



## AN ORDINANCE OF THE TOWN OF JAMESTOWN REGULATING SOLICITORS, CANVASSERS, AND PEDDLERS

### Section 1. Definitions

*Solicitor or Canvasser.* The "solicitor" or "canvasser" shall mean any individual, whether a resident of the Town or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or from services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that the definition shall include any person, who for himself, or for another person hires, leases, uses or occupies any building, structure, tent, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery. This definition shall not apply to, and this article shall not apply to, the following persons:

- (1) Those who solicit orders solely from industrial, commercial or professional establishments within the Town;
- (2) Those who solicit orders solely for agricultural or forest products;
- (3) Those who solicit orders solely for any kind of insurance, if such individual is licensed by the state, county or Town; and
- (4) Those soliciting for schools, approved educational, fire, police, religious or charitable organizations when the provisions of any applicable business license tax ordinances or permitting procedures have been complied with.

For the purposes of this article, the term "*solicitor*" more specifically refers to those individuals seeking contributions without providing anything of value in

exchange for the contribution. This term may be used interchangeably with "panhandler" or "beggar".

*Peddler:* The word "peddler" shall mean any individual whether a resident of the Town or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, in the Town, selling or attempting to sell goods, wares and merchandise and personal property of any nature whatsoever for immediate delivery or delivery within 24 hours. This definition shall not apply to the following persons:

- (1) Those who peddle solely to industrial, commercial or professional establishments within the Town;
- (2) Those who peddle solely agricultural or forest products which have not been subjected to manufacturing process; and
- (3) Those peddling for schools, approved educational, fire, police, religious or charitable organizations when the provisions of any applicable business license tax ordinances or permitting procedures have been complied with.

## **Section 2. Permit required - peddling, canvassing, sales of goods**

It shall be unlawful for any person to engage in peddling or canvassing within the corporate limits of the Town without first obtaining a permit.

## **Section 3. Application for permit; permit fee**

Applicants for a permit under this article shall personally file with the Town Manager (or designated agent) a sworn application in writing on a form to be furnished by the Town, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, or acting as agent, the name and address of the employer, or principal, together with credentials establishing the exact relationship;
- (5) Length of time for which the permit is desired;
- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

- (7) Two (2) photographs of the applicant, taken within the 60 days immediately prior to the date of the filing of the application, which picture shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguished manner;
- (8) The fingerprints of the applicant;
- (9) A copy of a background check, completed within the last 30 days by the Town of Jamestown, a fee for which the Town Council shall establish; which indicates whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any laws or municipal ordinances, the nature of the offense and the punishment or penalty assessed thereof;
- (10) Proof of insurance/bonding from a company licensed to issue such policies within the state of North Carolina.

At the time of filing the application, a fee as fixed from time to time by the Council shall be paid to the Town to cover the cost of issuing the permit.

#### **Section 4 - Rulings on applications and appeals therefrom**

If the Town Manager (or their designee) shall find the previous criminal record of the applicant justifies the conclusion that the health and safety of occupants of the places solicited might be menaced by commission of a breach of peace or some form of assault, he shall not approve the permit. Whenever an application for a permit is disapproved on this ground, the applicant shall have the right to appeal from the decision of the Town Manager by filing with the Town Clerk within 14 days after the applicant receives notice that the application has been disapproved, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing in the appeal and notice of the hearing shall be given to the applicant by mailing the notice, postage paid, to the licensee at his last-known address at least five (5) days prior to the date set for the hearing. The decision of the Council on the appeal shall be final and conclusive.

#### **Section 5 - Issuance and contents of permit; copy of ordinance**

Upon receipt (and approval) of an application for a permit and payment of the prescribed fee therefor, the Town Manager or his designated agent shall deliver to the applicant the following:

- (1) A permit containing the signature of the issuing officer, the name, address and photograph of the applicant, the class (type) of permit issued and the kind of goods to be sold thereunder, the

date of issuance of the permit, the length of time the permit shall be in effect, and the license plate number and other identifying description of any vehicle used in such business.

- (2) A copy of the provisions of this article.

### **Section 6 - Duration of permit**

The permit issued under the provisions of this article shall be effective for a period of time not exceeding 90 days during the fiscal year beginning July 1 and ending on the succeeding June 30.

### **Section 7 - Permit to be produced when called for; enforcement**

It shall be the duty of any police officer in the Town, any employee (contracted or permanent) of the Town, or any tax collection officials of the Town to require any person seen soliciting, canvassing or peddling to produce his permit and to enforce the provisions of this article against any person found to be violating the same.

