

**Draft**  
**(10/4/11)**

Village of Lake Isabella  
1010 Clubhouse Drive  
Lake Isabella, MI, 48893  
989-644-8654

**PROPOSED ORDINANCE 2011-15**  
**PEDDLER & SOLICITATION REGULATION**

At a regular meeting of the Village Council for the Village of Lake Isabella held at the Village offices on \_\_\_\_\_, 2011, beginning at \_\_\_\_\_ p.m., the following Ordinance was offered for adoption by Village Council Member \_\_\_\_\_, and was seconded by Village Council Member \_\_\_\_\_:

**AN ORDINANCE TO PROVIDE FOR THE LICENSING OF SOLICITORS WITHIN THE VILLAGE OF LAKE ISABELLA; TO PROVIDE REGULATIONS FOR SOLICITING AND RELATED MATTERS AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE**

THE VILLAGE OF LAKE ISABELLA (the "Village") ORDAINS:

812.1 **Solicitor and Solicitation Defined.**

*Section 1.* The words solicitor, solicit, solicitation, and soliciting as used in this Ordinance shall mean any person (which includes any individual, firm, entity, corporation, association, partnership, limited liability company, or organization or its agents) traveling either by foot, wagon, automobile, vehicle, or other 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, products, or merchandise or personal property of any nature; or attempting to collect monies, pledges or donations for political, charitable, or religious causes; or for services to be furnished or performed, whether or not such person has, carries or exposes for sale a sample of the subject or such sale or whether such person is collecting advance payments on such sales or

not; or any similar action or activities including those persons who call themselves transient merchants, canvassers, hucksters, peddlers or other similar terms. These activities shall also include any actions involving the canvassing or petitioning for a public office, public official, political candidate, election, or millage or public initiative or referendum affecting public policy.

812.3 **Permit Required.**

*Section 2.* Except as otherwise provided in this Ordinance, no person shall solicit or act as a solicitor within the Village of \_\_\_\_\_ without first obtaining a permit from the Village. No permit shall be granted by the Village without prior approval by the Village Manager, Village Clerk, or such other Village official as is appointed by the Village Council. All permits shall expire thirty (30) days after their issuance, unless renewed by the Village Manager, Village Clerk, or such other Village official as is appointed by the Village Council.

812.5 **Background Check.**

Except for persons or solicitors that are partially exempt from this Ordinance pursuant to Section 12.004 (Section 4) hereof, a background check will be performed by the Village for each individual solicitor before a Village permit is issued. The Village Council shall determine what type of background check shall be performed for different categories or types of solicitors based on the potential threat to the public health or safety.

812.7 **Permit Application.**

*Section 3.* A permit application may be obtained during normal business hours at the Village offices.

- (a) Such application shall be fully completed and filed with the Village at least ten (10) days prior to the date of commencement of the solicitation. The application shall contain all of the following information:
- (i) Name of the applicant and the names of those persons soliciting for the applicant. Each individual solicitor must supply, in person, a copy of their driver's license or other form of government issued photo personal identification to the Village.
  - (ii) Permanent home address and local address of the applicant (and for all other persons soliciting for the applicant).
  - (iii) A brief description of the nature of the organization and business and the goods or services to be sold or solicited.
  - (iv) If the solicitor is otherwise employed, the applicant shall provide the name and address of such employer.
  - (v) The length of time for which the solicitation within the Village is desired.
  - (vi) The place where the goods or property proposed to be sold or orders taken for the sale are manufactured or produced, where such products or goods are located at the time said application is filed and the proposed method of delivery.
  - (vii) A statement as to approximate locations within the Village where the solicitations will take place.
  - (viii) Each solicitor shall sign a statement as to whether or not that solicitor (or the solicitor's firm, corporation or organization) has been convicted of a felony, and/or misdemeanor theft or fraud offense and

if so, stating the nature of the offense. A “yes” response is cause for denial of a permit for the applicant.

- (b) If the requirements of this Ordinance are met, the Village shall prepare and issue a solicitor permit to each person soliciting under the applicant. The permit shall be displayed by the solicitor at all times while soliciting in the Village and shall be presented by that person to any resident requesting identification prior to any attempt to sell a product or service to that resident.
- (c) Any denial of a permit application shall be made in writing specifying the reasons for denial within three (3) business days of the filing of a complete application. The Village may take a longer period of time in determining whether a particular permit will be issued if the background check cannot be completed in a shorter period of time. Any appeal of a permit denial pursuant to this Ordinance must be in a writing signed by the applicant and filed with the Village within ten (10) days of the date of the denial. All appeals shall be decided by the Village Council.
- (d) A solicitor permit shall be denied by the Village if any of the following standards are not met:
  - (i) Every requirement of this Ordinance will be met.
  - (ii) The safety of the residents of the Village will be protected.
  - (iii) Neither the applicant nor the applicant’s employer or organization has been convicted of either a felony of any kind or a misdemeanor involving solicitation, theft or fraud.

