

ORDINANCE NO.: 2014-50

FIRST READING November 10, 2014

INTRODUCED BY: Bryan Kostura

SECOND READING waived

THIRD READING waived

ORDINANCE REPEALING CHAPTER 830 OF THE CODIFIED ORDINANCES AND ADOPTING NEW CHAPTER 830 OF THE CODIFIED ORDINANCES TO REGULATE PEDDLERS, VENDORS, CANVASSERS AND CHARITABLE SOLICITATIONS.

WHEREAS the residents of the Village have expressed an interest in the Village Council more strictly regulating the activities of individuals engaged in door-to-door canvassing, soliciting, peddling, and vending within the residential neighborhoods in order to provide such residents with greater security and protection from harassment, intimidation, and possible criminal activities; and

WHEREAS any regulation of such door-to-door activities must comply with adequate regard for the constitutional rights of individuals and organizations affiliated with such individuals to engage in free speech and publication; and

WHEREAS Council therefore desires to substantially amend the current village ordinances regulating Peddlers and Solicitors so as to require a license and registration process for certain door-to-door activities, to establish the means and manner of obtaining such license and for revocation of such license, the creation of the exceptions for such licensing requirements, to establish the hours for such activities, and to establish an official village "do-not-solicit" list whereby village residents may voluntarily submit their residence for inclusion on such list thereby precluding persons from entering onto the properties contained on such list to conduct such door-to-door activities.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of South Russell, Geauga County, Ohio, that:

SECTION 1: Current Chapter 830 of the Codified Ordinances of the Village of South Russell, a copy of which is attached hereto as Exhibit A, is hereby repealed.

SECTION 2: New Chapter 830, the full text of which follows, is hereby adopted:

CHAPTER 830	
<u>PEDDLERS, VENDORS, CANVASSERS AND CHARITABLE SOLICITATIONS</u>	
830.01	Definitions.
830.02	Authority to issue license.

830.03	License or registration required.
830.04	License application.
830.05	License waiting period; investigation.
830.06	License fees.
830.07	License expiration; revocation or suspension.
830.08	Exceptions from license and fees.
830.09	Compliance with State Law.
830.10	Falsification; misrepresentation.
830.11	Hours of solicitation.
830.12	Prohibited soliciting; notice.
830.13	Appeals
830.99	Penalty

830.01 DEFINITIONS.

As used in this chapter:

- (a) “Canvassing,” “canvassers” and “canvass” means the house-to-house distribution of ideas, pamphlets, literature, and the like, or the collection of signatures or support for any purpose or cause. This definition does not include solicitation, peddling, or vending, as those terms are defined in this section. This definition includes requesting contributions when such requests are made in conjunction with the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition includes both “contact canvassers” and “non-contact canvassers” as defined in paragraphs (a)(1) and (a)(2) hereof.
- (1) “Contact canvassers” and “contact canvassing” mean those persons who canvass, as defined in subsection (a) hereof through in person, fact-to-face contact, verbal or otherwise, with individual residents.
- (2) “Non-contact canvassers” and “non-contact canvassing” mean those persons who canvass, as defined in subsection (a) hereof, without attempting in person, face-to-face contact with individual residents, such as the distribution of leaflets and/or pamphlets by leaving them at a place of residence.

- (b) "Charitable" means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, fraternal or any agency created for the purpose of supporting health research or health measures, either actual or purported.
- (c) "Police Chief" means the Police Chief or his or her designee.
- (d) "Contribution" means the gift, sale for less than market value or purchase for more than market value of alms, food, clothing, money or property, including donations under the guise of a loan of money or property or the rental thereof for any charitable, religious or political use or purpose.
- (e) "Peddler" means an itinerant solicitant/trader who sells wares which he or she may carry with him or her traveling about from place to place.
- (f) "Person" means any firm, copartnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (g) "Political" and "political organization" shall not mean or include the term "charitable." Such terms shall be given their commonly accepted definitions. It is not necessary that a person be a candidate for an office or in support of another person as a candidate to be included within the definition of "political" or "political organization."
- (h) "Religious" and "religion" shall not mean and include the term "charitable." Such terms shall be given their commonly accepted definitions.
- (i) "Solicit" and "solicitation" mean the method by which a peddler or vendor conveys his/her wares; or the request, either directly or indirectly, for money, credit, property, financial assistance, or other thing of value on the plea or representation that which is being solicited will be used for a charitable, political, or religious purpose.
- (j) "Vendor" means a person who transfers property by door-to-door sale.

830.02 AUTHORITY TO ISSUE LICENSE.

The Police Chief is hereby authorized to grant, issue and revoke a license to any person who desires to vend, solicit, peddle or request contributions under this chapter.

830.03 LICENSE OR REGISTRATION REQUIRED.

No person shall peddle, vend, solicit or request contributions for any purpose, charitable or otherwise, unless such person has obtained a license from the Village or unless the person meets the exception contained in Section 830.08. Such person shall carry the license required by this section, a photographic identification card, and the do-not-solicit list required by Section 830.12, at all times while exercising such calling and shall, upon demand, exhibit those items to any official of the Village or occupant of any residence or business establishment being contacted.