### **Section 8 - Revocation of permit; grounds**

The permits issued under the provisions of this article may be revoked by the Town of Jamestown and after notice and hearing for any of the following causes:

- (1) fraud, misrepresentation, or false statement contained in the application for permit;
- (2) fraud, misrepresentation, or false statement made in the course of carrying on his business;
- (3) any violation of this article;
- (4) conducting the business in an unlawful or abusive manner or in such a manner as to constitute a breach of the peace or menace to the health and enjoyment of the privacy of the home of any individual; or
- (5) conviction during the permit year of any crime or misdemeanor involving moral turpitude.

### **Section 9 - Same—notice of hearing**

Notice of hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds for complaint and the time and place of hearing. Such notice shall be mailed, postage paid, to the person holding the permit at his last-known address at least five (5) days prior to the date set for the hearing.

### **Section 10 - Same—appeal on revocation**

Any person aggrieved by the action of the Town in the revocation of a permit as provided in Section 8 shall have the right to appeal to the Town Council. Such appeal shall be taken by filing with the Town Clerk within 14 days after notice of the action complained of has been mailed to the person's last-known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the applicant in the same manner as provided for notice of hearing on refusal to grant a permit. The decision of the Council on the appeal shall be final and conclusive.

### **Section 11 - Renewal of permits**

Permits may be renewed upon the application of permit holder at any time. An applicant shall request renewal in writing and state at that time any changes applicable to his initial application for a permit. Fees shall apply for any request for renewal as if the permit was an initial request. Upon application for renewal, the Town Manager or his designee shall issue the applicant a renewal permit covering an additional period, not to exceed 90 days. Only one renewal per fiscal year (July 1 - June 30) may be approved. Any subsequent requests for permit renewals must reapply for a permit, submit a new application with all information, and pay any applicable fees.

### **Section 12 - When permits required - solicitation**

It shall be unlawful for any person, organization, society, association, or corporation, or for any agent, member of representative thereof, directly or indirectly, to solicit property or financial assistance of any kind, to sell or offer to sell any article, tag, service, emblem, publication, ticket, advertisement, subscription, or anything of value, on the plea or the representation that such sale or solicitation, or the proceeds thereof, is for a charitable, educational, religious, patriotic or philanthropic purpose, on the streets, in any office or business building, by house to house canvass, or in any other public or private place, by telephone, personal solicitation, by mail, or in any other way, in the Town, unless such person, organization, society, association or corporation shall have first duly secured a permit as provided in this subsection.

At the sole discretion of the Town Manager, the requirement for a permit may be waived for: any established society, association or corporation that is organized and operated exclusively for religious, educational, philanthropic, benevolent, fraternal (ex. - Boy Scouts/Girl Scouts), charitable or reformatory purposes, not operated for pecuniary profit, where no part of the net earnings of

which inure to the benefit of any person, private shareholder or individual, and where the solicitation of such organization shall be conducted solely among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation or where such solicitation may be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order or fraternity or similar organizations, or of any branch thereof. The Manager may request such information as listed in Section 13 to aid him in determining if these criteria are met.

### **Section 13 - Applications for permits - solicitation**

A written application for a permit to solicit for any cause whatever as provided in this article shall be sworn to and filed with the Town, and said application shall contain the following information:

- (1) name of the organization applying for a permit to solicit and the address of its headquarters;
- (2) names and addresses of its principal officers and management;
- (3) the purpose for which any receipts derived from such solicitation are to be used;
- (4) the name of the person or persons by whom the receipts of such solicitation shall be disbursed;
- (5) the name and address of the person or persons who will be in direct charge of conducting the solicitation;
- (6) An outline of the method or methods to be used in conducting the solicitation;
- (7) The time when such solicitations shall be made, giving the proposed dates for the beginning and ending of such solicitations;
- (8) A copy of the organization's non-profit status, if applicable;
- (9) A full statement of the character and extent of the charitable, religious, educational or philanthropic work being done by the applicant organization within the Town;
- (10) Such other information as may be required by the Town Manager in order to fully determine the kind, character and worthiness of the proposed solicitations and as to whether or not such solicitation is in the interest of protecting the health, life and property of the citizens of Jamestown and in the interest of preserving and enforcing good government and for the security of the Town and its inhabitants.

