

## NO TRESPASSING TRUMPS NO SOLICITING

Note: The following information is provided from the notes taken during a meeting between several local neighborhood watch coordinators and representatives of the Rockledge City Hall Staff and police department. The discussion focused on defining and explaining the guidance associated with community access to solicitors, peddlers, canvassers and individuals that promote religious beliefs.

The following information is general in nature and provides some clarification and recommendations to those desiring less public access to their community and property. The recommendations listed are just that, recommendations for your use as you see fit.

1. **Categories:** To lay the foundation for the information provided herein, the following categories and brief definitions are provided:

a. Communities:

(1) Gated (public access restricted): The residents of a gated community have the ability and therefore the responsibility for controlling access to and from their community. They are also responsible for managing and maintaining streets, sidewalks and signage.

(2) Non-gated (public access is not restricted): Access to and from a non-gated community is not controlled. The city retains the responsibility for managing and maintaining the streets, sidewalks and signage.

b. Individuals:

(1) Solicitors and peddlers: work for profit.

(2) Canvassers: work to collect data (possibly indirect profit).

(3) Religious: not for profit, promoting a belief under their Constitutional amendment rights.

2. **Background:** The desire of individual residents or deed restricted communities to prevent strangers from walking their neighborhood and knocking on doors, selling or promoting something, has increased considerably. With many communities posting "no soliciting" signage at an entrance, many residents are rightfully questioning why local law enforcement are not running these strangers out when requested to do so. In discussion with local city resources at a recent meeting, including law enforcement, legal counsel and code enforcement, here are the facts and recommendations that pertain to you and that stranger that might want to knock on your door.

3. **Facts:**

a. Solicitors and peddlers: Must have a valid City of Rockledge permit on their person. If they do, they have permission from the city to walk public streets (sidewalks). The permit is issued by Code Enforcement and requires a background check of the individual by the Rockledge Police Department as a prerequisite to being issued a permit.

**Note: For detailed permit information, refer to City Ordinances, Chapter 11 (pages 815) or contact Code Enforcement at 321-690-3988.**

b. Canvassers: No permit is required in Rockledge. This individual is free to go along public streets, seeking information for whatever legitimate reason. The individual does so with the understanding that they are not representing any elements of a solicitor or peddler; they are working "not for profit" during the canvassing; i.e. census takers.

c. Religious: No permit is required in Rockledge. This individual is free to go along public streets, promoting his/her religious belief. While one might debate that they are soliciting, this has been found otherwise in the courts; they aren't and are allowed to proceed under their Constitutional amendment rights.

d. Gated communities:

(1) Access is solely controlled by the community itself, therefore; any individual can be restricted from entering, whether they are there for profit or non-profit.

e. Non-gated communities:

(1) Access cannot be restricted to any individual since the streets (sidewalks) are open to the public.

(2) The posting of "no soliciting" signage at the entry of a community is not enforceable by either the community or local law enforcement, since the streets (sidewalks) are open to the public.

(3) Only the property owner or tenant of a private property can tell an individual to leave his/her property. A neighbor cannot act on behalf of another neighbor, during his/her absence, to remove someone from a private property at will.

**Note: The exception to this is if "no trespassing" signage is posted on the neighbor's property, discussed later.**

(a) The posting of "no soliciting" signage on private property may deter a solicitor or peddler; however, it may not apply to other individuals who may knock on a door. No soliciting verbiage can be loosely interpreted by some and therefore they may knock on your door.

(b) A property owner can tell an individual to leave his/her property as they are trespassing - and the individual must comply

immediately. This verbal demand serves as a first warning of trespass (if the police are involved). A second trespass by that individual on that private property may result in their being charged.

(c) The posting of "no trespassing" signage on private property does apply to all individuals; the signage serves as a first warning to that individual as they access a private property. If confronted by the property owner, tenant or a neighbor (during the absence of the property owner or tenant), after having ignored the no trespassing signage, the individual can be charged with trespass if local law enforcement becomes involved.

[1] The "no trespassing" signage must be posted on private property where it will be easily viewed by an individual accessing the property.

[2] If an individual is trespassing and the "no trespassing" signage was visible to them, you have significantly increased your liable protection for any injury which they might sustain as previously mentioned.

(d) If you have "no trespassing" signage posted and find notes attached to your door, this constitutes a trespass. You can contact the police to make a report and request assistance to address this.

(4) Material, such as advertisements, solicitations and literature, left along streets, driveways and sidewalks by individuals promoting a business, organization or belief can be cited under the city's litter ordinance. Contact the Code Enforcement Office to report this situation. Additionally, the individual may have been required to have a city permit to distribute this material if it is related to soliciting or peddling.

#### 4. Recommendations:

a. To deter strangers from knocking on your door and to provide some recourse if someone does, place a "no trespassing" sign on the property, visible to an individual accessing it.

**Note: The governing documents of some communities restrict the posting of signage. It is recommended that you check with your community's governing body for allowance to post such signage on private property. The governing body may want to standardize the specific signage to be posted.**

b. The "no soliciting" signage posted at the entrance to a community served by public roads does little good, as it cannot be enforced. Posting the following verbiage on a sign at the entrance to a community can serve as a warning to all individuals entering a community who plan to solicit, peddle, canvas or promote religious beliefs, and will serve as a cautionary warning as to the attitude of the community toward strangers entering:

#### **NO TRESPASSING ON POSTED PRIVATE PROPERTY**

c. In line with a timely reporting of any suspicious acts to local law enforcement, should you see a stranger walking your streets, never hesitate

to contact the police and ask them to respond to ensure the individual is well intended. Additionally, while the individual may have a city issued permit, few residents know what an authentic permit looks like - the police will know.

d. If a stranger comes to your door, it is recommended that you talk to them through the door. Do not ignore them. Ensure they know someone is there and that the home is not vacant. If you are going to open the door to a stranger, tell them to step back and away from the door. Create a buffer safety zone that will allow you to shut the door quickly if necessary. Are you being paranoid - no; but you are ensuring your safety is not compromised.

5. **Summary:** This general information provides some guidance on how you and your community can respond to individuals who enter your neighborhoods to promote their products, programs and beliefs. It is hoped that this information will serve as value added. If additional information or verification of any personal or community planned actions is needed, please do not hesitate to contact either of the two following city resources:

Code Enforcement (Code and permit requirements): 321 690 3984

Rockledge Police Department (**911 Emergency**): 321 690 3988