

ORDINANCE \_\_\_\_\_

AN ORDINANCE TO REPEAL CHAPTER 713, ENTITLED PEDDLERS AND SOLICITORS, OF THE CODIFIED ORDINANCES OF THE CITY OF MARYSVILLE, OHIO AND ADOPTING NEW CHAPTER 713 REGARDING REGULATION OF PEDDLERS, SOLICITORS AND CANVASSERS

WHEREAS, the City desires to regulate peddlers, solicitors and canvassers allowable by law to protect the health, safety & welfare of the Marysville residents, and

WHEREAS, the current regulations and restrictions in place, pursuant to Chapter 713, are ineffective in protecting the health, safety and welfare of the citizens of Marysville, and

WHEREAS, due to recent case law which has placed limitations on the manner in which municipalities may regulate door-to-door peddlers, solicitors and canvassers, it is necessary to repeal our current Chapter 713, entitled Peddlers and Solicitors, and to replace it with the following legislation, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARYSVILLE, OHIO,  
That:

SECTION I. Chapter 713 of the Codified Ordinances of the City of Marysville, Ohio as it currently reads is hereby repealed.

SECTION II. Chapter 713 is hereby adopted to read as follows:

Chapter 713 Peddlers, Solicitors and Canvassers

713.01	Definitions
713.02	License required
713.03	Exceptions
713.04	License Application and Requirements
713.05	Appeals
713.06	Carrying and Exhibiting License; Non-Transferability; Written Receipt Required.
713.07	Business Hours Restricted
713.08	Notice Prohibiting Peddlers, <del>or</del> Solicitors <b>or Canvassers</b>
713.09	Fraud Prohibited; Revocation of License
713.10	Severability Clause
713.99	Penalty

713.01 DEFINITIONS.

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

CANVASSER. Any person who seeks to disseminate any lawful message by means of traveling from place to place without soliciting funds or donations.

CHARITABLE. Includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veteran's medical and social research, either actual or purported.

PEDDLER. Any person who carries with him or her for the purpose of sale at retail and immediate or future delivery, goods, wares, food or merchandise, or any person who in person as principal or agent canvasses, sells or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food, or merchandise, or services.

RELIGIOUS or RELIGION. Shall not include the word charitable, but shall be given their commonly accepted definitions.

SOLICITOR. Any person who obtains or seeks to obtain funds for any cause whatsoever by means of canvassing from place to place.

713.02 LICENSE REQUIRED.

Subject to the exceptions in Section 713.03, all persons who systematically go to residences, or randomly select residence(s), for the purpose of peddling or soliciting, shall first obtain a license from the Police Chief, or his or her designee, prior to proceeding with such activity.

~~Subject to the exceptions in Section 713.03, all persons acting for or hired by another as a peddler or solicitor in the City shall first obtain a license from the Police Chief, or his or her designee, prior to proceeding with such activity.~~

713.03 EXCEPTIONS.

The License, required by Section 713.02, shall not apply to:

(A) The local delivery of newspapers and solicitation of subscriptions for the same, or

~~(B) The sale of services or products exclusively to commercial or industrial enterprises located within the boundaries of the City; or~~

(B) Those acting as a canvasser, as defined in Section 713.01, in order to disseminate ideas, thoughts, or messages regarding any cause, issue, religion, or

political candidate as long as such canvassing does not include the violation of any local, state, or federal law; or

(C) Any individual who, without compensation, acts as a peddler or solicitor on behalf of and for any recognized religious or charitable not-for-profit organization.

#### 713.04 LICENSE APPLICATION AND REQUIREMENTS.

Applications for licenses for peddlers and solicitors shall be filed with the Police Chief, or his or her designee, on a form to be furnished by the Police Chief or his or her designee, which shall require, at least, the following information:

The name of the applicant;

A physical description of the applicant;

The applicant's social security number;

The federal identification number of the applicant's entity or organization if the applicant is peddling or soliciting on behalf of an entity or organization;

The name and address of the person by whom the applicant is employed or for whom he is soliciting, if any, and the length of the applicant's service with such employer or person;

The nature and character of the goods to be sold or services to be furnished by the applicant.

The names and dates of other municipalities in which the applicant has within the last three years conducted peddling or soliciting activities; and

Each individual shall furnish a valid government issued identification which includes a photograph of himself or herself.

Each individual shall allow the Police Chief or his designee to secure his or her fingerprints.

Applications shall be made at least five business days before the license is issued to allow time to complete a background check completed by the Police Chief, or his or her designee.

