaining to charitable solicitations, if applicable;

- (g) A statement as to whether the applicant has ever had a permit revoked, including the time and place of such revocation;
- (h) A statement as to whether the applicant has ever been convicted of a felony violation or a misdemeanor violation involving moral turpitude, including the time and place of such conviction;
- (i) The proposed dates and times of the ~~canvassing~~, solicitation, or peddling;
- (j) The make, model, year, color, and license plate number of automobiles used by the applicant during the period of ~~canvassing~~, solicitation or peddling within the City, and the number of the applicant's driver's license and the state of issuance of such license;
- (k) Two photographs of the applicant of appropriate size (approximately two inches by two inches), one of which shall be attached at all times to the ~~certificate~~ **permit** and the other of which shall be for the records of the Police Department; and
- (l) The City Income Tax Form which shall be filled out and filed with the application.
- (m) A separate permit shall be required for each individual salesperson or peddler even though there may be a single employer.**
- (n) The Chief of Police may require an applicant to submit to an FBI fingerprint background check.**

(Ord. 53-98. Passed 3-23-98.)

840.074 ISSUANCE OF ~~REGISTRATION CERTIFICATE~~ **PERMIT; TRANSFERS; DURATION.**

(a) Issuance of ~~Certificate Permit~~. Not more than ten working days after completion of the application form provided for in Section 840.063, and upon payment of a fee of ~~thirty dollars (\$30.00)~~ **as follows:**

- A. For one day to one month: \$ 15.00**
- B. For one year: \$ 60.00**

except that no fee shall be required from those persons excluded herein or from a charitable, religious, or educational organization, as defined in Ohio R.C. 2915.01(H), (I) and (J), the ~~Safety Director~~ **Chief of Police** or his or her authorized representative shall, except as otherwise provided herein, issue a ~~certificate of registration~~ **permit** to each applicant, unless it is determined by the ~~Safety Director~~ **Chief of Police** or his or her authorized representative:

(1) That the applicant has misrepresented his or her identity or intention, or made a false, misleading, or deceptive statement in providing the information required under Section 840.063; or

(2) That the applicant has been convicted, during five years preceding the date of application, of a felony or of a misdemeanor involving moral turpitude or force or violence.

(b) ~~Transfers; Duration.~~ The ~~certificate of registration~~ **permit** issued hereunder shall not be transferred or assigned or used by any person other than the one to whom it is issued, ~~and it shall be valid for a period of six months.~~

(c) Any applicant who has applied for a permit in accordance with this chapter and to whom the Division of Police has, after an investigation, denied a license may appeal to the Director of Public Safety. Notice of such appeal shall be filed with the Director within 20 days

after the denial by the Division of Police. The Director, on appeal, may grant or reject the application for a permit.

(Ord. 53-98. Passed 3-23-98.)

840.045 SOLICITATIONS SOLICITING, CANVASSING, AND PEDDLING PERMITTED ONLY DURING CERTAIN HOURS AND PLACES.

(a) No person shall go upon any residential premises and ring the doorbell, or rap or knock on the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purpose of engaging in or attempting to engage in a ~~home solicitation transaction~~ **Soliciting, Canvassing, or Peddling** before 9:00 a.m. or after thirty minutes following sunset of any day, from October 1 through March 31 and before 9:00 a.m. or after 9:00 p.m. of any day, from April 1 through September 30.

(b) Subsection (a) hereof shall not apply to a visit to the premises as a result of a request or an appointment made by the occupant.

~~(c) A person shall not contact by telephone the occupant of a residence for the purpose of engaging in or attempting to engage in a home solicitation transaction before 9:00 a.m. or after 9:00 p.m. of any day, Monday through Saturday, or at any time on a Sunday or on any State or Federal holiday.~~

(d) In this section, "sunset" means the time of day provided by the Astronomical Applications Department of the U.S. Naval Observatory as the time for sunset on that day in the City.

(e) No person shall solicit or peddle on City property without a valid permit and the approval of the Public Works Director or their designee.

(f) No person shall solicit or peddle at a Recreation Department sponsored event without a valid permit and the approval of the Recreation Director or their designee.

(Ord. 53-98. Passed 3-23-98; Ord. 176-02. Passed 9-9-02; Ord. 29-2016. Passed 3-14-16.)

840.086 DISPLAY OF ~~REGISTRATION CERTIFICATE PERMIT; RETURN;~~ EXCEPTIONS.

Each registrant shall prominently display on his or her person the ~~registration certificate~~ **permit** at all times when in the City and shall exhibit it to any resident or Municipal official upon request. ~~At the conclusion of the period for which the registration certificate was issued, the registration certificate shall be returned to the Safety Director or his or her designee.~~

The provisions of this section shall not apply to solicitations conducted only among the members of the entity conducting the canvassing or to solicitations in the form of collections or contributions at the regular assemblies, meetings, or services of any established charitable or religious organization.

(Ord. 53-98. Passed 3-23-98.)

