

RECORD OF ORDINANCES

Ordinance No. 2005-16

Passed October 13 20 05

AN ORDINANCE TO ADOPT RULES AND REGULATIONS CONTROLLING PEDDLERS, SOLICITORS, CANVASSERS & TEMPORARY STORES

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF THURSTON, FAIRFIELD COUNTY, OHIO, A MAJORITY OF ITS MEMBERS CONCURRING:

SECTION 1: PURPOSE

This Ordinance is hereby enacted and promulgated to prevent fraud and theft from the residents of the Village of Thurston, to protect the residents from unwanted annoyance, harassment, and disturbance, and to protect the privacy of the residents.

SECTION 2: DEFINITIONS

As used in this Ordinance:

(a) "Canvass," and any form of the verb "canvass," including but not limited to "canvassing" and "canvasses," means entering onto the property of another asking for votes, opinions, signatures, membership, etc. and/or distributing or dispersing information, data, opinions, messages, etc. "Canvassing" also includes entering onto the property of another seeking to obtain funds or contributions or donations, but only as a secondary purpose, to the aforementioned activities.

(b) "Canvasser" means any person who or organization that "canvasses" within the Municipality.

(c) "Municipality" refers to the Village of Thurston, Ohio.

(d) "Peddle," and any form of the verb "peddle," including but not limited to "peddling" and "peddles," entering onto the property of another and carrying, for the purpose of sale at retail and immediate or future delivery, goods, wares, food, merchandise, services, or other articles of value and selling and/or obtaining orders or commitments for the sale, repair, or exchange of goods, food, merchandise, or services or for orders related to the same. "Peddling" does not include entering onto the property of another for wholesale delivery to merchants, manufacturers, or other businesses at their offices, places of business, or factories, the sale of equipment or articles used in conduct of their professions, businesses, or manufacturing establishments.

(e) "Peddler" means any person, enterprise, or organization that "peddles" within the Municipality.

(f) "Solicit," and any form of the verb "solicit," including but not limited to "soliciting" or "solicits," means entering onto the property of another for the primary purpose of obtaining or seeking to obtain funds, donations, and/or contributions for any cause.

(g) "Solicitor" means any person, enterprise, or organization that "solicits" within the Municipality.

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(h) "Temporary store" means the establishment of a store, or other method of displaying for sale goods, wares, services, or food from any type of temporary enclosure or parked vehicle, where the items for sale are displayed outside of the vehicle, from a location in the Municipality on property, which is not the property of the person, principal, or agent of the enterprise for which a certificate of zoning compliance is required, and with permission from the owner or occupant of said property if the operator of the temporary store is not the owner or occupant of said property.

SECTION 3: LICENSE REQUIRED

No person shall engage in the business of peddling or solicitation in the Municipality without first obtaining a license therefore as required in this Ordinance.

SECTION 4: TEMPORARY STORES LICENSE REQUIRED

(a) No person shall open or conduct temporary store or place for selling goods, wares, merchandise, services, or food until he or she has obtained from the Village of Thurston Clerk a license to open such store or conduct such sale.

(b) The licensing process is the same as found in Section 5 herein.

(c) Exceptions listed in Section 7 apply to this Section.

SECTION 5: LICENSE APPLICATION, REQUIREMENTS, AND FEES

(a) Canvassers and juvenile members of nonprofit organizations are not required to seek a license under this Ordinance. However, canvassers and juvenile members of nonprofit organizations are required to comply with sections 9, 13, and 14 of this Ordinance. Further, section 17 of this Ordinance shall be applied to canvassers, as well.

(b) Persons or organizations who or which wish to peddle, solicit, or establish a temporary store shall apply to the Village of Thurston Administrative Offices in order to register with the Clerk for the Village of Thurston by filing an application on the prescribed form. The applicant shall:

- (1) Sign his or her full legal names and provide his or her present permanent address and his or her date of birth;
- (2) Provide the name and address of the entity for which the person or organization intends to sell, offer for sale, or solicit contributions, etc.
- (3) Provide evidence of personal identification in the form of any of the following:
 - (A) A valid driver's license;
 - (B) A certified copy of a birth certification;
 - (C) A valid United States passport;
 - (D) Any other personal identification deemed acceptable to the Police Department for the Municipality.

