

JACKSON TOWNSHIP BOARD OF TRUSTEES, STARK COUNTY OHIO RESOLUTION

RESOLUTION NO. 18-155

ADOPTED: 8/14/18

SUBJECT: Jackson Township Transient Vendor Code

The Board of Trustees of Jackson Township, Stark County, Ohio, met in regular session on the 14th day of August, 2018 with the following members present:

Todd J. Hawke
Jamie Walters
John E. Pizzino

Trustee Hawke moved for the adoption of the following resolution:

WHEREAS, pursuant to Ohio Revised Code Section 505.94, the Board of Trustees of Jackson Township, Stark County, Ohio, adopted a Transient Vendor Code on December 11, 2012, Resolution 12-103.

WHEREAS, the 132nd Ohio General Assembly passed House Bill 49, which made substantial changes to Ohio Revised Code Section 505.94 necessitating a revision of Jackson Township's Transient Vendor Code.

WHEREAS, the Board of Trustees of Jackson Township, Stark County, Ohio, is authorized pursuant to Ohio Revised Code section 505.94 to require the registration of all transient vendors within the unincorporated territory of the Township, to reasonably regulate the time, place and manner in which these vendors may sell, distribute periodicals, articles, publications offer goods for sale, or solicit orders for future delivery of goods and to establish a reasonable registration fee for said vendors.

BE IT RESOLVED by the Jackson Township Board of Trustee:

1. Resolution 12-103 adopted on December 11, 2012 is hereby rescinded.
2. Pursuant to Ohio Revised Code Section 505.94 we hereby adopt the attached Transient Vendors-Solicitation Regulations.
3. The Township Fiscal Officer is hereby directed to notify the Prosecuting Attorney of Stark County, Ohio, of this amendment to the Transient Vendor-Solicitation legislation by sending them a copy of this Resolution.
4. This Resolution supersedes any Transient Vendor Legislation adopted prior to this date.

Trustee Pizzino seconded the motion and upon roll call the vote resulted as follows:

Mr. Hawke-Yes
Mr. Walters-absent
Mr. Pizzino-Yes

The foregoing is a true and correct counterpart of Resolution 18-155, duly adopted on August 14, 2018 and filed with me as the Township Fiscal Officer on August 15, 2018.

Randy Gonzalez, Fiscal Officer

The foregoing resolution is approved as to form:

Michael B. Vaccaro, Law Director

Transient Vendors-Solicitation Regulations

Section 100: Definitions.

For the purpose of these rules and regulations only, the following words and phrases shall, when used in this Transient Vendor Resolution, have the meaning respectively ascribed to them by this Section:

- A. "Charitable" means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501 (c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.
- B. "Commercial" means the purpose of solicitation which is not noncommercial, as defined in this Section.
- C. "Corporation" means a legal entity which has a legal personality distinct from those of its members which has filed articles of incorporation with the Ohio Secretary of State.
- D. "Goods" means goods, wares, services, merchandise, periodicals, and other articles or publications.
- E. "Noncommercial" means the purpose of solicitation which is charitable, as defined in this Section, religious or political.
- F. "Person" means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word person shall include the definition of corporation and limited liability company.
- G. "Solicitation" includes the act of any person, whether a resident of the Township or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, street or sidewalk within the Township either: (1) requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value; (2) taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and (3) selling and making immediate delivery any goods, wares, merchandise or services of any kind or description, commonly referred to as "peddling."

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value: (1) A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature; (2) A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter; (3) A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter; (4) A person conducting a poll, survey or petition drive in regard to any political matter; and (5) A person carrying, conveying, delivering or transporting dairy products, newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same.

- H. "Solicitor" means any person, whether a resident of the Township or not, engaged in solicitation.
- I. "Vehicle" means the definition as set forth in the Ohio Revised Code Section 4501.01.

- J. "Transient vendor" means any person who opens a temporary place of business for the sale of goods or who, on the streets or while traveling about the township, sells or offers for sale goods, solicits orders for future delivery of goods or attempts to arrange an appointment for a future estimate or sales call. "Transient vendor" does not include any person who represents any entity exempted from taxation under section 5709.04 of the Revised Code, or any person licensed under Chapter 4707 of the Revised Code.

Section 102: Permit - Required.

