

ORDINANCE NO: 05-83
SPONSOR: MAYOR BOLLAS
INTRODUCED: SEPTEMBER 7, 2005
(AMENDED OCTOBER 5, 2005)
(AMENDED FEBRUARY 1, 2006)

AN ORDINANCE TO REGULATE TRANSIENT VENDORS WITHIN THE VILLAGE OF NEW FRANKLIN.

WHEREAS, there is a need to regulate transient vendors within the municipality for the protection of the residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE: DEFINITIONS

As used in this chapter:

- (a) "Holiday" means and includes Christmas Eve, Christmas Day, New Year's Day and Thanksgiving Day.
- (b) "Home solicitation sale" means a sale of consumer goods and services in which the seller or a person acting for him or her engages in a personal solicitation of the sale at a residence of the buyer. "Home solicitation sale" does not include sales of goods or services by non-profit organizations certified as non-profit under Internal Revenue Code Section 501(c)(3). "Home solicitation sale" also does not include sales by any non-profit organizations associated with public or private schools in the Municipality.
- (c) "Person means and includes an individual or a business entity. For the licensing requirements set forth in this chapter, it is understood that a business entity need only obtain one license, which will cover all employees of the business entity who are acting as transient vendors within the Municipality.

- (d) "Transient vendor" means and includes any person, whether principal or an agent, who engages in a temporary or transient business in the Municipality for the sale of goods, wares or merchandise, or who, on the streets or while traveling about the Municipality, sells, offers for sale or solicits orders for future delivery of goods, wares or merchandise where payment is required prior to the delivery of such goods, wares or merchandise.

SECTION TWO: LICENSE REQUIRED

No person shall engage in the business or trade of transient vendor or home solicitation sale, either as principal or agent, without first obtaining a license from the Zoning Office.

SECTION THREE: EXEMPTIONS

- (a) The provisions of this chapter shall not apply to any person who represents a NON PROFIT business or organization, including, but not limited to, any entity exempt from taxation under Ohio R.C. 5709.04 or Internal Revenue Code Section 501(c)(3).
- (b) The provisions of this chapter shall not apply to persons selling agricultural articles or products grown on the premises and offered or exposed for sale by the producer.

SECTION FOUR: LICENSING PROCEDURES; FEES; FALSIFICATION; EFFECTIVE PERIOD.

- (a) The Zoning Office is authorized to grant a license to any person or entity upon registration and payment by such person of a *AN ANNUAL* one hundred dollar (\$100.00) registration fee ~~plus an additional fee of twenty-five dollars (\$25.00) for each individual transient vendor.~~ Checks or money orders shall be made payable to New Franklin.
- (b) *NEW FRANKLIN VILLAGE RESIDENTS WHO SHOW SATISFACTORY PROOF OF RESIDENCE TO THE ZONING DEPARTMENT ARE EXEMPT FROM PAYMENT OF THE ONE HUNDRED DOLLAR (\$100.00) REGISTRATION FEE. NEW FRANKLIN VILLAGE RESIDENTS ARE NOT EXEMPT FROM THE OTHER PROVISIONS OF THIS ORDINANCE.*
- (b) The Zoning Office shall maintain a registration log

- (c) where all transient vendors and home solicitation sales individuals or entities shall register. This registration may be made at the Zoning Office during regular office hours.
- (c) Transient vendors or home solicitation sales
- (d) individuals shall be required to fill out a transient vendors application at the time they register and they shall sign in and out on the log. The application form shall list all employees, vehicles and license numbers for those vehicles that will be in the Municipality.
- (d) All companies, corporations, businesses or
- (e) organizations shall provide to their transient vendors or home solicitation sales individuals a copy of the transient vendor permit signed by the Zoning Administrator and designating that the transient vendor is in fact authorized to sell, offer for sale, or solicit orders for its goods, wares or merchandise within the Municipality, for it or under its authority or agency. A transient vendor or home solicitation sales individual shall maintain a copy of the signed permit on his or her person while doing business in the Municipality and shall produce the permit for inspection upon the request of any person.
- (e) A transient vendor application or log that contains
- (f) false or untrue information shall give the Municipality cause to cancel the registration and to commence prosecution pursuant to Section Ten.
- (f) A license issued to a transient vendor by the Zoning
- (g) Office shall be valid for a period of ~~ninety days~~ **ONE YEAR** and said period shall commence on the date of registration. ~~The license shall be renewable upon payment of a one hundred dollar (\$100.00) renewal fee plus an additional fee of twenty-five dollars (\$25.00) for each additional transient vendor for an additional ninety-day period.~~
THE LICENSE MUST BE RENEWED EVERY THREE MONTHS BUT NO ADDITIONAL FEE IS REQUIRED UNTIL THE ONE YEAR PERIOD HAS ENDED.