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(4) Provide to the Village of Thurston Clerk evidence of organizational identification in the form of any of the following:

- (A) A vendor's license
- (B) An I.R.S. identification number;
- (C) A corporation identification number;
- (D) A State Charter number;
- (E) Any other identification deemed acceptable to the Police Department for the Municipality.

(5) The approximate dates that the person or organization intends to solicit, peddle, or operate a temporary store in the Municipality.

(c) The Village of Thurston Clerk may also require additional information, including:

- (1) The names of other municipalities in which the applicant has recently conducted activities for which a license was required.

(d) Persons and organizations that are required to submit an application as set forth herein expressly acknowledge and understand that they will be required to authorize a Record Release so that the Village can conduct a background investigation of the applicant. The applicants further acknowledge and understand that they will be required to sign a section of the application in which the applicant acknowledges and consents to the background check. Failure to execute the acknowledgment and consent portion of the application will result in the denial of a requested license. A copy of the application and release are attached hereto as Exhibit A.

(e) If the Village of Thurston Clerk's Office determines that none of the grounds for license refusal, which are listed in Section 6 of this Ordinance, apply, the Village of Thurston Clerk's Office shall issue a solicitor/peddler's license to the applicant within two (2) business days from the time of the completion of the registration described in this Ordinance.

(f) For a license issued under the provisions of this Ordinance, the applicant shall pay to the Village of Thurston Clerk a fee of Fifty Dollars (\$50.00). Said fee shall be used to cover the cost of the license itself, the background checks on the applicant(s), and for administration costs in the application process.

SECTION 6: LICENSE REFUSAL GROUNDS

A license under this Ordinance may be refused if any of the following is found to be true:

- (a) The applicant made a false statement as to any matter in the application;
- (b) The applicant or the organization which the applicant proposes to solicit, peddle, or operate a temporary store for, has violated any provision of this chapter within the last three (3) years;
- (c) The applicant does not or refuses to execute a Consent and Release Form so that a background check can be run;

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(d) The applicant does not propose to engage in a lawful commercial, professional, religious, educational, civic, or charitable enterprise;

(e) The applicant or the organization which the applicant proposes to solicit, peddle, or operate a temporary store for, has had three or more complaints against it filed or lodged with the Better Business Bureau for any business venture;

(f) The applicant or the organization which the applicant proposes to solicit, peddle, or operate a temporary store for, has had three or more complaints against it filed or lodged with the Ohio Attorney General's Office for any business venture;

(g) The applicant or the organization which the applicant proposes to solicit, peddle, or operate a temporary store for, has been found guilty of or plead guilty or no contest to any fraud, misrepresentation, or unlawful act in connection with his or her business or the business or organization he or she purports to represent, whether in Ohio or elsewhere.

(h) The applicant or the organization which the applicant proposes to solicit, peddle, or operate a temporary store for, has been found guilty of or plead guilty or no contest to any fraud, misrepresentation, or unlawful act in connection with his or her business or the business or organization he or she purports to represent, whether in Ohio or elsewhere.

SECTION 7: EXCEPTIONS FROM APPLICATION FEE

A license shall be required of the following persons or organizations, but no fee shall be charged in association with the granting of said license:

(a) Any person selling products of his or her own raising or manufacture;

(b) Any organization which employs persons who solicit only the purchase of, or subscription for, newspapers having their principal sale or distribution in the Municipality or in the County of Fairfield County; and

(c) Any organization that solicits or peddles on behalf of and for any religious, educational, civic, or charitable organization.

SECTION 8: CARRYING, EXHIBITING AND DISPLAYING OF LICENSES

The license issued under the provisions of this Ordinance shall be carried by any peddler or solicitor at all times when peddling or soliciting and shall be displayed to any person being solicited, peddled, or sold to or to any police officer upon request. The license issued under the provisions of this Ordinance shall be displayed on or near the cash register or area where customers are to pay for merchandise or services.

