

ORDINANCE NO. 2015-29

AN ORDINANCE REPEALING CHAPTER 854 OF THE BUSINESS REGULATION CODE OF THE CODIFIED ORDINANCES AND AMEND CHAPTER 854 OF THE BUSINESS REGULATION CODE TO UPDATE THE REGULATIONS AND LICENSING OF SOLICITORS AND PEDDLERS.

WHEREAS, the Sixth Circuit Court of appeals decided the case of *Ohio Citizen Action v. City of Englewood*, 671 F.3d 564 in 2012, that established curfew provisions and licensing requirements that were found unconstitutional in violation of the First Amendment; and

WHEREAS, previously, the United States Supreme Court issued an opinion in the case of *Watchtower Bible and Tract Society of New York, Inc. et al. v Stratton et al.*, 2002 WL 1305851, that places limitations upon the manner in which municipalities may regulate door-to-door canvassers; and

WHEREAS, the Codified Ordinances of the City of Monroe contains a chapter regulating peddlers and solicitors; and

WHEREAS, as the result of these cases, chapter 854 of the Business Regulation Code of the Codified Ordinances must be revised; and

WHEREAS, this revision must be enacted immediately in order to comply with the United States Supreme Court and the Court of Appeals rulings.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: Chapter 854 of the Business Regulation Code of the Codified Ordinances is hereby repealed in its entirety.

SECTION 2: Chapter 854 of the Business Regulation Code of the Codified Ordinances is hereby amended to read as follows:

“854.01 PURPOSE

This Chapter is intended to protect against criminal activity, including fraud and burglary, to minimize the unwelcomed disturbance of citizens and the disruption of privacy and to otherwise preserve the public health, safety and welfare by regulating and licensing solicitors and peddlers. The regulations contained in this Chapter are not intended to regulate speech by any person, but merely regulate the activities of those individuals engaged in the act of soliciting and/or peddling. Accordingly, it shall be unlawful for any person to engage in peddling and solicitation as set forth herein without first obtaining a valid license from the City of Monroe.

854.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply:

- (a) "Canvasser." Any person who travels from place to place by foot, motor vehicle, or other conveyance for the purpose of disseminating religious, political, social, or other ideological beliefs and who does not request funds for any commercial purpose or offers goods, wares, food, merchandise, or services for sale.
- (b) "Canvas" or "Canvassing." Travelling from place to place by foot, motor vehicle, or other

conveyance for the purpose disseminating religious, political, social, or other ideological beliefs without requesting funds for a commercial purpose or offering goods, wares, food, merchandise, or services for sale.

- (c) "Charitable." Includes the terms patriotic, philanthropic, social service, welfare, religious, benevolent, educational, civic, cultural, fraternal, veteran's medical and/or social research, either actual or purported, or as otherwise defined under Section 501(C)(3) of the Federal Internal Revenue Code.
- (d) "Charitable organization." Any patriotic, philanthropic, social service, welfare, religious, benevolent, educational, civic, cultural, fraternal, veteran's medical and/or social research organization or any recognized not-for-profit organization that has been issued a Ruling or Determination letter by the Internal Revenue Service, which has not been revoked, exempting the organization from federal income taxation under Section 501(c)(3) of the Federal Internal Revenue Code, as amended.
- (e) "Peddler." Any person who travels from place to place by foot, motor vehicle, or other conveyance for the purpose of selling any goods, wares, food, merchandise or services, or otherwise obtains orders or commitments for the sale, repair or exchange of goods, wares, food, merchandise or services.
- (f) "Peddle" or "Peddling." The unsolicited selling, obtaining of orders or commitments, or the unsolicited presentation of goods, wares, food, merchandise, or services for sale.
- (g) "Person." Any individual, organization, firm, co-partnership, company, corporation, association, society, league, including any director, trustee, employee, receiver, assignee, agent, or representative thereof.
- (h) "Solicitor." Any person who travels from place to place by foot, motor vehicle, or other conveyance for the purpose of obtaining or seeking to obtain funds for any purpose unrelated to the dissemination of religious, political, social, or other ideological beliefs.
- (i) "Solicit" or "Soliciting." To seek or obtain funds for any purpose unrelated to the dissemination of religious, political, social, or other ideological beliefs.