SECTION FIVE: HOURS OF SALE.

- (a) No transient vendor licensed under this chapter shall sell, offer for sale or solicit orders, door to door or location to location, between the hours of ~~8:00~~ ~~9:00~~ p.m. and ~~10:00~~ ~~9:00~~ a.m. of the following day, Monday through Saturday, or at any time on Sunday or holidays, from May through October.
- (b) No transient vendor licensed under this chapter shall sell, offer for sale or solicit orders, door to door or location to location, between the hours of ~~6:00~~ ~~7:00~~ p.m. and ~~10:00~~ ~~9:00~~ a.m. of the following day, Monday through Saturday, or at any time on Sunday or holidays, from November through April.
- (c) ***THIS SECTION APPLIES TO THOSE TRANSIENT VENDORS WHO GO DOOR TO DOOR OR WHO TRAVEL THE STREETS OF THE MUNICIPALITY IN THE CONDUCT OF THEIR BUSINESS.***

SECTION SIX: SALES FROM A FIXED LOCATION OR TEMPORARY PLACE OF BUSINESS.

A transient vendor who sells, offers for sale or solicits orders for future delivery of goods, wares or merchandise and who establishes a fixed location or a temporary place of business shall, in addition to the other requirements mandated herein:

- (a) Establish the temporary place of business in an area zoned for the same. No temporary place of business shall be established in areas zoned as residential.
- (b) Not violate any zoning regulation regarding signs, as set forth in the Zoning Code.
- (c) Not sell, offer for sale or solicit orders for future delivery of goods, wares or merchandise between the hours 9:00 p.m. and 9:00 a.m. of the following day.
- (d) Comply with all existing zoning regulations.
- (e) ***COMPLY WITH ALL APPLICABLE FEDERAL, STATE, COUNTY, AND MUNICIPAL LICENSING REQUIREMENTS.***

SECTION SEVEN: PROHIBITED CONDUCT.

- (a) No transient vendor shall, together or in combination with twelve or more persons who are transient vendors, operate within the Municipality at any one time, whereby they are all selling, offering for sale or soliciting the same goods.
- (b) No transient vendor shall open a temporary place of business that is in derogation or violation of the Zoning Code.
- (c) No transient vendor shall sell, offer for sale or solicit orders for goods, wares or merchandise at a dwelling, property, building or other structure that has displayed thereon a sign or notice that its owners or occupants do not want salesmen, solicitations, transient salesmen or vendors, provided such sign or notice is reasonably calculated by its size and placement to so notify the transient vendor.

SECTION EIGHT: NOTIFICATION SIGNS.

All identification signs at the entrance to the Municipality that are maintained by the Municipality shall have placed upon them a sign containing the following language:

ALL TRANSIENT VENDORS MUST REGISTER AT THE ZONING OFFICE BY ORDINANCE OF THE NEW FRANKLIN COUNCIL.

SECTION NINE: VIOLATIONS.

A transient vendor who violates any of the terms, conditions or requirements of this chapter shall give the Municipality cause to cancel the registration and to commence prosecution pursuant to Section Ten.

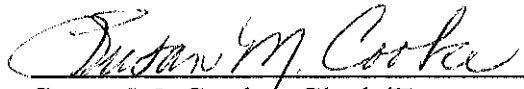
SECTION TEN: PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six months, or both.

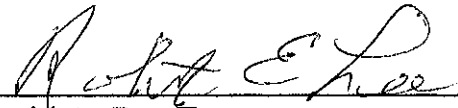
SECTION ELEVEN: OPEN MEETINGS.

The Village of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

ADOPTED: February 1, 2006



Susan M. Cooke, Clerk/Treasurer



President Pro-Tem

APPROVED: February 1, 2006



Al Bollas, Mayor

ENACTED EFFECTIVE: March 3, 2006

ROLL CALL:

Mr. Adamson, yes.

Mr. Hess, yes.

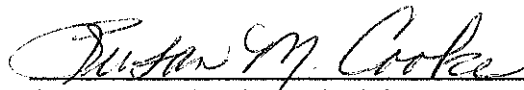
Mrs. Jones, yes.

Mr. Lee, absent.

Mr. Mobley, yes.

Mr. Stock, yes.

Akron Legal News publications on February 10, 2006 and February 17, 2006.



Susan M. Cooke, Clerk/Treasurer