

ORDINANCE NO. 2022-32

INTRODUCED BY: COUNCILPERSON JUSTIN GOULD

**AN ORDINANCE ENACTING CODIFIED ORDINANCE
CHAPTER 812 ENTITLED "PEDDLERS AND SOLICITORS" AND
DECLARING AN EMERGENCY**

WHEREAS, for the health safety and welfare of residents and those selling goods or services in the City, the City wishes to regulate in person solicitation or peddling;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
OF UNIVERSITY HEIGHTS, OHIO THAT:**

Section 1. Council hereby enacts Codified Ordinance Chapter 812 entitled "Peddlers and Solicitors," to read in its entirety to read as set forth in Exhibit A hereto, a copy of which is attached and which is incorporated herein by reference as if fully rewritten. A complete copy of Exhibit A is also on file with the Clerk of Council.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. The Clerk of Council is hereby directed to provide a certified copy of this ordinance to the Northeast Ohio Public Energy Council ("NOPEC").

Section 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this resolution is required to be immediately effective so that residents may take advantage of NOPEC's Block the Knock Registry and thereby avoid certain nuisances; wherefore, this ordinance shall be in full force and effect from and immediately after its adoption and approval by the Mayor.

CITY OF UNIVERSITY HEIGHTS, OHIO


MICHAEL DYLAN BRENNAN, MAYOR

FIRST READING: 09/07/2022

PASSED: 09/07/2022

ATTEST:



KELLY M. THOMAS, CLERK OF COUNCIL

APPROVED AS TO FORM:

Luke F. McConville /c/

LUKE F. MCCONVILLE, LAW DIRECTOR

EXHIBIT A

PEDDLERS/SOLICITORS

CHAPTER 812 PEDDLERS AND SOLICITORS

Section

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§ 812.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) “Peddling” means any person who travels door to door either by foot, automobile, truck or any other type of conveyance and calls upon private residences, including any house, apartment or other dwelling within the City, taking or attempting to take orders for profit for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery or for services to be furnished in the future.

(b) “Soliciting” means any person seeking to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck or any type of conveyance and calling upon private residences including any house, apartment, or any other dwelling within the City. The solicitation by a minor on behalf of a youth organization, local school district or private school fundraising drives and charitable begging shall not be included in this definition. Soliciting also means a person seeking to engage in negotiations for the acquisition or divestiture of mineral rights and or negotiating lease agreements or other business arrangements for exploring for and/or developing minerals.

(c) “Canvassing” means any person who calls at a private residence without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of any one or more of the following activities:

- (1) Seeking to obtain from the occupant of any residence an indication of such occupant’s belief in regard to any social, political, religious or similar matter; or
- (2) Seeking to influence the personal belief of the occupant of any residence in regard to any social, political, religious or similar matter; or
- (3) Taking a poll or census of any person, firm or corporation other than a governmental body or agency thereof.

§ 812.02 REGISTRATION REQUIRED.

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

(b) A separate permit or registration must be made for every peddler, solicitor, agent or employee peddling or soliciting within the City.

(c) No permit or registration shall be required for any canvassing or canvasser.

§ 812.03 APPLICATION FOR PERMIT/REGISTRATION REQUIREMENTS.

(a) Each applicant for a permit shall, not less than five nor more than fifteen days prior to the commencement of peddling or solicitation, furnish the Police Chief or his designee with the following information on forms provided by the City.

- (1) Name, age and physical description of applicant.
- (2) Complete permanent and local address of applicant.
- (3) Name and address of the person, firm, corporation or association for whom the peddling or solicitation is presently being made and any other person, firm, corporation or association for whom the applicant has peddled or solicited during the past three years.
- (4) 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 or soliciting in which the applicant will engage.
- (5) The names of all other municipalities in which the applicant has conducted peddling or soliciting activities during the past six months.
- (6) Whether the applicant has complied with the requirements of R.C. Chapter 1716 pertaining to charitable solicitations if applicable.
- (7) Whether the applicant has ever been denied a license or had a permit revoked, including the time and place of such denial or revocation.
- (8) 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.
- (9) The proposed dates and times of the peddling or solicitation and the routes to be followed in conducting the same.
- (10) The make, model, year, color and license plate number of automobiles used by the applicant during the period of peddling or solicitation within the City, and the number of applicant's driver's license and State of issuance.
- (11) Such application shall be accompanied by a fee in the amount of \$90.00. Any person, group of persons or organizations acting on behalf of a tax exempt organization as defined by Section 501 of the Internal Revenue Code shall be exempt from such application fee.

(b) Upon receipt of registration and application for permit, the Police Chief or designee shall immediately perform the following functions.

- (1) Conduct a local background check
- (2) Take fingerprints of the applicant.
- (3) Perform a background WebCheck through the State of Ohio. The State of Ohio may take up to thirty (30) days to process the WebCheck before mailing results to the City.

§ 812.04 ISSUANCE OF PERMIT; DURATION

Not more than five days after receipt of the WebCheck results from the State of Ohio as required in Section 812.03 hereof, the Police Chief or designee shall issue a permit or registration to the applicant unless the Police Chief or designee has determined:

- (a) That the applicant has made a false, misleading or deceptive statement in providing the information required under Section 812.03.
- (b) That the applicant had been convicted of a felony violation, or misdemeanor violation involving moral turpitude, during the past five years.

(c) That the applicant has had a permit revoked within the previous year for violations of soliciting regulations in the City or any other municipality in Cuyahoga County or any adjacent county.

(d) That the WebCheck reveals any violation of the terms of this ordinance, including any false statement made on the registration or application, any felony conviction, any conviction for a misdemeanor involving moral turpitude, or any violation of the ordinances of another community made during peddling or soliciting activities.