830.04 LICENSE APPLICATION.

An application for a license to peddle, vend solicit or request contributions shall be made on forms provided by the Village. The Police Chief shall issue the license if:

- (a) All of the statements made in the application are true.
- (b) The applicant has provided a valid photographic identification card.
- (c) The applicant has not been convicted of a felony or misdemeanor involving force, violence, fraud, theft, or a sexually-oriented offense.

830.05 LICENSE WAITING PERIOD; INVESTIGATION.

A waiting period, not to exceed twenty-four hours after receipt of the completed application for a license to peddle, vend, solicit or request contributions, shall be required for the purpose of having the Police Department make an independent inquiry of the requirements specified in Section 830.04.

830.06 LICENSE FEES.

The Police Chief, before issuing the license required by this chapter, shall collect from each licensee one dollar (\$1.00) for each license issued under this chapter. Each separate person shall have an individual license in order to solicit within the Village.

830.07 LICENSE EXPIRATION; REVOCATION OR SUSPENSION.

Any license issued pursuant to this chapter shall expire not later than ten days following the date of issuance. Such a license may be revoked or suspended at any time by the Police Chief if the holder:

- (a) Is found to have misrepresented any statement on the application or a license to peddle, vend, solicit or request contributions;

- (b) Violates any of the provisions of this chapter;
- (c) Is the subject of a complaint for criminal trespass as defined by Section 642.12 of the South Russell Codified Ordinances, or
- (d) Is found to be convicted of a felony or misdemeanor involving force, violence, fraud, theft, or a sexually-oriented offense.

830.08 EXCEPTIONS FROM LICENSE AND FEES.

Except as otherwise provided in Sections 830.11 and 830.12, the restrictions of this chapter do not apply to any canvassing activity as defined in Section 830.01 (a) nor to any activities conducted by individuals under the age of eighteen (18) years.

830.09 COMPLIANCE WITH STATE LAW

A representative of a charitable organization, as defined in Ohio R.C. Chapter 1716, may be required, if requested by the Police Chief or his or her designee, to provide certification that such organization is duly registered with the Ohio Attorney General's Office.

830.10 FALSIFICATION; MISREPRESENTATION

No person required to obtain a license to solicit, peddle, vend or request contributions under this chapter shall register a false or fictitious name or address or represent by words, or action that he or she is the employee, agent, partner or representative of any person or organization, when in fact, he or she is not the employee, agent, partner or representative of such person or organization.

830.11 HOURS OF SOLICITATION

- (a) All peddling, vending, soliciting, and requests for contributions other than in conjunction with canvassing activity, permitted under this chapter may be made only between the hours of 9:00 a.m. and 7:30 p.m.
- (b) All canvassing permitted under this chapter may be made only between the hours of 9:00 a.m. and 7:30 p.m.

830.12 PROHIBITED SOLICITING; NOTICE

- (a) The Police Chief shall maintain the do-not-solicit list. Any property owner, or tenant if the property is leased, may elect to add or remove his or her residence to or from the list, at any time, by:

- (1) Calling or visiting the Village's offices;
 - (2) Directing an email request to the Village through a link to be maintained on the Village's website for that purpose;
 - (3) Returning a request form to be included annually in the Village's newsletter.
- (b) The do-not-solicit list shall be updated as follows:
- (1) Every person who elects to add his or her residence to the do-not-solicit list shall be required to re-register such residence every five years. Any residence that is not re-registered in accordance with this section shall be removed from the do-not-solicit list;
 - (2) On a periodic basis, the Police Chief shall compare the do-not-solicit list to the Village's database to identify which residences on the do-not-solicit list have been transferred or sold since being registered. The Police Chief shall remove any such residence, and
- (c) The Police Chief shall provide a copy of the do-not-solicit list to each person issued a license pursuant to Section 830.4. In addition, any person may obtain a copy of the do-not-solicit list by:
- (1) Visiting the Village's offices during normal business hours;
 - (2) Visiting the Village's Police Department any time twenty-four hours per day, seven days per week; or
 - (3) Accessing a copy from the Village's website.
- (d) No person shall enter onto the property of any residence listed on the do-not-solicit list maintained in accordance with subsection (a) hereof for the purpose of contact canvassing, peddling, vending, soliciting, or requesting contributions.
- (e) No person shall knock at the door or ring the doorbell of any residence, apartment, or other dwelling unit in the Village upon which is clearly displayed at the entrance a notice that reads "NO SOLICITORS" or that otherwise clearly purports to prohibit peddlers, contact canvassers, vendors, solicitors, or persons requesting contributions, unless such person is or has been invited upon the premises by the occupant hereof.

830.13 APPEALS

The Police Chief shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written notice of appeal with the Fiscal Officer within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds

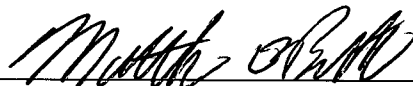
for appeal. The applicant may appeal before Council in person or by attorney. The decision of Council shall be final.

830.99 PENALTY

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

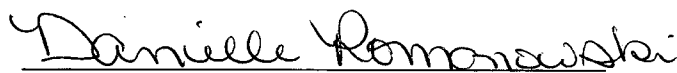
SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION 4: This ordinance shall be effective at the earliest time allowed by law.



Mayor - President of Council

ATTEST:



Fiscal Officer

I certify that Ordinance No. 2014-50 was duly enacted on the 10th day of November, 2014, by the Council of the Village of South Russell, and posted in accordance with the Ordinances of the Village.



Fiscal Officer