- A. The following provisions shall apply to permits for transient vendors and commercial solicitation:
1. If a person is soliciting on behalf of, or is employed to solicit by, another person (as defined in Section 100 (F)), both the person soliciting and the employer or other person upon whose behalf solicitation is being made must have valid solicitation permits as set forth in these Rules and Regulations.
 2. If a person opens a temporary place of business outside a building or while traveling about the Township, sells, offers for sale, or solicits orders for future delivery of goods, is employed to solicit by, another person (as defined in Section 100 (F)), both the person soliciting and the employer or other person upon whose behalf solicitation is being made must have valid solicitation permits as set forth in these Rules and Regulations.
- B. All persons who engage in transient vendor and/or solicitation shall comply with the following:
1. Carry a photo identification and a copy of a valid permit issued pursuant to these Rules and Regulations, and if acting on behalf of another, including acting on behalf of another person (as defined in Section 100 (F)), such person shall carry written authorization to act on behalf of such third party and a copy of the permit issued to such third party; and
 2. Immediately present a transient vendor-solicitation permit, identification and authorization to act on behalf of a third party, if applicable, to any person approached for said solicitation and to any law enforcement official or Township official, upon their request.
 3. The permit shall contain the name, permanent residential address of the transient vendor-solicitor, and a brief description of the solicitor.
 4. Permits are not assignable.
 5. Permits and authorizations to act on behalf of third parties are not transferable.
- C. The following provisions shall not be required to apply for permits for noncommercial solicitation:
1. An entity exempted from taxation under Section 5709.04 who provides notice to the Board of Township Trustees that its representatives are present in the Township in accordance with the requirements of these regulations shall complete an application to be filed with the Township. However, said entities are not subject to the fees set forth in these regulations.
 2. Nothing in these regulations shall apply to persons selling items governed herein for any projects sponsored by an elementary, middle, and high schools, and/or churches, and/or juvenile sports groups.

Section 103: Application - Fee - Generally.

The following provisions shall apply to the permit application for transient vendors and commercial solicitation:

A. The application for a permit required by Section 102 (A) shall be made upon a form prescribed by the Township Administrator, or his or her designee, and submitted with the following information:

1. The name, permanent residential address of the applicant, a brief description of the applicant, a copy of a valid State of Ohio or other state issued identification, and any other information that may deem necessary to process the application;
2. Disclosure of any and all criminal convictions, infraction or misdemeanor citations received, including any municipal code violations and criminal or civil cases pending. This shall include any cases dismissed or expunged pursuant to Ohio Revised Code or similar federal or state law;
3. A statement that the person is not currently under investigation for any crimes related to solicitation or other criminal offense including, but not limited to, violent crimes, sexual assault, possession of controlled substances, theft, fraud or burglary;
4. Requested time and place to solicit within the Township;
5. The application, upon completion by the applicant, shall truly set forth all such information as shall be required by the Township Administrator and the Chief of Police;
6. Such other information as the Chief of Police, or his /her designee, may require in order to discover the truth of the matters herein specified and as required to be set forth in the application;
7. The application shall be submitted under penalty of perjury and be submitted to the Township Zoning Inspector, or his/her designee, at least thirty (30) calendar days prior to the time the solicitor requests to engage in solicitation;
8. The permit application fee shall be \$150.00 and is nonrefundable (See ORC 505.94);
9. Applicants shall at all times maintain accurate application information with the Township. If there is any change or modification in the information provided in the initial application, the applicant shall give written notification of such change to the chief of police within two (2) weeks of the change.

Section 104: Criminal Record Check.

- A. Section 104 shall only apply to commercial solicitation.
- B. The Chief of Police, or his/her designee, shall initiate criminal record check through the Stark County Criminal Justice Information Systems (CJIS) of prospective transient vendors and/or solicitors, including those persons acting on behalf of an employer or other person (as defined in Section 100 (F)).
- C. A criminal history record background check shall not be initiated pursuant to this article without the written consent of the person. The consent required under this Section shall be in the manner and form prescribed by the Chief of Police and shall include, but not be limited to, the signature, name, and address.
- D. The Chief of Police, or his/her designee, shall not approve a person subject to the provisions of these regulations who refuses to consent to or cooperate in the securing of a criminal history record check.

