

ORDINANCE NUMBER 2011-01

AN ORDINANCE CREATING REGULATIONS FOR PEDDLERS AND SOLICITORS AND REPEALING ALL PREVIOUS ORDINANCES IN CONFLICT WITH THIS ORDINANCE

WHEREAS, the Council of the Village of Warsaw desires to update its existing commercial solicitation regulations so that they are in conformity with federal and state statutes and recent court decisions;

WHEREAS, Council of the Village of Warsaw believes that it is in the public interest to regulate commercial solicitations in order to protect the physical safety and privacy rights of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Warsaw, Coshocton County, Ohio, as follows:

A. The following Peddlers and Solicitors Ordinance is hereby created and shall read as follows:

Section 1. Definitions.

As used in this Ordinance:

(a) "Peddler" means any person who carries with him 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.

(b) "Solicitor" means any person who obtains or seeks to obtain funds for any cause whatsoever by means of canvassing from place to place.

(c) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veteran's medical and social research, either actual or purported.

(d) "Canvasser" means any person who seeks to disseminate any lawful message by means of traveling from place to place without soliciting funds or donations.

Section 2. Registration or License Required.

Subject to subsections (b) and (c) hereof, no person shall engage in the business or activity of peddler or solicitor as defined in Section 1 in the Village without first obtaining a license as provided in Section 3.

(a) Subject to subsections (b) and (c) hereof, all persons acting for or hired by another as a peddler or solicitor in the Village shall obtain a license as provided in Section 3 prior to acting as a peddler or solicitor.

(b) No license shall be required of 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. However, subject to subsection (c) hereof, no individual shall act as a solicitor or peddler on behalf of or for such organization without first having registered with the Village Office pursuant to Section 3.

(c) No license or registration shall be required of any person for the following:

(1) Peddling or soliciting only for wholesale delivery to merchants, manufacturers or other business or manufacturing establishments.

(2) Peddling or soliciting only the purchase of or subscription for newspapers having their principal sale or distribution in this Village or contiguous Counties;

(3) Peddling or soliciting at the invitation or request of the person contacted;

(4) Peddling or soliciting conducted only among the members of the entity or organization conducting the peddling or soliciting;

(5) Peddling or soliciting in the form of collections or contributions at the regular assemblies, meetings or services of any recognized charitable or religious not-for-profit organization;

(6) Soliciting or peddling by juveniles on behalf of and for any locally recognized educational or civic organization, without compensation to the individual solicitor or peddler.

(7) Acting as a canvasser, as defined in Section 1 in order to disseminate ideas, thoughts, or messages regarding any cause, issue, religion, or political candidate as long as such canvassing does not involve the violation of any local, state, or federal law.

Section 3. Registration for Charitable or Religious Purpose.

(a) Applications for registration certificates shall be filed with the Village Office on a form furnished by the Village. Each application shall contain:

(1) The name, address and the telephone number of the person completing the application;

(2) The name of an officer or official of the organization;

(3) The nature of the charitable or religious purpose to which the contributions, donations or sale proceeds will be applied; and

(4) Such other information as the Fiscal Officer or Mayor may require.

(b) An organization which desires to place a number of peddlers or solicitors in the Village simultaneously may make a group application to cover all of them; however, separate registration certificates shall be issued to each or, in lieu of separate registration certificates, separate information cards shall be issued to each peddler or solicitor by the organization. Such information cards shall include, at a minimum:

(1) The name of the organization;

(2) A description of the purpose of the peddling or solicitation;

(3) The period for which the registration certificate was issued;

(4) The name of the peddler or solicitor;

(5) A brief description of the peddler or solicitor, such as age, weight, and height; and

(6) The signatures of the peddler or solicitor and an officer or official of the organization.

(c) A registration certificate shall be valid for either one day, one week, or one month as selected by the applicant and upon payment of the appropriate fee pursuant to subsection (5) below. The registration certificate shall state the expiration date.

Section 4. License Application and Requirements.

