

**NORTH CAROLINA
ROCKINGHAM COUNTY**

ORDINANCE TO REGULATE BEGGING, SOLICITATION AND PANHANDLING

SECTION 1. DEFINITIONS

The following definitions apply:

(1) *Beg, Solicit or Panhandle* – use of the spoken, written, or printed word, or other acts as are conducted with the purpose of immediately collecting contributions for the use of one's self or others.

(2) *Door-to-door commercial solicitation* - means attempting to make personal contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (a) Attempting to sell, for present or future delivery, any goods, wares or merchandise, or any services to be performed immediately or in the future, whether or not the person has a fixed place of business in the County or elsewhere and whether or not the person carries or exposes a sample of such good, wares or merchandise, and whether or not he or she is collecting advance payments for such sales; and/or
- (b) Personally delivering to a resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase away from the residence or at a future time.

(3) *Door-to-door noncommercial solicitation*- means attempting to make person contact with a resident at his or her residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (a) Seeking or asking for a gift or donation for a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);
- (b) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a public entity or nonprofit organization exempt from federal income tax under 26 U.S.C. 501 (c)(3);
- (c) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
- (d) Proselytizing on behalf of a religious organization;
- (e) Soliciting support for a political candidate or organization, or ballot measure or ideology; and/or
- (f) Soliciting the sales of newspapers.

(4) *Financial Institution* - any bank, credit union, savings and loan, or automated teller machine (ATM).

(5) *Obstruct Pedestrian Traffic or Vehicular Traffic* – to walk, stand, sit, lie or place an object in such a manner as to block passage by another person or vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact.

SECTION 2. SCOPE OF PERMITTED ACTIVITY

A. Permit Required. It shall be unlawful for any person to beg, solicit or panhandle upon the streets or other public property, or engage in door-to-door commercial solicitation, in the unincorporated areas of Rockingham County without obtaining the written permission of Rockingham County, as evidenced by obtaining a permit from the Rockingham County Code Enforcement Office. A permit shall be valid for six months from the date of issuance. In the event a holder violates any provision of this chapter, Rockingham County may revoke the holder's permit.

B. Eligibility. A person is not eligible for a permit, for renewal of a permit, as required by this ordinance if, within the two-year period prior to application for a permit or renewal:

- (1) The Rockingham County Code Enforcement Officer has received information that the applicant or any person authorized to solicit under a permit held by a permit holder has violated any of the requirements of this ordinance; or
- (2) That person has been convicted of an offense under the law of any jurisdiction which involved either misdemeanor or felony assault, communicating threats, the illegal use of weapons, or larceny, embezzlement, breaking and entering or other crimes relating to theft or crimes deemed by Code Enforcement, in their discretion that would prevent issuance of this permit; or
- (3) A permit held by that person has been revoked under this ordinance or the identification badge of any person authorized to solicit under that person's permit has been revoked under this ordinance.

C. Standards of Conduct and Prohibited Acts.

(1) **Begging, soliciting, or panhandling shall:**

- (a) Only be permitted between the hours of 8:00 a.m. and 6:00 pm;
- (b) Not be permitted within 100 feet of any financial institution which is open for business;
- (c) Not be permitted within 100 feet of any automatic teller machine or any other machine at which money is dispensed to the public;
- (d) Not be permitted within 100 feet of the property lines of any private residence;
- (e) Not be permitted within 20 feet of a bus stop or public transportation stand or stop;
- (f) Not be permitted within 20 feet of a commercial establishment which is open for business;
- (g) Not be permitted in the traveled portion of any street, or highway and shall not be conducted in such way to obstruct vehicular or pedestrian traffic;
- (h) Not be permitted if done in a manner that is aggressive, threatening, or intimidating or by use of threatening, profane, or abusive language during the solicitation or following an unsuccessful solicitation; behavior shall be considered aggressive, threatening, or intimidating if done in a manner that a reasonable person should know would cause a person of ordinary sensibilities to be fearful of bodily harm, and shall be deemed to include touching the person who is being solicited without

that person's consent, and blocking the path of a person being solicited, including their entrance to a building or vehicle;

- (i) Not be permitted by following a person who has been solicited after that person has declined the request or walked away; and
- (j) Not be permitted if obstructing pedestrian traffic or vehicular traffic while engaging in any activity allowed under this ordinance.

