

05/09/2014

ORDINANCE NO. 2014-03

AN ORDINANCE TO REPEAL CHAPTER 860, PEDDLERS AND SOLICITORS, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF FRANKLIN, OAKLAND COUNTY, MICHIGAN, AND ADOPT REPLACEMENT CHAPTER 860, PEDDLERS AND SOLICITORS, TO INSTITUTE A PEDDLER AND SOLICITOR LICENSING SYSTEM, ESTABLISH REGULATIONS CONCERNING PEDDLING AND SOLICITING, REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE VILLAGE OF FRANKLIN ORDAINS:

Section 1. Chapter 860 of the Codified Ordinances of the Village of Franklin is hereby repealed in its entirety and replaced by the following new Chapter 860:

CHAPTER 860
Peddlers and Solicitors

860.01 PURPOSE.

The purpose of this chapter is to protect residents from fraudulent and unwanted harassment from peddlers and solicitors, and from peddlers and solicitors having criminal backgrounds who may pose a threat to persons or property, while also respecting the constitutional rights of peddlers and solicitors.

As such it is the intent of this chapter to establish a peddler and solicitor licensing system, and to establish regulations concerning peddling and soliciting in the Village of Franklin in order to protect against fraud, crime, undue and unwanted annoyance and harassment and to preserve the peace, privacy, safety, health and welfare of the residents, businesses and persons in the Village, while also respecting the constitutional rights of those involved in these activities.

860.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Non-commercial advocate means a person who goes door-to-door or place-to-place for the primary purpose of canvassing, promoting or advocating for non-commercial and not-for-profit religious, political, charitable, educational, civic, social or ideological causes or beliefs. The term shall include canvassing, pamphletting and solicitation of donations and contributions for non-commercial purposes.

Parent organization means the person or organization, manufacturer or provider of goods or services being offered or sold that a peddler or solicitor is employed or contracted by or represents in the course of peddling or soliciting.

Peddler or Solicitor means any person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or place-to-place for the purpose of offering or exposing for sale, or taking orders for the sale of, goods, wares, products, merchandise, memberships, publications, subscriptions, services or property of any kind or nature which he/she may be carrying or transporting, or which may be delivered or performed later. The term "peddler" or "solicitor" shall include the terms "itinerant merchant," "transient merchant," "hawker," "huckster" and "canvasser." The terms "peddler" or "solicitor" shall not include a person who conducts such activities at a social gathering within a home at the invitation of the occupant of the home.

Person means any individual, firm, partnership, corporation, company, association or joint stock association, nonprofit corporation, church, religious sect, religious denomination, society, organization or league, political party or organization, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

860.03 PEDDLER AND SOLICITOR LICENSING.

- (a) No person shall be a peddler or solicitor in the Village without first obtaining a peddler or solicitor license from the Village Clerk, unless such person is specifically exempt from this licensing requirement under section 860.15.
- (b) In order to obtain a license required by this chapter, a peddler or solicitor shall apply for a license on application forms prescribed by the Village Clerk. The application shall include all of the following information:
 - (1) The name of the applicant who proposes to peddle or solicit within the Village, including his or her street address, email address, telephone number, birth date, social security number, driver's license number and physical description including height, weight, and color of hair and eyes.
 - (2) The complete name, street address, website address, telephone number, federal employer identification number, and state of incorporation or organization of the parent organization.
 - (3) A detailed description of the type and method of peddling or soliciting to be conducted.
 - (4) The dates, times and places where peddling or soliciting will occur, including the proposed beginning and end dates.
 - (5) The types of goods, wares, merchandise and services to be offered or sold.
 - (6) Whether the applicant or parent organization has ever been denied a peddler or solicitor license elsewhere or had a license for peddling or soliciting suspended or revoked.