(a) Applications for licenses for peddlers or solicitors shall be filed, at least 48 hours ahead of the intended peddling or soliciting activity, with the Village Office on a form to be furnished by the Village Office, which shall require, but shall not be limited to, the following information:

(1) Name of the applicant and his/her physical description;

(2) The home address of the applicant and his social security number;

(3) The name and address of the person employing the applicant, or for whom he is soliciting;

(4) The length of the applicant's service with such employer or person for whom he is soliciting;

(5) All places of residence of the applicant and all employment during the preceding year;

(6) The nature and character of the goods 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 recently conducted activities for which a license is herein required;

(8) Verification that the applicant or his employer has complied with the requirements of Ohio R.C. Chapter 1716 pertaining to charitable solicitation, if applicable.

(b) The applicant shall furnish a photograph, taken within the last year, of himself, and/or any other person working with him in the proposed peddling or soliciting activity.

(c) If the Mayor determines after an investigation that the information furnished under the requirements of subsection (a) herein is correct, that the applicant proposes to engage in lawful commercial or professional enterprise and neither applicant nor the enterprise upon which the applicant proposes to engage constitutes a clear and present danger to the residents of the Village, a license shall be issued to the applicant.

(d) No license shall be required for any person who acts as a canvasser on behalf of a religious or charitable organization if no donations or any other type of contributions are sought by the canvasser.

Section 5. License Fees and Terms.

An Application for a one day license shall be accompanied by a fee of \$5.00. An Application for a one week license shall be accompanied by a fee of \$10.00. An Application for a one month license shall be accompanied by a fee of \$15.00.

Section 6. Appeals.

Any applicant who has applied for a license in accordance with this Ordinance and to whom the Village, after an investigation, denied or revoked a license may appeal to Council. Notice of such appeal shall be filed with the Fiscal Officer within five days after the denial by the Village. Council shall hear such appeal at the next regular Council meeting and its decision shall be final.

Section 7. Carrying and Exhibiting License.

The license issued under provisions of this Ordinance shall be carried by any peddler or solicitor at all times when peddling or soliciting inside of the corporate boundaries of the Municipality, and shall be exhibited to any person being solicited, upon request, to any police officer or other Village official.

Section 8. Business Hours Restricted.

No person shall peddle, solicit or conduct market research door to door at dwelling houses or businesses at random, on sidewalks or streets, at public places, at private meeting places or in any other manner or place in the Municipality between 9:00 p.m. and 9:00 a.m., or on any Sunday or Federal holiday unless the activities are part of an event sanctioned to include these activities, such as community-wide events, school events, or events sponsored by nationally or locally recognized charitable, civic or business organizations.

This section does not apply to invitees or national charitable corporations licensed to do business in Ohio with recognized periods for campaigns, provided the organizations have been licensed to solicit by the Mayor.

Section 9. Notice Prohibiting Peddlers or Solicitors.

(a) The owners or occupants of any residence or place of business may evidence a determination to refuse to receive any uninvited peddlers or solicitors by annually placing their name and residence or business address on a list to be maintained by the Village Office.

(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 and engage in peddling or solicitation of any owner or occupant of any residence or place of business whose name and address appear on the list pursuant to subsection (a) hereof.

Section 10. Employee Peddlers to be Licensed.

No person shall be hired by another to sell goods, wares, food merchandise or services, or to canvass residents and businesses door to door unless such person so hired has been duly licensed as provided in this Ordinance.

Section 11. License Revocation.

Any license issued under the provisions of this Ordinance may be revoked at any time by the Mayor, if the licensee is guilty of fraud, misrepresentation or any unlawful act in connection with his business or application required under Section 3 or if the licensee violates any provision of this Ordinance.

Section 12. Use of Public Streets for Soliciting.

Except as specifically approved by the Mayor or his designee, use of public streets for the purpose of soliciting contributions shall be strictly prohibited.

Section 13. Penalty.

Whoever violates any provision of this Ordinance shall be guilty of a misdemeanor of the fourth degree. Each day on which solicitation is conducted in violation of this Ordinance shall constitute a separate offense.

B. This Ordinance does hereby repeal any previous ordinances in conflict With this Ordinance

C. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

Ronald Davis, Mayor

ATTEST: _____

Cheri Jones, Clerk

This instrument prepared by:
William Todd Drown
Folland & Drown, LPA
555 Chestnut Street
Coshocton, Ohio 43812
(740) 291-8080