Such permit shall be valid for a period of ninety (90) days. No permit issued hereunder shall be assigned or transferred to any other person.

§ 812.05 DISPLAY OF PERMIT OR REGISTRATION; RETURN

Each peddler or solicitor shall carry in plain view the permit, the front of which shall be fully displayed, at all times when in the city for the purposes set forth in the permit or registration. They shall provide to any resident or municipal officer and/or employee the permit upon entering the property of any resident. At the conclusion of the period of time for which the permit or registration was issued, the permit and/or registration shall be returned to the Police Chief or designee.

§ 812.06 RESTRICTIONS

Every peddler or solicitor to whom a permit is issued under the terms of this chapter shall be governed by the following rules and regulations:

(a) All circulars, samples, or other matter shall be handed to an occupant of the property or left in a secure place of the premises.

(b) No person subject to the provisions of this chapter shall peddle or solicit except between the reasonable business hours of 10:00 AM and 7:00 PM, Monday through Friday. In addition, no person shall peddle or solicit on any legal holiday.

(c) No peddler or solicitor shall enter or attempt to enter the house or apartment of any resident in the City without an expressed invitation from the occupant of the house or apartment.

(d) No person subject to the terms of this chapter shall make any false, fraudulent, misleading or deceptive statement during the course of that person's peddling or soliciting activity within the City.

(e) No peddler or solicitor shall engage in or transact any type of business or solicitation other than that specified on the registration application.

§ 812.07 TRESPASSING IN VIOLATION OF POSTED SIGNS.

No person, while engaged in any profit or nonprofit peddling or soliciting shall knock at the door or ring the bell of any home, apartment, apartment building or other dwelling unit in the City upon which is displayed at the entrance a notice which reads "No Peddlers or Solicitors Allowed," or which otherwise clearly purports to prohibit peddlers or solicitors on the premises, unless such peddler or solicitor is, or has been invited upon the premises by the owner, lessee or occupant thereof.

§ 812.08 REVOCATION OF PERMIT OR REGISTRATION

The Police Chief or designee, for any of the following reasons, may revoke a permit or registration under this chapter.

(a) It is subsequently determined that the applicant provided false, misleading or deceptive information in completing the application form set forth in Section 812.03.

(b) The applicant has been convicted of a felony violation or misdemeanor violation involving moral turpitude.

(c) The City's background web-check of the applicant reveals any violation of the terms of this ordinance, including any false statement made on the registration or application, any felony conviction, any conviction for a misdemeanor involving moral turpitude, or any violation of the ordinances of another community made during peddling or soliciting activities.

(d) The applicant is found to be in 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.

§ 812.09 DO NOT KNOCK REGISTRY

Notwithstanding any other provision of this Chapter, it shall be unlawful for any solicitor or peddler to enter any property or premises and knock at the door or ring the doorbell of any residence, house, apartment or other dwelling in the City that appears on the “Do Not Knock Registry” or upon which there is posted at the entrance a notice which reads “No Solicitors,” a “Do Not Knock” sticker or words of similar import, which clearly prohibit peddlers or solicitors on the premises, unless such peddler or solicitor has previously been invited upon the premises by the owner, lessee or an adult occupant thereof.

- (a) If requested by the City, and for as long as the Northeast Ohio Public Energy Council (“NOPEC”) shall agree to do so, NOPEC shall establish and maintain for the City 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 City or the individuals.
- (b) 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.
- (c) Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling in the City 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 City, or by submitting a request online to www.blocktheknock.com, which shall contain the following information:
 - (i) The name and signature of the person completing the form(s), unless the submission is done electronically;
 - (ii) The complete address of the residence, house, apartment or other dwelling to be placed on the Do Not Knock Registry;
 - (i) A valid email address of the person completing the form(s);
 - (ii) The date the form was completed; and
 - (iii) A statement that “No Solicitors or Peddlers” shall call at this address or words of similar import.
- (d) 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:
 - (i) The City or NOPEC receives notice of removal pursuant to subsection (e) hereof; or
 - (ii) The City 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.
- (e) Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling may request the City 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:
 - (i) The name and signature of the person completing the form;
 - (ii) The complete address of the residence, house, apartment or other dwelling to be removed from the registry;
 - (iii) The date the form was completed; and
 - (i) A statement that the residence be removed from 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 designee of the City and shall be given to every person who applies for a permit pursuant to Codified Ordinance Section 812.02 or registers as a solicitor or peddler pursuant to that section.

§ 812.10 MISCELLANEOUS.

(a) No person shall directly or indirectly make or perpetrate any misstatement, deception or fraud in connection with any solicitation or peddling for any purpose in the City or in any application or report filed under this chapter.

(b) No person having entered into an agreement to conduct any peddling or solicitation on behalf of any person or organization shall fail to remit or pay to the party entitled thereto the proceeds of such peddling or solicitation in accordance with the terms of the agreement.

(c) The City may revoke at any time any permit or registration certificate issued under the provisions of this chapter for violation of any provision of this chapter or any violation of the Ohio Home Solicitation Sales Act, codified at R.C. Section 1245.21 et seq., or the Ohio Consumer Sales Practice Act, codified at R.C. Section 1345.01 et seq.

(d) Any person who has applied for a permit or registered in accordance with this chapter and to whom the City has, after an investigation, denied a permit may appeal to Council. Notice of such appeal shall be filed with the Clerk within five days after the denial by the City. Such appeal shall be heard by Council at the next regular meeting and its decision shall be final.

§ 812.99 PENALTIES.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the second degree and shall be subject to the penalties set forth in Section 698.02 of the Codified Ordinances.