#### **Section 14 - When permit to be issued - solicitation**

- (a) Upon receipt of an application as provided in Section 13 the Town Manger or his designee shall make or cause to be made such investigation as is deemed necessary in regard thereto in order to determine that such proposed solicitation is, in fact, to be conducted for a worthy charitable, educational, religious, philanthropic or patriotic purpose, and that the proceeds from such solicitation shall be used, and if the Town Manager shall be satisfied that the cause for which such solicitation is to be made is, in fact, for a worthy charitable, educational, religious, patriotic or philanthropic purpose and that the proceeds derived from such solicitation will be used for such purpose, and that such solicitation is not promoted or conducted primarily for the private profit of its promoters, and that such solicitation will not be incompatible with the protection of health, life, and property of the citizens of the Town, then the Town Manager or his designee shall approve such application and shall issue a permit to such applicant for the proper period.
  
- (b) Any worthy charitable, patriotic, religious, educational or philanthropic organization or representative thereof desiring to solicit at street intersections within the corporate limits must state this method of solicitation on the application. Before a permit will be issued, the applicant must first receive written authorization from the Town Manager. The Manager will designate the intersection or intersections where the solicitations can be held. It shall be unlawful for any organization or representative thereof to solicit at intersections within the corporate limits without prior authorization from the Town Manager. The Manager or his or her designee shall notify the Sheriff's Department of any intent to solicit within the street right-of-way.
  
- (c) Professional solicitors - If a privilege license fee has been required by ordinance, an applicant shall be required to pay such fee and receive a license prior to soliciting. The applicant must also provide a copy of the professional fund-raising counsel license or professional solicitation license he or she has obtained from the North Carolina Department of Human Resources to obtain a privilege license.
  
- (d) A "professional solicitor" means any person who, for a financial or other consideration, solicits or employs another to solicit contributions. A salaried employee of the person for whom the contributions are solicited

or of its tax-exempt parent organization and the person for whom the contributions are solicited are not included within the term "professional solicitor."

#### **Section 15 - Period of permits; renewals - solicitation**

The Town Manager or his designee shall determine from the application and from such facts as may be developed in connection with such application the period for which such permit shall be approved and granted provided, that such period shall not exceed 90 days however, upon further application, information or reports as may be deemed necessary to safeguard the interest of the public and carry out the purposes of this subsection, the Town Manager or his designee may renew and extend such permit for additional periods, not to exceed 90 days.

#### **Section 16 - Reports that may be required by Town**

The Town Manager or his designee may require from any permittee hereunder any reports or information at any time and at such intervals as in the discretion of the Town Manager shall be necessary for the successful administration of the provisions of this article and the protection of the health, life and property of the citizens of the Town.

#### **Section 17 - Permits not transferable**

Any permit approved and issued under this article shall be nontransferable; however, this shall not prevent any permittee from using any number of solicitors and representatives as shall be reported to the Town.

#### **Section 18 - Denial or revocation of permits.**

- (a) If upon receipt of written information, complaints or upon investigation the Town Manager or his designee shall find that any agent or representative of the applicant has not applied for and received a license required by the state, or if any agent or representative of the applicant has misrepresented or made untrue statements on the application, or if the Manager determines that such solicitations may not be conducted in a manner inimical to the protection of health, life and property, or in the best interests of the citizens of this Town, or will not be in conformity with the intent and purpose of this article, then it shall be the duty of the Town Manager or his designee to deny a permit.
- (b) If, upon receipt of written information or upon investigation, the Town Manager or his designee shall find that any agent or representative of the permittee is

misrepresenting or making untrue statements with regard to solicitation, or has made untrue statements in the application, or that in any way the solicitation has been conducted or is being conducted in a manner inimical to the protection of the health, life and property of the citizens of the Town and not in conformity with the intent granted hereunder is an endorsement of such solicitation, then it shall be the duty of the Town Manager or his designee to revoke said permit; provided, however, that before any permit is revoked, the Manager give the permittee 24 hours' notice in writing that a hearing is to be had; and that at said hearing the Town Manager shall ascertain the facts, and if any reasons above set forth for revoking the permit are found to exist, the permit shall be revoked.

### **Section 19 - Appeal to council where permit refused or revoked - solicitation**

Any person or organization denied a permit, or whose permit has been revoked by the Town Manager, may request an appeal to the Town Council. Such appeal shall be taken by filing with the Town Clerk within 14 days after notice of the action complained of has been mailed to the person's last-known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the applicant in the same manner as provided for notice of hearing on refusal to grant a permit. The decision of the Council on the appeal shall be final and conclusive.

### **Section 20 - Aggressive solicitation prohibited.**

- (a) The Council finds that:
  - (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
  - (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
  - (3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of

crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.

