



CITY of NOVI CITY COUNCIL

Agenda Item J
November 14, 2016

SUBJECT: Approval of Ordinance Code Amendment 16-187 of Novi Code of Ordinances, "An Ordinance To Amend The City Of Novi Code of Ordinances, at Chapter 26, 'Peddlers, Solicitors, Commercial Handbills,' Section 26-3, 'Noncommercial Solicitation Permit; Application'; Section 26-55, 'Investigation of Application; Grant or Denial'; and Section 26-10, 'Hours of Peddling/Solicitation; Additional Requirements,' in Order to Remove Authorization for and Reference to Solicitation in Areas of Public Rights-of-Way." **SECOND READING**

SUBMITTING DEPARTMENT: City Attorney

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The proposed ordinance amendment has been referred to the City Council by the City Attorney. The Attorney General for the State of Michigan issued Opinion No. 7291 explaining that soliciting within public streets and highways, even if for a civic or charitable organization, violates the Michigan Vehicle Code and the Uniform Traffic Code. Soliciting contributions in a manner that obstructs, blocks, impedes, or otherwise interferes with the normal flow of traffic within the traveled portion of a street or highway (i.e., the roadway itself) may be a violation of the Michigan Vehicle Code, MCL 257.676b.

The attached ordinance amendment amends Sections 26-3, 26-5, and 26-10 of the City of Novi Code of Ordinances to any indication that solicitation is permitted within the right-of-way. *Please note that the version attached is somewhat different than that provided at first reading, and clarifies that limitations on right-of-way use apply to the travelled portion of the roadway.*

RECOMMENDED ACTION: Adoption of Ordinance Code Amendment 1-187 "An Ordinance To Amend The City Of Novi Code of Ordinances, at Chapter 26, 'Peddlers, Solicitors, Commercial Handbills,' Section 26-3, 'Noncommercial Solicitation Permit; Application'; Section 26-55, 'Investigation of Application; Grant or Denial'; and Section 26-10, 'Hours of Peddling/Solicitation; Additional Requirements,' in Order to Remove Authorization for and Reference to Solicitation in Areas of Public Rights-of-Way." **SECOND READING.**

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

ORDINANCE NO. 16-187

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 26, "PEDDLERS, SOLICITORS, COMMERCIAL HANDBILLS," SECTION 26-3, "NONCOMMERCIAL SOLICITATION PERMIT; APPLICATION"; SECTION 26-55, "INVESTIGATION OF APPLICATION; GRANT OR DENIAL"; AND SECTION 26-10, "HOURS OF PEDDLING/SOLICITATION; ADDITIONAL REQUIREMENTS," IN ORDER TO REMOVE AUTHORIZATION FOR AND REFERENCE TO SOLICITATION IN AREAS OF PUBLIC RIGHTS-OF-WAY.

THE CITY OF NOVI ORDAINS:

PART I. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-3, "Noncommercial solicitation permit; application," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-3. - Noncommercial solicitation permit; application.

- (a) Applications for permits for noncommercial solicitation shall be filed with the city clerk upon forms to be furnished by the city. Such applications for permit to solicit shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the permit is desired to commence. The application shall contain the following information:
- (1) Name, address, telephone number, and headquarters of the person applying for the permit.
 - (2) If the applicant is not an individual, the names and addresses of the applicant and the principal officers and managers.
 - (3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.
 - (4) The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations. The names and addresses of the person, or persons, who will participate in the solicitations.
 - (5) An outline of the method, or methods, to be used in conducting the solicitations.

- (6) If the applicant intends to conduct solicitations while remaining in a fixed or limited area within a public right-of-way, which shall not include the travelled portion of the roadway, the specific location(s) of such solicitation.
 - (6) The time when solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.
 - (7) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.
- (b) A permit for noncommercial solicitation shall be issued upon receipt of the completed application, and receipt of a permit application fee in an amount set by resolution of the city council. A permit for solicitation within the city limits shall remain valid for a period of ninety (90) days; provided, however, that a permit allowing solicitation while remaining in a fixed or limited area within a public right-of-way, which shall not include the travelled portion of the roadway, shall be valid for a period of ten (10) consecutive days only, for each applicant. No applicant shall receive more than two (2) such permits for solicitation in any one (1) calendar year.

PART II. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-5, "Investigation of application; grant or denial," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-5. - Investigation of application; grant or denial.