854.03 LICENSE EXEMPTIONS, AND PROHIBITIONS

- (a) Subject to division (c) of this section, no person shall engage in the business or activity of peddling or soliciting as defined in Section 854.02 within the jurisdictional boundaries of the municipality without first obtaining a license as provided in Section 854.04.
- (b) Subject to division (c) of this section, all persons acting for or hired by another to act as a peddler or solicitor within the jurisdictional boundaries of the municipality shall also be required to obtain a license as provided in Section 854.04.
- (c) No license shall be required for the following:
 - (1) Peddling newspapers having their principal sale or distribution in the municipality;
 - (2) Peddling solely for wholesale delivery to merchants, manufacturers or other business in the municipality;

- (3) Peddling or soliciting at the invitation or request of the person contacted;
 - (4) Peddling or soliciting solely among the members of the entity or organization conducting the peddling or soliciting;
 - (5) Soliciting contributions at the regular assemblies, meeting, or services of any recognized not-for-profit organization;
 - (6) Acting as a canvasser, as defined in Section 854.02;
 - (7) Charitable organizations, as defined in Section 854.02.
- (d) No person who is within a public roadway may solicit or sell or distribute any material to the occupant of any motor vehicle stopped on a public roadway in obedience to a traffic control signal light. It is specifically provided, however, that a person, other than a person twelve (12) years of age or younger, may solicit or sell or distribute material to the occupant of a motor vehicle on a public roadway so long as he or she remains on the surrounding sidewalks and unpaved shoulders, and not in or on the roadway itself, including the medians and islands.

854.04 LICENSE APPLICATION AND REQUIREMENTS

- (a) Applications for a license to peddle or solicit within the Municipality shall be filed with the City Manager or the Manager's designee on a form to be furnished by the Manager or the Manager's designee. An application shall require, at a minimum, the following information:
 - (1) The name of the applicant;
 - (2) A physical description of the applicant;
 - (3) The applicant's social security number;
 - (4) The name and address of the person or entity, if any, on whose behalf the applicant will be peddling or soliciting and the length of the applicant's service with such person or entity;
 - (5) All places of residence of the applicant and all employment during the preceding year;
 - (6) A description of the goods, wares, or merchandise to be sold or services to be furnished by the applicant or the purpose for which funds are being solicited;
 - (7) The names of other municipalities in which the applicant has conducted peddling or soliciting activities within the past calendar year.
- (b) Applicant shall furnish a photographic identification card and photograph of himself or herself taken within one (1) year of the date of the application.
- (c) At the time of the submission of a completed application, the applicant shall pay an application fee as set forth in Chapter 286 of the Codified Ordinances. Such application and fee shall be required for each individual requesting a license. The amount of this fee may vary from time to time by ordinance.
- (d) Upon receipt of a completed application, the City of Monroe Police Department will conduct a

background check for each individual set forth in the application. The Police Department reserves the right to conduct a local, regional, state, and/or federal background check for each applicant. Any applicant may be denied a license pursuant to the City of Monroe's License Disqualification Standards, which are available for review upon request to the City Manager or the Manager's designee.

- (e) If the City Manager or the Manager's designee determines that all information and items required under divisions (a), (b) and (c) of this section have been submitted and are complete and that the applicant proposes to engage in an activity permitted by this ordinance, a license shall be issued to the applicant within fourteen (14) business days of the submission of the completed application and required fee. This time period shall not commence to run until the required application fee is paid and the application and all required information have been submitted.
- (f) Any license issued shall be valid for a period of twelve (12) months from the date of its issuance.
- (g) Any applicant who has been denied a license under this Chapter shall be notified in writing within fourteen (14) business days following the submission of an application. Any license application may be denied for failing to pay the required application fee or failing to provide all required information mandated by this Section. The City of Monroe reserves the right to waive any irregularities with the submission of an application.