(2) Enforcement of "no solicitation," "no commercial solicitation" or "no trespassing" signs.

- (a) No solicitor, whether commercial or noncommercial, shall enter or remain upon any private premises in the County if a "no solicitation" or "no trespassing" sign is posted at or near the entrance(s) to such premises. For purposes of enforcement of this provision, if a multi-family housing complex is not otherwise posted with regard to solicitation and an individual occupant of such multi-family housing complexes wishes to prohibit some or all door-to-door solicitation at their individual residence, that individual occupant may do so by the posting of a sign prohibiting solicitation or commercial solicitation at or near the entrance(s) to the occupant's individual residence.
- (b) This provision shall apply to all solicitation, including, without limitation, all activities that are religious, charitable, or political in nature and all solicitation of newspaper subscriptions.

(3) No person engaged in door-to-door commercial or noncommercial solicitation shall:

- (a) Attempt to sell, for present or future delivery, any goods, wares or merchandise, or any services to be performed immediately or in the future (for purposes of this ordinance, hereinafter referred to collectively as "sell" or "selling") by means of statements which are known, or should have been known, by the person making them to be false or misleading;
- (b) Obstruct the free flow of traffic, either vehicular or pedestrian, on any street, alley, sidewalk or other public right-of-way;
- (c) Sell in a way as creates a threat to the health, safety or welfare of any specific individual or the public;
- (d) Take place before 9:00 a.m. or after 7:00 p.m. or sunset, whichever occurs first;
- (e) Remain on the property of another person after having been requested to leave;
- (f) State or implying that the holding of a permit issued by the County constitutes an endorsement of the commercial solicitor's goods and/or services by the County;
- (g) Fail to display the identification badge required by this ordinance;
- (h) Use or present a revoked, expired or otherwise invalid permit and/or identification badge required by this ordinance; or
- (I) Otherwise sell or conduct commercial solicitation in any manner that a reasonable person would find obscene, threatening, intimidating, or abusive.

D. The regulation of begging, soliciting, or panhandling under this ordinance shall not apply to:

- (1) The lawful solicitation of contributions from the public for personal or charitable purposes if in areas and in a manner otherwise permitted by law;
- (2) The promotion or expression of views concerning political, social, religious, and other like matters if in areas and a manner otherwise permitted by law;
- (3) Licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction, maintenance, or in making traffic or engineering surveys; or
- (4) Distribution of newspapers on the non-traveled portion of any street or highway except when those distribution activities impede the normal traffic on the street or highway.

SECTION 3. PERMIT ISSUANCE AND REVOCATION

A. Permit Application Procedure: A criminal background check is required and will be reviewed by Code Enforcement to determine eligibility of the applicant. Application shall be on a form issued by the Code Enforcement Department, signed by the applicant in the presence of the employee accepting the application, and shall set forth the following information:

- (1) The name, permanent address (or if no permanent address a temporary address in the vicinity of Rockingham County), a phone number (if available), and emergency contact of/for the applicant;
- (2) Picture identification of the applicant through a valid state-issued photo identification, or if picture identification is impractical, the applicant shall provide other documentation that reasonably establishes identity; and
- (3) A brief description of the activity to be conducted, including if applicable, any items or services to be sold or offered for sale.
- (4) Applicants to engage in door-to-door commercial solicitation shall also provide:
 - (a) A complete list of all persons authorized to solicit under the requested permit and all supervising staff;
 - (b) Name, address and telephone number where applicant or supervising staff can be reached while conducting business in the County;
 - (c) A photograph taken no more than six months prior to the application, which photograph fairly depicts the appearance of each person authorized to solicit under the permit as of the date of the application and which, in the judgment of the Rockingham County Code Enforcement Officer, is suitable for reproduction on the identification badge(s) to be issued by the County; and
 - (d) Shall have a continuing duty to immediately disclose to the Rockingham County Code Enforcement Officer any change in the information provided in the application.

B. Permit Application Fee. The Board of Commissioners retains the authority under NCGS § 153A-125 to charge a fee for a permit issued pursuant to this ordinance. Such a fee, if imposed,

shall be adopted as part of a revenue schedule for permits and fees to be adopted as part of the annual budget process.