- (7) Whether the applicant or any officer, partner, member or director of the parent organization has been convicted of any felony or of any misdemeanor or civil infraction involving moral turpitude, and if so, a brief explanation of the incident.
 - (8) Two (2) color photographs of the applicant, one being a photograph taken no more than sixty (60) days prior to the application filing date and the other photograph being from the applicant's driver's license. A copy of the applicant's driver's license shall be attached to the applicant's application. The photograph that is not from the applicant's driver's license shall be at least two (2) inches by two (2) inches and shall clearly show the applicant's face and shoulders. In the event the applicant has not been issued a driver's license or it has been revoked, then the applicant shall submit a second separate photograph with the application, such photograph being at least two (2) inches by two (2) inches and shall clearly show the applicant's face and shoulders.
 - (9) The applicant's Michigan sales tax license number, or, if exempt, the basis upon which the exemption is established.
 - (10) A criminal background report of the applicant's criminal history. Such reports shall be obtained through the Internet Criminal History Access Tool (ICHAT) for applicants residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants who reside in other states. The applicant is responsible for all charges incurred in requesting and receiving the criminal history report.
 - (11) If under eighteen (18) years of age, the applicant must provide a copy of valid work permit issued by the applicant's school, school district offices or other authorized issuing agency to the applicant for purposes of the peddling activity proposed to be undertaken in the Village.
 - (12) If the applicant will be engaging in peddling or soliciting from a motor vehicle in the streets and roads of the Village, the vehicle shall be brought to the Village Police Department for inspection and must be found to meet all applicable safety standards.
 - (13) The administrative processing and license fee for the application as determined pursuant to subsection (c), below.
 - (14) Any other documentation or information deemed necessary by the Village Clerk or Police Chief.
- (c) An application processing and license fee shall be established by Village Council resolution and shall be payable at the time of filing the application with the Village.
- (d) The Village Clerk and Police Chief shall examine all license applications and shall make any further investigation of the application or applicant as the Clerk or Police Chief deem necessary. If the Clerk and Police Chief find the application to be complete and satisfactory, the Clerk shall approve and issue the license. The Village Clerk may deny issuance of a license if the Clerk finds:
- (1) The applicant failed to truthfully provide information in the application;
 - (2) The applicant has engaged in a fraudulent transaction or enterprise;

- ~~(3) The applicant has a bad business reputation or reputation for dishonesty;~~
- (4) 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 lawful manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct;
- (5) The applicant is listed in a sex offender registry or has any outstanding arrest warrants;
- (6) If the applicant will be peddling or soliciting from a motor vehicle in the streets and roads of the Village, the applicant does not have a valid driver's license, has been convicted of a misdemeanor or felony moving violation within the last three (3) years, or has been found responsible for three (3) or more motor vehicle moving violations under the Michigan Motor Vehicle Code or corresponding local ordinance within the last three (3) years;
- (7) The applicant has had a license to conduct peddling or soliciting suspended or revoked within the past five (5) years; or
- (8) In the opinion of the Village Police Chief, the issuance of a license to the applicant would not be in keeping with the purpose and intent of this chapter or the provisions of this Code.

(e) A peddler or solicitor license shall bear the name, address and photograph of the peddler or solicitor; the date issued; the dates within which the license holder may peddle or solicit; the expiration date of the license; and a statement that the license does not constitute an endorsement by the Village of the purpose or products involved or of the persons or parent organization conducting the peddling or soliciting. All licenses shall be signed by the Village Clerk.

(f) A peddler or solicitor license shall be valid for a period of up to sixty (60) days as determined by the Village Clerk with consideration of the application. Licenses issued under this chapter are nontransferable.

860.04 LICENSE SUSPENSION/REVOCAION.

(a) The Village Clerk may suspend or revoke a peddler or solicitor license upon determining, based on the Clerk's or Police Department's investigation, that any of the following circumstances exist:

- (1) The licensee failed to provide truthful information in the application, or that the licensee has engaged in a fraudulent transaction or enterprise;
- (2) The licensee has been convicted of a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the licensee's ability to conduct the business for which the license has been issued in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful

~~business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct;~~

- (3) The licensee is listed in a sex offender registry or has any outstanding warrants for any misdemeanor or felony;
- (4) If the licensee will be engaging in peddling or soliciting from a motor vehicle in the streets and roads of the Village, the licensee's drivers license has been suspended or revoked or the licensee has been convicted of a misdemeanor or felony moving violation; or
- (5) The licensee has engaged in conduct that is contrary to the peace, privacy, safety, health and welfare of the residents, businesses and persons in the Village.