- (a) The city clerk shall examine all applications filed under this chapter and shall make or cause to be made such further investigation of the application or applicant as the clerk shall deem necessary. If the clerk finds the application to be satisfactory, the clerk shall approve the permit and issue it upon payment of any applicable fee. The clerk shall not issue more than one (1) permit to conduct solicitations while remaining in a fixed or limited area within a public right-of-way within the city, which shall not include the travelled portion of the roadway, for the same specific location(s) on the same date(s). If the clerk receives more than one (1) application for a permit to conduct solicitations in the same location(s) on the same date(s), the clerk shall give priority to the first application received, unless before the permit is issued an application for a permit in the same location(s) and on the same date(s) is filed by an applicant affiliated with or representing a national, statewide, or area-wide organization conducting a coordinated solicitation campaign on the same date(s).
- (b) The clerk shall not issue a license if he or she finds:
 - (1) That the applicant failed to truthfully provide the information required in this chapter;
 - (2) That the applicant has engaged in a fraudulent transaction or enterprise;
 - (3) That the applicant has a bad business reputation or a reputation for dishonesty;

- (4) That the applicant has been convicted within the past five (5) years of a violation of federal, state, or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;
- (5) That the applicant has had a license to conduct peddling or soliciting revoked within the past five (5) years;
- (6) That a permit has been granted to another individual or entity for solicitation within the public right-of-way, which shall not include the travelled portion of the roadway, for the date described in the application.

PART III. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-10, "Hours of peddling/soliciting; additional requirements," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-10. - Hours of peddling/solicitation; additional requirements.

- (a) No peddling or solicitation may be conducted after 9:00 p.m. or dusk (whichever is earlier) or before 9:00 a.m., prevailing time.
- (b) No person under the age of fourteen (14) shall solicit after 7:00 p.m., prevailing time, unless accompanied by an adult. No minor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection.
- (c) No peddler or solicitor shall enter into property which has posted a "No Solicitation," "No Trespassing," "No Peddlers or Agents," "No Advertisements" sign, or its equivalent, of at least sixteen (16) square inches in a conspicuous and prominent location, or whose address is at that time on the Do-Not-Knock Registry.
- (d) No peddling of goods or services shall be permitted within a public right-of-way, including any street corner or intersection, or on other public property.
- (e) No peddler or solicitor shall obstruct the free flow of vehicular or pedestrian traffic on any street, lane, sidewalk, or driveway.
- (f) No peddler or solicitor shall engage in such activity in any public right-of-way or on any street, sidewalk, or other public place after being ordered to leave or desist by a police officer or public official or employee authorized to issue civil infraction violation notices.
- (g) No peddler or solicitor shall threaten or harass any resident of the city in the course of their activities or in any way engage in any conduct that would tend to threaten the health and safety of another or cause a nuisance, including, but not limited to, shouting, crying out, blowing horns, or ringing bells or similar devices designed to attract the attention of the public so as to be audible within an enclosed structure.

- (h) No solicitor shall engage in solicitation while in the travelled portion of the roadway.
- (i) No peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises.

PART IV.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART V.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART VI.

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ____ day of _____, 2016.

Cortney Hanson, City Clerk

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 16-187

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 26, "PEDDLERS, SOLICITORS, COMMERCIAL HANDBILLS," SECTION 26-3, "NONCOMMERCIAL SOLICITATION PERMIT; APPLICATION"; SECTION 26-55, "INVESTIGATION OF APPLICATION; GRANT OR DENIAL"; AND SECTION 26-10, "HOURS OF PEDDLING/SOLICITATION; ADDITIONAL REQUIREMENTS," IN ORDER TO REMOVE AUTHORIZATION FOR AND REFERENCE TO SOLICITATION IN AREAS OF PUBLIC RIGHTS-OF-WAY.

THE CITY OF NOVI ORDAINS:

PART I. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-3, "Noncommercial solicitation permit; application," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-3. - Noncommercial solicitation permit; application.

- (a) Applications for permits for noncommercial solicitation shall be filed with the city clerk upon forms to be furnished by the city. Such applications for permit to solicit shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the permit is desired to commence. The application shall contain the following information:
- (1) Name, address, telephone number, and headquarters of the person applying for the permit.
 - (2) If the applicant is not an individual, the names and addresses of the applicant and the principal officers and managers.
 - (3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.
 - (4) The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations. The names and addresses of the person, or persons, who will participate in the solicitations.
 - (5) An outline of the method, or methods, to be used in conducting the solicitations.