840.097 REVOCATION OF CERTIFICATES PERMITS.

~~A certificate of registration~~ **permit** issued under this chapter shall be revoked by the ~~Safety Director~~ **Director of Public Safety** or his or her designee for any of the following causes:

(a) It is subsequently determined that the registrant provided false, misleading, or deceptive information in completing the application set forth in Section 840.063, or has violated any of the provisions of this chapter;

(b) The registrant is convicted of a felony violation or a misdemeanor violation involving moral turpitude; or

(c) The registrant is convicted of a violation of any provision of this chapter.

Written notice shall be given to the registrant in person or by certified mail immediately upon such revocation.

(Ord. 53-98. Passed 3-23-98.)

840.028 NOTICE PROHIBITING ~~CANVASSING OR SOLICITATION~~ SOLICITING, CANVASSING, AND PEDDLING.

The owners or occupants of any residence or place of business may indicate a determination to refuse to receive any uninvited canvassers or solicitors by displaying a card, decal or sign not less than two inches by three inches in size, upon or near the main entrance door to the residence or place of business, containing the words "No Soliciting," "No Canvassing", "**No Peddling**" or words to that effect with the letters at least one-third of an inch in height. Any such sign which complies with the requirements of this section shall be exempt from any additional or different requirements contained in Chapter ~~1262~~ **1236** of the Planning and Zoning Code.

(Ord. 53-98. Passed 3-23-98; Ord. 11-2019. Passed 2-11-19.)

840.02109 "DO NOT KNOCK" REGISTRY.

(a) The Director of Public Safety shall establish and maintain a "Do Not Knock" Registry (in this chapter, the "Registry").

(b) Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling in the City may require the City to place and maintain his or her residence, house, apartment, or other dwelling on the Registry by submitting a request to be placed thereon on a form supplied by the Director of Public Safety. This form shall be made available at City Hall, the Police Department and on the City's website. The completed form must be turned in at City Hall and must contain the following information:

(1) The name of the person completing the form;

(2) The complete address of the residence, house, apartment, or other dwelling to be placed on the Registry;

(3) The date the form was completed;

(4) A statement that no ~~canvasser~~ **solicitor or peddler** shall knock, ring the doorbell, or otherwise call at this address, or words of similar import; and

(5) Such information that verifies the identity of the person completing the form as a lawful possessor and occupant as may be required by the Director of Public Safety.

(c) Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling in the City may require the City to remove his or her residence, house, apartment, or other dwelling from the Registry by submitting a separate "Notice of Removal"

on a form supplied by the Director of Public Safety. This form shall be made available at City Hall, the Police Department and on the City's website. The completed form must be turned in at City Hall and must contain the following information:

- (1) The name 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;
 - (4) A statement that the residence, home, apartment, or other dwelling be removed from the Registry, or words of similar import; and
 - (5) Such information that verifies the identity of the person completing the form as a lawful possessor and occupant as may be required by the Director of Public Safety.
- (d) A residence, house, apartment, or other dwelling, after being lawfully placed on the Registry shall remain on the Registry until the earliest of any of the following:
- (1) The City receives a Notice of Removal pursuant to division (c) above; or
 - (2) The City receives notice that the person who submitted the form pursuant to division (b) above is not or is no longer a lawful possessor or occupant of the premises.
- (e) The Director of Public Safety or his or her designee shall update the Registry on a ~~monthly~~ weekly basis.
- (f) A copy of the Registry shall be made available for public inspection at all times on the internet website of the City and at the Police Department.

(Ord. 11-2019. Passed 2-11-19.)

~~840.0310 CANVASSING OR SOLICITATION~~ **SOLICITING, CANVASSING, OR PEDDLING IN VIOLATION OF NOTICE OR DO NOT KNOCK REGISTRATION REGISTRY.**

(a) No person shall **act as a Solicitor, Canvasser, or Peddler, as defined in Section 840.01,** and go upon any premises and ring the doorbell upon or near any door, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of any occupant of such premises for the purpose of securing an audience with the occupant thereof ~~and engage in canvassing, as defined in Section 840.01,~~ if there is displayed at the premises a notice in accordance with the provisions of Section 840.028.

(b) No ~~Solicitor, Canvasser, or Peddler~~ ~~canvasser, other than a canvasser for charitable or religious purposes or a canvasser engaging in political activity,~~ shall go upon any premises and ring the doorbell upon or near any door, or rap or knock upon any door, create any sound in any other manner calculated to attract the attention of any occupant of such premises, or otherwise enter upon the premises to engage in canvassing if the address of the premises is registered on the City's Registry pursuant to Section 840.02109.

(c) Whoever violates this section is guilty of trespass **in violation of Section 642.12.**

(Ord. 53-98. Passed 3-23-98; Ord. 11-2019. Passed 2-11-19.)