- E. A person whose criminal record check through CJIS reveals a conviction for any criminal offense including, but not limited to, violent crimes, sexual assault, possession of controlled substances, theft, fraud or burglary shall be disqualified from receiving a permit to solicit within the Township, subject to the provisions in Section 104 (l) below.
- F. The Zoning Department shall promptly notify a person whose criminal history record background check reveals a disqualifying criminal conviction.
- G. The person shall have thirty (30) calendar days from the receipt of that notice to seek a reconsideration from the Zoning Department and to cite reasons substantiating the reason for the reconsideration. The reconsideration shall not constitute an appeal procedure.
- H. If the person successfully obtains a reconsideration of the criminal record information or the person demonstrates affirmatively to by clear and convincing evidence of rehabilitation, the Zoning Inspector, or his/her designee, may issue a permit provided all other regulations herein have been met.

Section 105 Permit Issuance

The Township Zoning Inspector, or his/her designee, shall issue the permit to solicit if the following requirements have been met, subject to the criminal background check in Section 104.

- A. The applicant has properly completed and filed his or her application.
- B. The applicant has obtained any other license or permit that may be required under this Code.
- C. The applicant has provided all the information required on the application and per section 103 and 104, as applicable.
- D. The applicant has not made any misrepresentation of any fact in the application.
- E. The Township Administrator in consultation with the Zoning Inspector, or his/her designee approves the permit subject to conditions as may be necessary for the public health, safety, peace and welfare.

Section 106: Permit-Expiration-Renewal-Revocation.

- A. The following provisions shall apply to permits for Transient Vendor and commercial solicitation:
 - 1. All permits granted under the provisions of this Chapter shall be valid for up to ninety (90) days and may be renewed thereafter, unless sooner revoked.
 - 2. Prior to the expiration of a permit, and upon application for renewal of the permit, the Township shall determine if the applicant or solicitor has acted in compliance with the applicable provisions of this section and conditions of the permit.
 - a. If permit is requested to be renewed within thirty (30) days of expiration of permit, there has been no changes to the permit and it has been determined to be in substantial compliance, Section 103(A)(2) through (5) and section 104 shall not apply to the renewal. A permit may be renewed for ninety (90) days.
 - b. If the applicant, transient vendor or solicitor is found not to be in substantial compliance, the permit shall not be renewed, and no other permit shall be issued under the provisions of these regulations to the same applicant within one (1) year of the date of cancellation or expiration of the permit.
 - c. The renewal fee shall be \$150.00 (See ORC 505.94) (nonrefundable).

3. The Township Administrator, Trustees, or their designees, may revoke any permit granted under the provisions of these regulations for any of the following reasons:
 - a. The applicant provided false, misleading or misrepresented information in procuring said permit;
 - b. The applicant or any person (as defined in Section 100 (F)) who worked on behalf of or with the applicant failed to comply with the requirements, regulations, laws and conditions of approval applicable to the permit;
 - c. The applicant or any person (as defined in Section 100 (F)) who worked on behalf of or with the applicant is convicted of violating any federal, state or local law while in the course of operating under the permit; or
 - d. The activities for which the permit was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
 - e. When a permit has been revoked, no other permit shall be issued under the provisions of this Section to the same applicant within one (1) year of the date of revocation. Revocation for longer periods of time may occur based on a case-by-case review.

Section 107: Permit Denial

- A. Any applicant who is denied or a permit holder whose permit have been revoked is not entitled to an appeal of the adverse action.

Section 108: "Solicitation Prohibited" Decal.

- A. The Zoning Inspector shall prepare a decal for dissemination to residents to post at their residences where the owner and/or tenant desires to prohibit solicitation. The decal shall at least contain the Township logo and either of the following "No Solicitation" or Solicitation Prohibited".
- B. Any owner and/or tenant who wishes to prohibit solicitation upon ones real property or business shall be able to purchase from the Zoning Department, for a nominal fee, a sticker or sign for display.
- C. An example of the decal prohibiting solicitation shall be issued along with the permit to the permit holder; however, other displayed "no solicitation" signs posted on a property shall be considered a valid no solicitation notice.
- D. Transient Vendors and solicitors shall not solicit at any premises where a decal or sign has been posted.

Section 109: Transient Vending and/or Solicitation Operating Requirements.

- A. It is a violation of these regulations and the Township's Resolution for any person to engage in transient vending and/or solicitation within the Township without a valid transient vendor-solicitation permit issued by the Township Zoning Inspector, or his/her designee.
- B. It is a violation of these regulations and the Township's Resolution for any person to solicit at any premises identified as prescribed in these Rules and Regulations, engage in unwanted solicitations, engage in abusive solicitation, violate the sound-making and sound-amplification device prohibition, solicit at a prohibited location, violate the permissible hours for solicitation or solicit from a vehicle, as provided in Sections 108 and 110 through 114.
- C. A permit granted under these regulations is not an endorsement by the Township of the

solicitor or of any goods, wares, merchandise, services or information that may be sold or distributed by the transient vendor-solicitor, and it is unlawful for any person to represent that such an endorsement has been made.