- (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(b) In this section:

(1) *Aggressive manner* means:

- a. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- b. Following the person being solicited, if that conduct is:
  - (i) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - (ii) Intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- c. Continuing to solicit a person within five (5) feet of the person being solicited after the person has made a negative response;
- d. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- e. Using obscene or abusive language or gestures toward the person being solicited;
- f. Approaching the person being solicited in a manner that:
  - (i) Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

(ii) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

- (2) *Automated teller machine* means a device, linked to a bank's account records, which is able to carry out banking transactions.
- (3) *Automated teller facility* means the area comprised of one (1) or more automatic teller machines, and any adjacent space that is made available to banking customers.
- (4) *Bank* includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.
- (5) *Bus* means a vehicle operated by a transit authority for public transportation.
- (6) *Check cashing business* means a person in the business of cashing checks, drafts, or money orders for consideration.
- (7) *Public area* means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.
- (8) *Solicit* means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(c) A person commits an offense if the person solicits:

- (1) In an aggressive manner in a public area;
- (2) In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
- (3) Within 25 feet of:
  - a. An automated teller facility;

- b. The entrance or exit of a bank; or
  - c. The entrance or exit of a check cashing business; or
- (4) At a marked crosswalk.
- (5) On either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;
- (d) A culpable mental state is not required, and need not be proved, for an offense under subsection (c)(2), (3), or (4).
- (e) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.
- (f) Violation of this section is a misdemeanor, punishable by a fine of up to \$500.00.

**Section 21 - Pedestrians subject to traffic-control signals.**

Pedestrians shall be subject to traffic-control signals where such devices are in place or special pedestrian signals as designated. But at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

**Section 22 - Pedestrians soliciting rides, business or contributions.**

- (a) No person shall stand, sit or walk in a roadway for the purpose of soliciting a ride, employment, business or contributions from the occupant of any vehicle traveling in or upon a roadway or stopped momentarily in compliance with a duly erected traffic control device or traffic sign located upon the roadway. Exceptions as provided for worthy charitable, patriotic, religious, educational or philanthropic organizations as described in Section 13 may apply.
- (b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or while soliciting such vehicles to park in an off-street parking facilities.

**Section 23 - License Required for displays of Arts, Crafts, Flea Markets, Rummage Sales, and similar uses.**

Every person peddling, soliciting, canvassing or promoting the display or sale of arts and craft items and merchandise, wares or other tangible items in the Town

in connection with a flea market, rummage sale, arts and crafts fairs, or other temporary use shall obtain a license per the subsection below:

- (1) *Exhibition show/sales; arts and crafts.* Every person using any site or location for the purpose of promoting the display or sale of arts and crafts items on a permanent basis shall pay for such privilege a license fee per year of \$75.00.

When an exhibition of arts, crafts or other items of merchandise is totally sponsored by a non-profit organization conducting the exhibition show for charitable, cultural, religious or civic purposes, and no person or corporation outside of the organization is hired or engaged to promote such exhibit for a fee or percentage, and there is no buying, selling, trading or taking of orders for future delivery, the organization shall pay a license fee of \$25.00 per year, provided that there are no more than six (6) two-day events scheduled per year. More than six (6) two-day events shall be considered a permanent basis.

In this section, "exhibition shows and sales" means an exhibition or show where arts and crafts are displayed for show and/or sale either out of doors or in a building occupied in whole or in part.

- (2) *Flea markets and rummage sales.* Every person using any site or location for the purpose of promoting the display or sale of merchandise, wares or other tangible items in connection with a flea market or rummage sale shall pay a license tax of \$75.00 per sale period. Sale period shall not exceed five (5) consecutive days.

When a group of individuals place merchandise in the same location under one (1) general manager or promoter, the general manager or promoter shall pay a license fee of \$100.00 per sale period. Sale period shall not exceed five (5) consecutive days. Any other exemptions provided for by this article shall not apply to the license required by this section. This does not apply to individuals having a yard sale as defined by the Town of Jamestown Land Development Ordinance. In general, yard sales are construed to be sales of previously owned or used merchandise and not of a general retail nature. Determinations of whether the event

exceeds the intent of the ordinance to exclude yard sales will be at the discretion of the Town Manager or his designee.

Fee recommendations: \$75 for each permit for sales of goods, plus \$50 for each canvasser, peddler, or employee. (includes background check fee)

No charge for solicitation permits for any worthy charitable, patriotic, religious, educational or philanthropic organization.