- (6) If the applicant intends to conduct solicitations while remaining in a fixed or limited area within a public right-of-way, ~~including a street corner or intersection~~ which shall not include ~~any~~ the travelled portion of the roadway, the specific location(s) of such solicitation.
 - ~~(67)~~ The time when solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.
 - ~~(78)~~ A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.
- (b) A permit for noncommercial solicitation shall be issued upon receipt of the completed application, and receipt of a permit application fee in an amount set by resolution of the city council. A permit for solicitation within the city limits shall remain valid for a period of ninety (90) days; provided, however, that a permit allowing solicitation while remaining in a fixed or limited area within a public right-of-way, which shall not include any the travelled portion of the roadway ~~within a public right of way within the city, including a street corner or intersection~~, shall be valid for a period of ten (10) consecutive days only, for each applicant. No applicant shall receive more than two (2) such permits for solicitation in any one (1) calendar year. ~~No permit for solicitation within a public right of way shall authorize such solicitation at more than four (4) separate street corner or intersection locations within the city on the same day.~~

PART II. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-5, "Investigation of application; grant or denial," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-5. - Investigation of application; grant or denial.

- (a) The city clerk shall examine all applications filed under this chapter and shall make or cause to be made such further investigation of the application or applicant as the clerk shall deem necessary. If the clerk finds the application to be satisfactory, the clerk shall approve the permit and issue it upon payment of any applicable fee. The clerk shall not issue more than one (1) permit to conduct solicitations while remaining in a fixed or limited area within a public right-of-way within the city, ~~including a street corner or intersection~~ which shall not include ~~any~~ the travelled portion of the roadway, for the same specific location(s) on the same date(s). If the clerk receives more than one (1) application for a permit to conduct solicitations in the same location(s) on the same date(s), the clerk shall give priority to the first application received, unless before the permit is issued an application for a permit in the same location(s) and on the same date(s) is filed by an applicant affiliated with or representing a national, statewide, or area-wide organization conducting a coordinated solicitation campaign on the same date(s).
- (b) The clerk shall not issue a license if he or she finds:
 - (1) That the applicant failed to truthfully provide the information required in this chapter;

- (2) That the applicant has engaged in a fraudulent transaction or enterprise;
- (3) That the applicant has a bad business reputation or a reputation for dishonesty;
- (4) That the applicant has been convicted within the past five (5) years of a violation of federal, state, or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;
- (5) That the applicant has had a license to conduct peddling or soliciting revoked within the past five (5) years;
- (6) That a permit has been granted to another individual or entity for solicitation within the public right-of-way, ~~at the same street corner or intersection which shall not include any~~ the travelled portion of the roadway, for the date described in the application.

PART III. Chapter 26, "Peddlers, Solicitors, Commercial Handbills," Section 26-10, "Hours of peddling/soliciting; additional requirements," of the City of Novi Code of Ordinances is hereby amended to read as follows in its entirety:

Sec. 26-10. - Hours of peddling/solicitation; additional requirements.

- (a) No peddling or solicitation may be conducted after 9:00 p.m. or dusk (whichever is earlier) or before 9:00 a.m., prevailing time.
- (b) No person under the age of fourteen (14) shall solicit after 7:00 p.m., prevailing time, unless accompanied by an adult. No minor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection.
- (c) No peddler or solicitor shall enter into property which has posted a "No Solicitation," "No Trespassing," "No Peddlers or Agents," "No Advertisements" sign, or its equivalent, of at least sixteen (16) square inches in a conspicuous and prominent location, or whose address is at that time on the Do-Not-Knock Registry.
- (d) No peddling of goods or services shall be permitted within a public right-of-way, including any street corner or intersection, or on other public property.
- (e) No peddler or solicitor shall obstruct the free flow of vehicular or pedestrian traffic on any street, lane, sidewalk, or driveway.
- (f) No peddler or solicitor shall engage in such activity in any public right-of-way or on any street, sidewalk, or other public place after being ordered to leave or desist by a police officer or public official or employee authorized to issue civil infraction violation notices.

- (g) No peddler or solicitor shall threaten or harass any resident of the city in the course of their activities or in any way engage in any conduct that would tend to threaten the health and safety of another or cause a nuisance, including, but not limited to, shouting, crying out, blowing horns, or ringing bells or similar devices designed to attract the attention of the public so as to be audible within an enclosed structure.
- (h) No solicitor shall engage in solicitation while ~~remaining in a fixed or limited area within a in any the travelled portion of the roadway, public right of way, including a street corner, or intersection,~~ unless he or she is wearing a reflective safety vest or other apparel identifying the individual as a solicitor or representative of the individual or entity on whose behalf the solicitor is acting.
- (i) No peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises.

PART IV.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART V.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART VI.

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ____ day of _____, 2016.

Cortney Hanson, City Clerk