- (iv) Neither the applicant nor the applicant's organization is delinquent in any real or personal property taxes or other indebtedness to the Village.

812.9 **Partially Exempt Persons—Religious, Government, and Nonprofit Activities.**

*Section 4.* The following persons and organizations are exempt from the permitting requirements under this Ordinance when engaging in the type of solicitation mentioned below in this Section 4. Except as otherwise provided in this Section 4, all solicitation that is exempt under this Section shall still comply with the general regulations and prohibitions of Section 6 of this Ordinance.

- (a) **Solicitation for Religious or Charitable Institutions.** Any person who is soliciting for a school, state or federally registered or recognized charity, a nonprofit corporation or entity, or a church or religious society shall not be required to obtain any permit or pay any permit fee pursuant to this Ordinance. The solicitor for any group listed under this subsection (a) must still register with the Village and provide the Village Manager, Village Clerk, or other Village official designated by the Village Council with a name, address, and a copy of their driver's license before such exempt solicitation can occur within the Village. The applicant shall provide evidence (*i.e.*, 501(c)(3) status, etc.) to the Village that the organization for which the solicitation is taking place is a school, recognizable charitable, non profit or religious organization.
- (b) **Political Speech or Canvassing.** Solicitations exclusively intended to canvass or petition for a public official, political candidate, public policy or initiative

being promoted for purposes of a public referendum, initiative, millage, or election does not require any registration, permit or permit fee.

- (c) Any person exempt from the permitting requirements of this Ordinance by virtue of state or federal law.

812.11 **Permit Fee.**

*Section 5.* Except for exempt permits specified in Section 4 hereof, a nonrefundable permit fee in the amount of \$25.00 shall be paid to the Village at the time that an application for a solicitor permit is filed with the Village. If a permit renewal application is filed with the Village within the 30-day time period before the date that the original permit expires, a nonrefundable renewal permit fee in the amount of \$15.00 shall be paid to the Village. If an application for a permit renewal is not filed with the Village (together with the applicable fee) prior to the time the original permit expires, the application shall be deemed an application for a new solicitor permit and the nonrefundable permit fee to be paid to the Village at the time of application shall be \$25.00.

Each solicitor shall also make a deposit of \$25.00 per permit to the Village. This deposit will be refunded upon return of the permit to the Village. Return of the permit to the Village must be made in person by each individual permittee. All permits must be returned within five (5) days of their expiration or the deposit of \$25.00 shall be forfeited. The above fees and deposit may be modified by the Village Council by resolution from time to time.

812.13 **General Regulations and Prohibition.**

*Section 6.* Unless otherwise expressly permitted by another Village ordinance or mandated by state law:

- (a) Where a permit is required by this Ordinance, it shall be unlawful for any person to engage in solicitation without having first obtained a permit issued by the Village. The permit must be in possession of the solicitor while in the act of soliciting and shown upon the request of any person.
- (b) While conducting any act of solicitation, the solicitor shall clearly display permit and photo identification that correctly identifies who the solicitor is and for whom the solicitor is working. It shall be unlawful for any solicitor to fail or refuse to show or display such permit and identification upon the request of any person.
- (c) No persons shall stop or park a vehicle at the curb for the purpose of solicitation from a vehicle, nor shall any person establish a stand, booth or other place of business on any street curb, sidewalk, public right-of-way or other public place. This subsection shall not be interpreted to prohibit parking for the purpose of making deliveries or for the purpose of consummating a business transaction with persons waiting at the curb, provided that the solicitor leaves the curb immediately after the deliveries or transactions are completed.
- (d) No person shall operate or maintain any stand, structure, building or vehicle on or near to any public right-of-way for the service of customers or for solicitation in such a manner that requires customers to stand, occupy or congregate within the public roadway.
- (e) No person shall conduct any solicitation so as to obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a permitted transaction or at any time after having been

requested to desist by any public officer because of congested or dangerous traffic conditions or for the public health, safety or welfare.