If the Police Chief, or his or her designee, determines after investigation that the information furnished under this Section is correct; that the applicant proposes to engage in lawful commercial or professional enterprise and that neither the applicant nor the enterprise upon which the applicant proposes to engage constitutes a clear and present danger to the residents of the City, he shall issue a license to the applicant.

~~All persons shall pay a license fee of \$75.00.~~ **Any person 18 years of age and above shall pay a license fee of \$75.00. The fee shall be waived for all individuals under 18 years of age.** All annual licenses issued under the provisions of this Chapter shall expire twelve (12) months after issued. Other licenses shall expire on the date specified in the license.

~~No license shall be required for any person who acts as a canvasser if no donations or any other type of contributions are sought by the canvasser.~~

#### 713.05 APPEALS.

Any person who has applied for a license in accordance with this Chapter and to whom the Police Chief or his or her designee has, after an investigation, denied a license may in writing, and within thirty days appeal the decision to the City's Board of Zoning Appeals. Such appeal shall be placed on the agenda of the Board's next regularly scheduled meeting **in accordance with the Rules of Procedure of the Board of Zoning Appeals.** The Board shall make a final decision on the appeal within five days of the hearing, unless both the Board and applicant agree to an extension.

#### 713.06 CARRYING AND EXHIBITING LICENSE; NON-TRANSFERABILITY; WRITTEN RECEIPT REQUIRED.

The license issued under this Chapter shall at all times be conspicuously attached and exhibited on the outer clothing of the peddler or solicitor;

License issued under the provisions of this Chapter are non-transferable and shall not be used by any person other than the person identified on the license.

Upon request, all solicitors or peddlers shall provide a dated ~~written receipt showing the name of the peddler or solicitor, the amount of the contribution or purchase and the date.~~ **validating proof of the purchase of the peddler's or solicitor's license.**

Upon request, all persons acting as peddlers or solicitors on behalf of any recognized religious or charitable not-for-profit organization shall provide a statement attesting to the organization's exempt status under Section 501 of the Federal Internal Revenue Code.

#### 713.07 BUSINESS HOURS RESTRICTED.

No person shall peddle, solicit, **canvass** or conduct market research, ~~door to door,~~ at dwelling houses or **private residences** ~~businesses at random, on sidewalks or streets, at public places, at private meeting places or in any other manner or place~~ in the City between 8 p.m. and ~~9~~ **8** a.m. or on any holiday. Holiday shall have the same meaning as defined in Section 1.14 of the Ohio Revised Code.

713.08 NOTICE PROHIBITING PEDDLERS, ~~OR~~ SOLICITORS OR  
CANVASSERS.

The owners or occupants of any residence or place of business may evidence a determination to refuse to receive any uninvited peddlers, solicitors or canvassers by conspicuously displaying a weatherproof card, decal or sign upon or near the main entrance door to the residence or place of business, containing the words "No Soliciting".

No person shall go upon any premises as a canvasser, solicitor or peddler to ~~disseminate written material and/or to~~ ring the door bell, rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of any occupant of such residence or place of business for the purpose of securing an audience with the occupants thereof and engage in peddling, canvassing, or solicitation in defiance of a notice displayed pursuant to this Section.

713.09 FRAUD PROHIBITED; REVOCATION OF LICENSE.

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.

The Police Chief, or his or her designee, may revoke at any time any license issued under this Chapter for violation of any provision of this Chapter.

713.10 SEVERABILITY CLAUSE.

If any particular portion of this Chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that particular portion declared invalid. The declaration of invalidity shall not affect or impair the remainder of this Chapter, and to his end, the provisions are severable.

713.99 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 any substantially similar Chapter of these Codified Ordinances. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

A violation of Section 713.08, in addition to other penalties provided for in this Chapter, is deemed to be a criminal trespass and shall be punishable as set forth in Section 541.05 of these Codified Ordinances.

1<sup>st</sup> Reading \_\_\_\_\_

2<sup>nd</sup> Reading \_\_\_\_\_

3<sup>rd</sup> Reading \_\_\_\_\_

Passed \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
CLERK OF COUNCIL

APPROVED AS TO FORM

\_\_\_\_\_  
Law Director    Date \_\_\_\_\_

PRESENTED TO MAYOR \_\_\_\_\_

APPROVED BY MAYOR \_\_\_\_\_

\_\_\_\_\_  
CHRISTIANE W. SCHMENK, MAYOR