(b) A licensee shall be given written notice of the cause and term of the suspension or revocation and of the right to have such suspension or revocation reversed, modified or affirmed following a hearing to be conducted by the Village Council at its next available regular Village Council meeting following receipt of a written request by the licensee. At the hearing, the licensee shall have the right to hear the evidence relied upon by the Clerk and the right to present evidence and witnesses on his or her behalf. At the hearing, or at an adjourned date, the Village Council shall determine whether to reverse, modify or affirm the suspension or revocation and shall put its decision and the reasons therefore in the form of a resolution, which the Village Clerk shall forward to the licensee.

860.05 MATERIAL CHANGE TO APPLICATION INFORMATION.

(a) While any peddler or solicitor license issued pursuant to this chapter is in effect, a peddler or solicitor operating under the license shall, within seven (7) calendar days, report to the Village Clerk in writing any material change in any information provided on the application form.

(b) It shall be a violation of this chapter for any person to knowingly file or to cause to be filed an application for a peddler or solicitor license containing any false statement.

860.06 HOURS.

No soliciting or peddling or non-commercial advocacy shall take place in the Village after 8:00 p.m. or sunset (according to the National Weather Service), whichever is earlier or before 9:00 a.m., prevailing time, except by invitation by the owner, occupant or person in charge of the premises.

860.07 DISPLAY OF LICENSE.

(a) At all times while carrying on peddling or soliciting in the Village, the licensee shall visibly display on the exterior of his or her garments a valid license issued under this chapter and shall tender such license, upon request, to any police officer, Village employee, or any person dealing with the licensee.

(b) A listing of current licenses shall be available for public inspection in the Village Clerk's office during regular business hours and on the Village's website.

860.08 OBSTRUCTING TRAFFIC.

Notwithstanding any other provision of this chapter, a peddler or solicitor or non-commercial advocate shall not block, obstruct, impede or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public highway, street, road, alley, drive or sidewalk or within public buildings and other public areas within the Village by means of a barricade, object or device, or with his person.

860.09 INTERFERING WITH PUBLIC.

A peddler or solicitor or non-commercial advocate shall not, without consent, accost, harass, threaten, interfere with, touch or attempt to enter the residence of any resident or member of the public.

860.10 MISREPRESENTATION.

(a) No fraudulent or misleading representations to any person shall be made in connection with any peddling or soliciting activities or non-commercial advocacy, including, but not limited to, any misleading representation concerning the product or service or cause involved, the purposes for which contributions solicited will be used, the name of the peddler or solicitor or advocate, the trade name and nature of the parent organization, or the purposes for which the parent organization was organized.

(b) No licensee shall represent that the Village's issuance of a license under this chapter is an endorsement by the Village of the parent organization, peddler or solicitor or the product or service being offered.

860.11 PEDDLING/SOLICITING ON PUBLIC PROPERTY.

Peddling and soliciting is prohibited within a public right-of-way, including any street corner or intersection road, highway, lane, sidewalk, driveway, alley or publicly owned property, except that this prohibition shall not apply to ice cream vendors who have been issued a license under this chapter.

860.12 POSTED PROPERTY.

No peddler or solicitor or non-commercial advocate shall enter or remain on private premises that have conspicuously posted a "no peddlers," "no solicitors," "no soliciting" or "no trespassing" sign or similar notice near the entrance to the premises unless invited to the premises by a person lawfully in possession or in charge of the premises.

860.13 REQUEST TO LEAVE.

No peddler or solicitor or non-commercial advocate shall remain on private premises after having been asked or directed to leave the premises by any person lawfully in possession or in charge of the premises.