SECTION 9: HOURS FOR SOLICITATION, PEDDLING, AND OPERATING OF TEMPORARY STORES

(a) All peddling, soliciting, canvassing, and operating of temporary stores, whether pursuant to a license issued under this Ordinance or not, shall not commence before 9:00 a.m., Monday through Saturday.

(b) All peddling, soliciting, canvassing, and operating of temporary stores, whether pursuant to a license issued under this Ordinance or not, shall be completed prior to 9:00 p.m., Monday through Saturday.

(c) No peddling, soliciting, canvassing, or operation of temporary stores shall be permitted on Sundays within the Municipality.

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SECTION 10: NOISE

No peddler, solicitor, or operator of a temporary store shall use any whistle, bell, horn, or other mechanical or electrical device for the purpose of advertising his or her goods, wares, merchandise, food, or services. No peddler, solicitor, or operator of a temporary store shall call out in a loud voice for such advertising purposes.

SECTION 11: LICENSE PERIOD

Each license issued under this Ordinance shall be valid from the date of issuance until the December 31st of the calendar year in which the license was issued.

SECTION 12: LICENSE TRANSFER AND USE

No license issued under this Ordinance shall be in any manner assignable or transferable. No license shall authorize any person other than the one named in such license to do business, nor shall such a licensee conduct any other business that is named therein to be transacted.

SECTION 13: PEDDLING, SOLICITING, AND CANVASSING PROHIBITED WHERE SIGNS POSTED

No peddler, solicitor, canvasser, or operator of a temporary store shall knock at the door of or ring the doorbell of any private home, apartment, apartment building, or residential complex in the Municipality where there is displayed at the entrance a notice reading "No peddlers, solicitors, or canvassers allowed," or similar sign which purports to prohibit persons from soliciting, peddling, or canvassing at the premises, unless such peddler, solicitor, canvasser, or operator of a temporary store is or has been invited upon such premises by the owner or occupant thereof.

SECTION 14: HARASSING OR ANNOYING PROSPECTIVE CUSTOMERS; TRESPASS

(a) No solicitor, peddler, canvasser, or operator of a temporary store shall vex, annoy, threaten, or harass any person by importuning such person to purchase or look at his or her goods or wares or information or to listen to any statements or messages.

(b) No solicitor, peddler, canvasser, or operator of temporary store shall enter any private house, apartment, or residence without being invited to do so. Failure to abide by this provision shall be deemed to be a trespass and will be prosecuted accordingly.

(c) All solicitors, peddlers, canvassers, and operators of temporary stores must immediately leave the premises of any private house, apartment, or residence once they are asked to do so by any member of or person present at such private house, apartment, or residence. Failure to abide by this provision shall be deemed to be a trespass and will be prosecuted accordingly.

SECTION 15: REVOCATION OF LICENSE

If upon investigation by the Village of Thurston and Village of Thurston Clerk's Office, it is determined that there are grounds to believe that the licensee has violated any of the provisions of this Ordinance, or that any of the grounds for a denial of a license under this Ordinance exist, the Municipality may take legal action and file a lawsuit in an Ohio Court of competent jurisdiction seeking to temporarily or permanently enjoin the licensee from exercising his, her, or its rights under a license issued in accordance with this Ordinance.

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SECTION 16: APPEAL OF REFUSAL TO ISSUE A LICENSE

If the application of any person or organization for a license authorized under this Ordinance is made and there is a refusal to issue a license, said applicant is permitted to appeal the decision. To appeal the refusal of issuance of the license, the applicant may file a lawsuit in an Ohio Court of competent jurisdiction. If the Court that the applicant has filed in does not render a decision within 30 days from the filing of the appeal, the Village of Thurston Clerk shall cause a provisional license to be issued to the applicant for the shorter of: (1) remainder of the calendar year or (2) Court's decision is rendered.