854.05 APPEALS

- (a) Any person who has applied for a license in accordance with this Chapter and whose application is denied, may appeal such determination within fourteen (14) days from the date stated on the denial notice provided by the City. The notice of appeal shall be submitted in writing to the City Manager within the foregoing period of time. Any person who fails to submit a written notice of appeal within the fourteen (14) day period described herein will waive the right to appeal a determination that denied a license permitted under this Chapter.
- (b) Any person who perfects an appeal as provided under this section shall be entitled to a hearing before a three-person hearing board designated to review the denial of a license to engage in peddling and soliciting activities. The hearing board shall be composed of the Law Director and two members of the Board of Zoning Appeals, as named by the Board. A hearing will be scheduled upon receipt of a written notice of appeal at a time no sooner than ten (10) days following the receipt of said notice. The City will advise the appellant in writing of the specific date and time scheduled for the hearing. The hearing board shall promptly issue a written decision following a hearing, which shall be served upon the appellant. The appellant will be granted a license unless all members of the hearing board concur that the denial was warranted.

854.06 CARRYING AND EXHIBITING LICENSE; NON-TRANSFERABILITY; WHEN WRITTEN RECEIPT, PROOF OF EXEMPT STATUS REQUIRED

- (a) The license issued under the provisions of this chapter shall at all times be conspicuously attached and exhibited on the outer clothing of the peddler or solicitor.
- (b) No license issued to an applicant may be transferred, assigned to another person or displayed by another person representing himself or herself as the person to whom the license was issued.

- (c) Upon request of the person solicited or the person who made a purchase from a peddler, the solicitor or peddler shall provide a written receipt showing the name of the solicitor or peddler, the amount of the contribution or purchase, and the date.
- (d) Upon request, all persons acting on behalf of any recognized not-for-profit charitable organization shall provide a statement attesting to the organization's exempt status under Section 501(c)(3) of the Federal Internal Revenue Code.

854.07 NOTICE PROHIBITING PEDDLERS, SOLICITORS, OR CANVASSERS

- (a) 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 displaying a weatherproof card, decal, or sign not less than three inches (3") by four inches (4") in size nor more than one (1) square foot in total surface area upon or near the main entrance door to the residence or place of business, containing the words "No Peddlers, Solicitors, or Canvassers Invited," or other similar language conveying the same message, printed in letters at least one-third inch (1/3") in height. Any such weatherproof card, decal or sign which complies with the requirements of this section shall be exempt from any additional or different requirements contained in the provisions of the Zoning Ordinance.
- (b) No person shall go upon any premises and ring the doorbell, 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 to engage in canvassing, peddling or soliciting when a notice displaying the statement "No Peddlers, Solicitors, or Canvassers Invited" or other similar statement is displayed.

854.08 FRAUD PROHIBITED; REVOCATION OF LICENSE

- (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 municipality or in any application filed under this chapter.
- (b) The City Manager or the Manager's designee may revoke at any time any license issued herein for a violation of any provision of this chapter.
- (c) Any license granted herein may be revoked at the discretion of the City Manager or the Manager's designee should it be determined that the conduct of individuals acting as solicitors or peddlers becomes a hindrance to vehicle or foot traffic within the public streets or sidewalks of the municipality or otherwise demonstrates a risk to public safety.
- (d) Whenever the City Manager or the Manager's designee has cause to revoke a license that has been issued under this Chapter, written notice of the determination to revoke the license shall be delivered to the license holder by ordinary U.S. mail or hand delivery at the address listed on the application for the license. The notice will advise of the reasons for revocation and the license holder will be given an opportunity to contest the revocation pursuant to the appellate procedures set forth in Section 854.05.

854.99 PENALTY

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day on which such activities are conducted in violation of this chapter shall constitute a separate offense.”

SECTION 3: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: October 13, 2015

ATTEST:

APPROVED:



Clerk of Council



Mayor

First Reading: September 22, 2015

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Constitution Law, Section 121.22 of the Ohio Revised Code.

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.



Clerk of Council
City of Monroe, Ohio