~~840.05 CANVASSING FOR CHARITABLE OR RELIGIOUS PURPOSES; INTERSTATE/INTRASTATE COMMERCE; REGISTRATION REQUIRED.~~

~~—(a) No person shall act as a canvasser for charitable or religious purposes or as a door-to-door salesperson in interstate/intrastate commerce in the City without first having registered as such with the Safety Director or his or her designated representative. The Safety Director or his or her designated representative shall issue a registration certificate to each applicant and such certificate shall be prominently displayed on the person of the registrant at all times when engaged in such canvassing, solicitation or sales and shall be shown, on request, to any police officer or any person from whom a request for contribution or offer to sell is made. Each canvasser or solicitor shall provide a receipt indicating tax exempt status under Section 501 of the Federal Internal Revenue Code if requested to do so by the person making a contribution or purchase. Such receipt shall show the name of the organization, the amount of the contribution and the date, and shall be signed by the canvasser or solicitor.~~

~~—(b) In reference to Section 840.01(a), no registration is required for divisions (a)(5), (a)(6) or (a)(7).~~

~~(Ord. 53-98. Passed 3-23-98; Ord. 176-02. Passed 9-9-02.)~~

~~840.10 DOOR TO DOOR SALES IN INTERSTATE/INTRASTATE COMMERCE; PEDDLERS; LICENSE REQUIRED; APPLICATION.~~

~~—(a) License Required; Fee.~~

~~—(1) No person shall act as a door-to-door salesperson in interstate/intrastate commerce in the City, calling at residences or places of business without the invitation or previous consent of the owners or occupants thereof, without first having secured from the Safety Director or his or her designated representative a license therefor. The fee for such license shall be as follows:~~

~~—A. For one day: \$ 5.00~~

~~—B. For one week: 10.00~~

~~—C. For one year: 60.00~~

~~—(2) No peddler shall sell or offer for sale in the City any goods, merchandise, or services without first having secured from the Safety Director or his or her designated representative a license therefor. The fee for such license shall be as follows:~~

~~—Fee~~

~~—Nature of Operation Week Month Year~~

~~—Truck or other street vehicle \$10.00 \$15.00 \$60.00~~

~~—Pushcart 5.00 15.00 60.00~~

~~—Carried door to door 5.00 15.00 60.00~~

~~—(3) All fees collected shall be paid into the General Revenue Fund.~~

~~—(b) License Application; Contents. An application for a license for a door-to-door salesperson in interstate/intrastate commerce or for a peddler shall be made upon a form provided by the Safety Director or his or her designated representative. Each application shall contain, among other information, the name, address and telephone number of the applicant; the name, address and telephone number of his or her employer, if any; the nature of the goods or services for which he or she will take orders or which will be offered for sale; the proposed method of operation in the City; and such other information as the Safety Director may require. A separate license shall be required for each individual salesperson or peddler even~~

~~though there may be a single employer. No person who has been convicted of a misdemeanor involving moral turpitude or of a felony shall be issued a license as a door-to-door salesperson in interstate/intrastate commerce or as a peddler. Each applicant shall submit to fingerprinting for identification purposes.~~

~~(Ord. 53-98. Passed 3-23-98.)~~

~~840.11 PEDDLERS OF FROZEN DESSERTS.~~

~~—(a) License Required.~~

~~—(1) A special peddler's license shall be required of all persons who wish to engage in the sale of various ice creams, custards, frozen sherbets or other frozen desserts from pushcarts, wagons or other vehicles.~~

~~—(2) Such license shall be issued to no person under the age of eighteen years, and a condition precedent to the issuance of such a license shall be a duly authenticated birth certificate. The applicant shall also obtain, at his or her own expense, a certificate of health from a physician.~~

~~—(b) Application; Investigation. An application shall be secured from the Safety Director or his or her designated representative, and after the requirements of subsection (a) hereof have been complied with, the application shall be submitted to the Police Department which shall investigate the same for the purpose of determining the criminal record of any applicant, as far as the Department can ascertain such record.~~

~~—(c) Photograph for License. After certification by the Police Department, the applicant shall return the application to the Safety Director or his or her designated representative together with a photograph of himself or herself, which photograph shall be affixed to the license by the Safety Director or his or her designated representative.~~

~~—The license shall contain a description of the peddler, showing his or her height, age, weight, color of eyes, and color of hair.~~

~~—(d) License Expiration; Transfer; Fee. A special peddler's license shall not be transferable to any other person. The license shall expire on the last day of each calendar year. The license fee shall be sixty dollars (\$60.00) per year.~~

~~—(e) Place of Sales to Children. No sales of merchandise shall be made to children within the area of the public streets or roadways. Sales may be made only within the tree lawn or sidewalk area.~~

~~(Ord. 53-98. Passed 3-23-98.)~~

840.99 PENALTY.

Whoever violates any of the provisions 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 occurs or continues.

(Ord. 53-98. Passed 3-23-98.)

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance shall be in full force and effect from and after the earliest period allowed by law.

1st reading: 11/14/2022

2nd reading: 11/28/2022

3rd reading:

PASSED: 12/12/2022

/s/ Martin E. O'Donnell

President of Council

POSTED: 12/16/2022

APPROVED: 12/13/2022

ATTEST: /s/ Valerie E. Rosmarin

Clerk of Council

/s/ Gregory J. Zilka

Mayor