- (f) No person shall engage in any solicitation on any property against the wish or desire of the property owner or the tenant or occupant of the property. No person shall trespass on the property of another while engaged in solicitation.
- (g) No person engaged in any solicitation shall visit any dwelling or residence without an appointment where a sign is displayed stating “No peddlers,” “No solicitors,” “No sales,” “No trespassing” or words of similar meaning.
- (h) No person engaged in solicitation shall, while in a stationary position in any public place, shout, cry out his goods or merchandise, nor blow any horn, ring any bell, broadcast or play any sound, or use any other similar device to attract the attention of the public.
- (i) No persons shall travel from door to door, street to street, or place to place within the Village while engaged in solicitation except between the following hours:
  - (i) April 1 to September 30: 9:00 a.m. to 7:00 p.m.
  - (ii) October 1 to March 31: 9:00 a.m. to 5:00 p.m.
- (j) No person engaged in any solicitation shall enter upon a property or call upon any occupant of the property by any means of entry or contact other than approaching the front entry door of the premises. No person engaged in any solicitation shall enter into an attached or detached garage or a rear yard, unless invited by the occupant of the premises.
- (k) A permit under this Ordinance shall not be granted to any person owing any real or personal property taxes or other indebtedness to the Village or who

contemplates using any personal property on which personal property taxes are owing in the operation of a business.

- (l) No person shall block or impede the passage of the person being solicited.
- (m) No person who is soliciting shall follow the person being solicited after that person has objected to the solicitation or asked the solicitor to leave.
- (n) No person shall use any threatening or offensive behavior or language when engaging in solicitation.

812.15 **Revocation of a Permit.**

*Section 7.*

- (a) A permit issued pursuant to this Ordinance may be revoked by the Village. Such revocation shall be done by the Village Manager, Village Clerk, or such other Village official as is appointed by the Village Council.
- (b) The applicant may appeal the revocation of the applicant's permit revoked pursuant to this Ordinance by filing an appeal with the Village Council. Any such appeal must be in writing (signed by the applicant) and filed with the Village within ten (10) days of the date of the permit revocation.
- (c) When considering whether or not to revoke a permit issued under this Ordinance (or during an appeal of such a revocation), the Village official or body involved shall consider the following:
  - (i) Whether one or more provisions of this Ordinance have been violated.
  - (ii) Whether continued solicitation by the applicant pursuant to the permit would endanger the health, safety, or welfare of Village residents or property owners.

- (iii) Whether there were material misrepresentations in the permit application.

812.17 **Penalties and Remedies.**

*Section 8.*

- (a) Any person who violates any provision of this Ordinance, or who disobeys, omits, neglects or refuses to comply with, or resists enforcement of, any section of this Ordinance, is responsible for a misdemeanor, subject to payment of a civil fine of not less than \$150.00, plus costs and other sanctions, for each violation.
- (b) Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section below. As used in this Section, repeat offense means a second (or any subsequent) violation of the same requirement or provision of this Ordinance (i) committed by a person within any 90 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
  - (i) The fine for second offense shall not be less than \$250.00, plus costs.
  - (ii) The fine for any third or subsequent offense shall not be less than \$500.00 each, plus costs.
- (c) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense subject to separate sanctions.
- (d) The person or persons authorized by the Village Council shall enforce this Ordinance and may issue municipal civil infraction citation for violations of

this Ordinance, as provided by the Village of \_\_\_\_\_ Municipal Civil Infraction Ordinance.

- (e) In addition to the payment of fines and costs, the court shall also have the authority to issue the appropriate injunction or court order for any violation of this Ordinance. The court can also order that a person found to be in violation of this Ordinance reimburse the Village for its attorney fees, engineering fees, or other similar fees or costs incurred pursuant to the enforcement of this Ordinance.
- (f) In addition to the above, the Village shall have such other remedies as are accorded to it for a violation of this Ordinance pursuant to law and equity. Any remedy or remedies pursued by the Village shall be deemed cumulative and shall not preclude the Village from pursuing other remedies available at law or equity.
- (g) Pursuant to a resolution adopted by the Village Council, the Village may also institute a Municipal Violations Bureau for processing municipal civil infraction notices or citations pursuant to this Ordinance.

812.19 **Severability.**

*Section 9.* Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the rest of this Ordinance as a whole, or any part thereof other than that part declared to be invalid or unconstitutional.

812.21 **Effective Date.**

*Section 10.* This Ordinance shall become effective upon the expiration of thirty (30) days after the publication of this Ordinance or a summary thereof.

The vote to adopt this Ordinance was as follows:

YEAS: \_\_\_\_\_  
\_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT/ABSTAIN: \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify that the above is a true copy of an ordinance adopted by the Village Council for the Village of \_\_\_\_\_ at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

Dated: \_\_\_\_\_, 2011

By \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Village Clerk