860.14 DO NOT KNOCK REGISTRY.

- (a) The Village Clerk shall establish and maintain a Do Not Knock Registry.
- (b) Any person lawfully in possession or in charge of any residence, house, apartment or other dwelling within the Village may request that the Village place and maintain the residence, house, apartment or dwelling on the Do Not Knock Registry by making a request on a form supplied by the Village Clerk. The request shall contain:
 - (1) The name of the person completing the form;
 - (2) The street address of the residence, house, apartment, or dwelling to be placed on the registry;
 - (3) The date; and
 - (4) Any other information reasonably required by the Village to verify the identity of the person completing the form as the person lawfully in possession or in charge of the premises.
- (c) Every person who requests that the Village place and maintain his or her residence, house, apartment or dwelling on the Do Not Knock Registry shall be required to re-register his or her residence, house, apartment, or dwelling every two (2) years. Any residence, house, apartment, or dwelling that is not re-registered shall be removed from the registry pursuant to Subsection (e) of this Section.
- (d) Any person lawfully in possession or in charge of any residence, house, apartment or other dwelling within the Village may request that the Village remove his or her residence, house, apartment, or other dwelling from the Do Not Knock Registry by submitting a request on a form supplied by the Village Clerk.
- (e) After being placed on the Do Not Knock Registry, a residence, house, apartment or other dwelling shall remain on the registry until one of the following occurs:
 - (1) The Village Clerk receives a request to remove the residence, house, apartment, or dwelling from the registry pursuant to Subsection (d);
 - (2) The Village receives notice that the person who submitted the request to have the residence, house, apartment, notice, or dwelling added to the registry pursuant to Subsection (a) is no longer a lawful possessor or occupant of the premises; or
 - (3) The expiration of two (2) calendar years, expiring on December 31 of the second full calendar year from the date of the form submitted pursuant to Subsection (c).
- (f) The Village Clerk shall provide a copy of the current Do Not Knock Registry to each person issued a peddler or solicitor license pursuant to Section 860.03. A copy of the Do Not Knock Registry shall also be available for public inspection in the Village Clerk's office during regular business hours and on the Village's website.

- (g) The failure to add a residence, house, apartment or other dwelling to the Do not Knock registry, or to remove a residence, house, apartment, or other dwelling from the registry, shall not be grounds for any claim against the Village.
- (h) No peddler or solicitor or non-commercial advocate shall enter or remain on private premises listed in the Do Not Knock Registry, and which are also posted with a sign or notice in accordance with Section 860.12, above, unless invited to the premises by a person lawfully in possession or in charge of the premises.

860.15 EXEMPT PERSONS.

The following persons shall be exempt from the licensing and fee requirements of this chapter, but shall remain subject to all other regulations in this chapter including, but not limited to, Sections 860.11 through 860.14:

- (a) Non-commercial advocates.
- (b) Persons engaged in the occupation of distribution of newspapers and newsletters on an established delivery route.
- (c) Minors and students who reside in the Village and are engaged in peddling or soliciting for a bona fide school, charity, religious, civic or youth organization.
- (d) Telemarketers and email solicitors.
- (e) Any other persons exercising their federal or state constitutional rights such as freedom of speech, freedom of assembly, freedom of religion, freedom of the press, and the like. However, this exemption does not apply if the person's exercise of constitutional rights is merely incidental to what is primarily commercial activity.

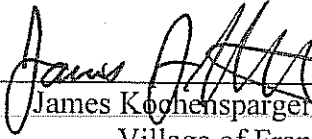
Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. Any person who violates this Chapter shall be guilty of a misdemeanor and shall be subject to the penalty, sanctions and remedies provisions of Section 202.99 of the Village Code.

Section 4. Repeal, Effective Date, Adoption.

- (1) Repeal. All regulatory provisions contained in other Village ordinances which conflict with the provisions of this ordinance are hereby repealed.
- (2) Effective Date. This ordinance shall become effective on June 1, 2014, twenty (20) days following its adoption, and shall be published prior to its effective date as mandated by charter and statute.

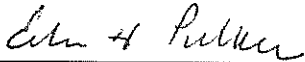
~~(3) Adoption. This ordinance was adopted by the Village Council of the Village of Franklin at a meeting thereof held on May 12, 2014.~~



James Kochensparger, President
Village of Franklin

CERTIFICATE

I, EILEEN H. PULKER, VILLAGE OF FRANKLIN CLERK, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND COMPLETE COPY OF AN ORDINANCE, THE ORIGINAL OF WHICH IS ON FILE IN MY OFFICE ADOPTED BY THE VILLAGE COUNCIL OF THE VILLAGE OF FRANKLIN AT A MEETING THEREOF HELD ON MAY 12, 2014.



Eileen H. Pulker, Clerk
Village of Franklin