

ORDINANCE NO. 14-2013

AN ORDINANCE TO AMEND ORDINANCE 2010-4
REGULATING PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS AND
PROVIDING PENALTIES FOR NON-COMPLIANCE

BE IT ORDAINED by the Council of the Village of Malvern, Ohio:

SECTION 1. Definitions.

For the purposes of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS and SERVICES. Merchandise of any description, including but not limited to, wares and foodstuffs, and any service activity.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the municipality and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the municipality.

PEDDLER. Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the municipality.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

SECTION 2. License Requirements.

(A) Any person or entity who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the municipality.

(B) The fee for the license required by this Ordinance shall be set from time to time by Village Council.

(C) No license issued under this Ordinance shall be transferable.

(D) All licenses issued under this Ordinance shall expire 90 days after the date of issuance thereof.

(E) There shall be a fee of \$25.00 per person or entity for each license issued pursuant to this Ordinance. If an entity obtains a license pursuant to this Ordinance, an additional fee of \$5.00 will be charged for each person representing the entity.

Each person, whether an individual or an agent of an entity, shall obtain a badge from the Fiscal Officer at Village Hall prior to engaging in itinerant merchandising, peddling, or soliciting within the Village of Malvern.

SECTION 3. Application Procedure.

(A) All applicants for licenses required by this ordinance shall file an application with the Village Fiscal Officer or other authorized official. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2)(a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the Village of Malvern;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5)(a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description or photograph of the applicant;

(2) A description of any vehicle proposed to be used in the business, including the registration number, if any;

(C) All applicants for licenses required by this ordinance shall attach to their application, if required by the Village, credentials from the person, if any, for which the application proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (D), a statement from a licensed physician, dated not more than 14 days prior to the date of application, certifying the applicant to be free of contagious or communicable diseases.

SECTION 4. Standards for Issuance.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, or general welfare. In particular, the following tangible evidence will constitute valid reasons for disapproval of an application:

(1) The applicant has made willful misrepresentations in the application;

(2) The applicant has committed prior fraudulent acts; or

(C) Local Community Groups, Local Civic Groups, and Local Non-Profit Groups are hereby specifically exempted from the provisions of this Ordinance.

SECTION 5. Revocation Procedure.

Any license or permit granted under this ordinance may be revoked by the Village Fiscal Officer or other designated official after notice and hearing, pursuant to the standards in Section 6 of this ordinance. Notice of hearing for revocation shall be given in writing, setting forth

specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his or her last known address, at least ten (10) days prior to the date set for the hearing.

SECTION 6. Standards for Revocation.

A license granted under this Ordinance may be revoked for any of the following reasons:

- (A) Fraud or misrepresentation contained in the license application;
- (B) Fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;
- (C) Violation of this Ordinance;
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving a sex offense, a drug trafficking offense, or any offense of violence against person or property; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public.

SECTION 7. Appeal Procedure.

- (A) Any person aggrieved by a decision under Sections 4 and 6 of this Ordinance shall have the right to appeal to the Village Council. The appeal shall be taken by filing with the Village Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Village Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in Section 5 of this Ordinance.
- (B) The order of the Village Council after the hearing shall be final.

SECTION 8. Exhibition of Identification.

- (A) Any license issued to an itinerant merchant under this Ordinance shall be posted conspicuously in or at the place named therein. In the event more than one place in the Village shall be used to conduct the business licensed, separate licenses shall be issued for each place.
- (B) The Village Fiscal Officer or other authorized officer shall issue a license to each peddler or solicitor licensed under this Ordinance. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during the time he or she is engaged in the business licensed.

SECTION 9. Village of Malvern Policy on Soliciting.

It is hereby declared to be the policy of the Village of Malvern that the residents in the Village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

SECTION 10. Notice Regulating Soliciting.

(A) Notice of the refusal of invitation to solicitors to any residence shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows: "NO SOLICITORS INVITED"

(B) The letters shall be at least one-third of an inch in height. For the purpose of uniformity, the Village Fiscal Office may provide the cards to persons requesting them, at the cost thereof, if available.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination of the occupant of the residence of the information contained thereon.

SECTION 11. Duty of Solicitors.

(A) It shall be the duty of every solicitor upon going onto any premises in the Village of Malvern upon which a residence is located to first examine the notice provided for in Section 10 above if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

SECTION 12. Uninvited Soliciting Prohibited.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of Section 10 of this Ordinance.

SECTION 13. Time Limit on Soliciting.

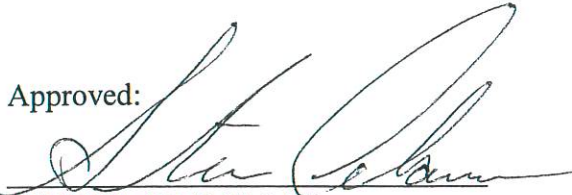
It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock up any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting prior to 9:00 a.m. or after one-half hour before dark.

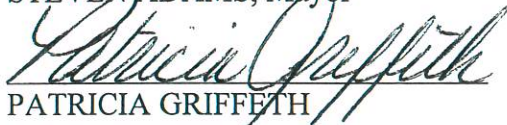
SECTION 14. Whoever violates any part of this Ordinance is guilty of a minor misdemeanor.

SECTION 15. This Ordinance shall take effect at the earliest time allowed by law.

PASSED this 16TH day of DECEMBER, 2013.

Approved:


STEVEN ADAMS, Mayor


PATRICIA GRIFFETH
Village Fiscal Officer


ALAN ARTZNER
President of Council