Section 110: Unwanted Solicitations Prohibited.

- A. It is a violation of these regulations and the Township's Resolution for any person to go upon, ring the bell, knock on the door or attempt to gain admission to the premises of any residence, dwelling or apartment in the Township where the owner, adult occupant or other person in control thereof has expressed his objection to such activity either by explicit instructions, oral or written, or by posting a decal or sign indicating the location is compliant pursuant to Section 108, or by posting a sign or decal bearing the words "No Solicitation" or words of similar import, unless prior to such entry, bell ringing or knocking, such person has been requested or invited by the owner or adult occupant or other person in control of the premises to be thereupon for such purpose.
- B. Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this Section.

Section 111: Abusive Activity Prohibited.

No person shall engage in abusive solicitation or selling practices. Such abusive activity shall mean to do one or more of the following while soliciting or immediately thereafter:

- A. Coming closer than three (3) feet to the person solicited unless and until the person solicited indicates he or she wishes to make a purchase or otherwise receive the solicitation;
- B. Blocking or impeding the passage of the person solicited;
- C. Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
- D. Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated his or her objection to the solicitation;
- E. Threatening the person solicited with physical harm by word or gesture;
- F. Abusing the person solicited with words which are offensive and inherently likely to provoke an immediate violent reaction; or
- G. Touching the solicited person without the solicited person's consent.

Section 112: Sound-making and Sound-amplification Devices Prohibited.

- A. It is unlawful for any person, while soliciting, to shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound-amplifying system upon any public streets, alleys, parks or public places of the Township or upon any private property where such sound exceeds the Township's noise standards as set forth Resolution 96-530 (Noise Nuisance), or any subsequent substitution, modification or amendment thereof.
- B. No person who uses an automobile or other vehicle for purposes of soliciting shall operate or permit the operation of any sound amplification system which can be heard outside the automobile or other vehicle to advertise, to draw attention to the presence of the automobile or other vehicle or to communicate commercial information to the general public when such automobile or other vehicle is moving, stopped, standing or parked upon any public or private street, except to request emergency assistance or warn of a hazardous situation.

- C. This Section shall not apply to authorized emergency vehicles or vehicles operated by public utilities or to vehicles participating in a special event authorized by the Township.

Section 113: Permissible Hours for Soliciting.

- A. It is unlawful for any person, while soliciting, to go upon, ring the bell, knock on the door of, or attempt to gain admission to the premises of any residence, unless such person has been requested or invited by the owner or adult occupant of the premises to be thereupon for such purposes, outside the permissible times as follows:
1. Hours of solicitation shall be between 9:00 a.m. and 8:00 p.m.
 2. Solicitation on legal holidays and Sundays shall be prohibited.

Section 114: No Soliciting From Vehicles.

- A. Any operator of a vehicle equipped or used for soliciting on any public or private property shall comply with the following regulations:
1. Each operator at all times shall possess and display in conspicuous view upon each such vehicle a valid permit issued pursuant to these regulations.
 2. No vehicle shall be parked, stopped or left standing in any manner which blocks or impedes vehicular access to any driveway or restricts the free and safe movement of other vehicles or pedestrians upon a right-of-way.
 3. No transient vending or soliciting from a vehicle shall be permitted except after the vehicle has been brought to a complete stop and parked in a lawful way.

Section 115: Enforcement-Penalty.

- A. The applicant transient vendor- solicitor shall be responsible for the conduct of all persons (as defined in Sections 100 and 102) acting with or on the behalf of the applicant or transient vendor-solicitor while in the course of operating under the permit. All persons found working, helping, volunteering or in any way assisting in the activities for which the permit was granted shall be considered employees of the applicant or transient vendor-solicitor. Any act or omission of any person acting with or on the behalf of the applicant or transient vendor-solicitor constituting a violation of the provisions of these regulations shall be deemed the act or omission of the applicant or transient vendor-solicitor for purposes of determining whether the applicant's or transient vendor-solicitor's permit shall be granted, denied, renewed or revoked.
- B. Whosoever violates Ohio Revised Code Section 505.94 or any of the regulations set forth herein is guilty of a minor misdemeanor punishable by a fine up to one hundred fifty dollars (\$150.00). Attached ORC Section 505.99.