C. Permit Issuance, Denial, And Appeal.

(1) *Procedure for application review.* Within 5 business days of receipt of an application, Rockingham County Code Enforcement or designee shall issue a permit unless the applicant:

- (a) Has not submitted a complete application.
- (b) Has submitted false information.
- (c) Is less than 18 years of age.
- (d) Has been convicted of one or more offenses which involves either misdemeanor or felony assault, communicating threats, illegal use of weapons, or other violent crime; or
- (e) Has been convicted of one or more offenses which involve either misdemeanor or felony crimes relating to or in the nature of larceny, embezzlement, breaking and entering or other crimes relating to theft or crimes deemed by Code Enforcement, in their discretion that would prevent issuance of this permit.

(2) *Possession of permit.* Any person authorized by permit to engage in door-to-door solicitation or panhandling shall keep the issued permit in his or her possession and exhibit his or her permit when requested to do so by any solicited individual or law enforcement officer.

(3) *Denial of permit.* In the case of denial, the county's denial and the reasons for denial shall be noted on the application, and the applicant shall be notified that his or her application is denied and no permit shall be issued. Notice shall be mailed to the applicant at the last known address shown on the application form if given.

D. Permit Revocation

(1) A permit may be revoked or suspended by the county for the following reasons:

- (a) Fraud, misrepresentation, or false statement contained in the permit application;
- (b) Begging, soliciting, soliciting door-to-door, or panhandling in a manner inconsistent with the provisions in the issued permit;
- (c) Conducting begging or panhandling or solicitation in such manner as to create a breach of the peace or endanger the health, safety or general welfare of the public; or
- (d) The failure of an applicant, or any person working on behalf of or with the applicant, to comply with any provision or requirement of this ordinance or other applicable law.

(2) Upon revocation, the permit issued must immediately be surrendered to the County.

E. Appeal of Denial or Revocation. Any applicant who has been denied issuance of a permit under Section C. or who has had a permit revoked under Section D. of this ordinance may appeal such action within 10 days of the date of denial or revocation by delivering a written notice of appeal, specifying with particularity the ground(s) for the appeal to the County Manager.

F. Penalties. A violation of this ordinance shall be punished by a fine of not more than \$500.00 or imprisonment for not more than thirty (30) days for each separate violation. Each day any violation of this ordinance shall continue shall constitute a separate offense. In addition to the penalties previously stated a violation of this ordinance may be enforced by any one or more of the remedies authorized by G.S. §153A-123.

G. Severability. Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. SPECIFIC PROVISIONS RELATED TO DOOR-TO-DOOR SOLICITATION

A. Duty to display permit/identification badge; report of lost or stolen permit or badge.

(1) Any person engaging in door-to-door commercial solicitation under a permit issued pursuant to this ordinance shall conspicuously display an identification badge issued or approved by the County containing the photograph of the solicitor on the front of his/her person by the use of a lanyard or on the outside of his/her clothing at all times.

(2) Whenever requested by any law enforcement officer or by any customer or prospective customer, any solicitor engaged in door-to-door commercial solicitation or panhandling shall exhibit his/her copy of the permit issued by the County.

(3) A permit holder is required, without undue delay, to report any lost or stolen permit, copy of a permit and/or identification badge to the Rockingham County Code Enforcement Office.

B. Timeliness of Application. An application for a permit shall be made at least 15 business days before the applicant desires to conduct door-to-door commercial solicitation within the County.

This ordinance as amended shall become effective upon adoption.

This the 15 day of February, 2016.



ROCKINGHAM COUNTY
BY: T. Craig Travis
T. Craig Travis, Chairman
Rockingham County Board of Commissioners

ATTEST:
Pamela M. McLain
Pamela M. McLain, CMC, MMC
Clerk to the Board

I, Pamela M. McLain, Clerk of the Rockingham County Board of Commissioners, do hereby certify that the foregoing ordinance was duly adopted by the governing body of Rockingham County after lawful public notice and at a regular meeting thereof, a quorum being present.

This the 15 day of February, 2016.



Pamela M. McLain
Pamela M. McLain, CMC, MMC, Clerk to the Board