SECTION 17: PENALTY

(a) Whoever violates Sections 3, 4, 12, 13, or 14(a), of this Ordinance is guilty of a misdemeanor of the fourth degree.

(b) Whoever violates Sections 8, 9, or 10 of this Ordinance is guilty of a minor misdemeanor.

(c) Whoever violates Sections 13(b) or 13(c) of this Ordinance is punishable per sanctions provided for in the Ohio Revised Code for trespass offenses.

(d) A separate offense shall be deemed to have occurred each day during or on which a violation of, or noncompliance with, any provision of this Ordinance occurs or continues.

SECTION 18: EFFECTIVE DATE

This Ordinance shall become effective at the earliest period authorized by law.

Mary M. Barber
Mary Barber, Mayor

DATE OF PASSAGE: 10-13-05

EFFECTIVE DATE: 10-13-05

ATTEST: Aaron L. Reedy, Clerk-Treasurer

APPROVED AS TO FORM: Jeffrey Feyko, Village Solicitor

APPLICATION FOR LICENSE TO SOLICIT OR PEDDLE
(ORDINANCE 2005- 16)
VILLAGE OF THURSTON
103 WEST MARKET STREET
THURSTON, OHIO 43105
(740) 862-4491

PERSONAL INFORMATION

Full Legal Name

Permanent Street Address

City/State/Zip Code

PERSONAL IDENTIFICATION
(To Be Completed By Village Clerk)

Driver's License Number

State ID Number

Valid U.S. Passport Number

Other Identification

Date of Birth

ORGANIZATION INFORMATION

Name of Organization

Business Address

City/State/Zip Code

ORGANIZATION IDENTIFICATION
(To Be Completed By Village Clerk)

Vendor's License Number

IRS Identification Number

Corporation ID Number

State Charter Number

Other Identification

LICENSE FEE: \$50.00 Paid by: Check Money Order Cash

Exceptions from License fee include the following: any person selling products of his or her own raising or manufacture; any organization which employs persons who solicit only the purchase of or subscription for newspapers having their principal sale or distribution in the Municipality or in the County of Fairfield; and any organization which solicits or peddles on behalf of and for any religious, education, civic, or charitable organization. Each License shall be valid from the date of issuance until December 31st of the calendar year in which the License is issued.

VILLAGE OF THURSTON
2215 Main Street
Thurston, Ohio 43157
(740) 862-6003

CONSENT AND AUTHORIZATION FOR RECORD RELEASE

NAME: _____

OHIO LICENSE: _____

STATE ID NUMBER: _____

VALID U.S. PASSPORT NUMBER: _____

OTHER IDENTIFICATION: _____ DATE OF BIRTH: _____

I certify that I consent to and authorize the Village of Thurston to obtain a copy of any and all arrests and/or convictions regarding myself since age 18, for the purpose of submitting this information to the Clerk of the Village of Thurston, for the purpose of obtaining a License to Solicit or Peddle, pursuant to Ordinance 2005-16.

Signature: _____ Date: _____

This is a request for a records check (arrest/conviction) that may exist for the above-named subject. It is only a check by name and not by fingerprints and therefore the true identity of the above-named subject cannot be verified as to matching his or her credentials. The following is a result of a search of the available law enforcement records:

- No criminal record on file with accessible law enforcement agencies.
 - Criminal record found on file with accessible law enforcement agency (see attached).
 - Possible criminal record with: _____
- _____

VILLAGE OF THURSTON
2215 Main Street
Thurston, Ohio 43157
(740) 862-6003

LICENSE TO PEDDLE OR SOLICIT
WITHIN THE VILLAGE OF THURSTON, OHIO
(ORDINANCE NO. 2005- 116)

This license to peddle or solicit within the Village of Thurston Corporation Limits is issued to:

(Name)

(Organization)

(Address)

This License is granted to the above person and/or organization and has been approved by the Village of Thurston. This License is void if the Village's seal is not embossed below. This License is valid from the date of issuance until December 31st of the calendar year in which the License is issued.

Signature of Applicant

DATE: _____

(SEAL)

Signature of Village Official

DATE: _____