

**AN ORDINANCE AMENDING TITLE XI BUSINESS REGULATIONS
OF THE MILLS RIVER CODE OF ORDINANCES**

WHEREAS, at the June 27, 2024 Town Council meeting, concerns were raised about door-to-door solicitations because a number of individuals from the same company were approaching residences trying to sell their products, and in some cases were doing so in a forceful, unsavory manner.

WHEREAS, the Town currently has no adopted regulations concerning door-to-door solicitation or sale of goods.

WHEREAS, Town Council made a request for Staff to begin a text amendment to the Mills River Code which would restrict or prohibit door-to-door solicitations without a permit. During discussion, guidance was given for a time-of-day limit so solicitations would not be made after a set hour.

WHEREAS, provisions are set forth designed to ensure that peddling, solicitation, and itinerant merchant operations within the jurisdiction of the Town of Mills River will be regulated, safe, and not pose a nuisance to the public.

WHEREAS, the rules, regulations, and guidelines are set forth in the Town of Mills River Code of Ordinances, Title XI, Business Regulations, Chapter 112, Solicitors, Peddlers, and Itinerant Merchants.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLS RIVER:

SECTION 1. Title XI: Business Regulations

CHAPTER 112: SOLICITORS, PEDDLERS, AND ITINERANT MERCHANTS

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GENERAL PROVISIONS

§ 112.001 TITLE.

This chapter shall be known and may be cited as the “Solicitors, Peddlers, and Itinerant Merchants Ordinance of the Town of Mills River, North Carolina.”

§ 112.002 PURPOSE.

The provisions set forth in this chapter are designed to ensure that peddling, solicitation, and itinerant merchant operations within the jurisdiction of the Town of Mills River hereafter referred to as “Town,” will be regulated, safe, and not pose a nuisance to the public.

§ 112.003 DEFINITIONS.

For the purposes of this chapter and administration of the Town’s Business Regulations, the following definitions shall apply:

BONA FIDE FARM: All land on which agricultural operations are conducted.

BUSINESS: Includes each trade, occupation, profession, business, and franchise under this chapter.

CHARITABLE ORGANIZATION: An organization operating for religious, educational, civic, patriotic, or charitable purposes, whose funds are used for such purposes.

FARMER MARKET: A food market at which local farmers sell fruit and vegetables and often meat, cheese, and bakery products directly to customers. Peddlers who operate at farmer markets for the purpose of selling farm and/or nursery products shall be exempt from the regulations of this chapter.

GOODS: Physical objects that can be seen or touched. Goods consist of, but are not limited to, durable and nondurable items, such as food, clothes, books, furniture, electronics, construction materials, etc.

ITINERANT MERCHANT: A solicitor who transports goods to a building, vacant lot, alley, or other temporary places for the purpose of offering goods for sale, no longer than six consecutive months.

PEDDLER: A peddler is a solicitor, whether a resident of the Town, or not, traveling by foot, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting any kind of goods, offering and exposing them for sale, or making sales and delivering articles to purchasers. The act of peddling also includes the absence of traveling from place to place, selling goods from a motor vehicle or other means of conveyance, in a stationary position for a temporary period of time. The word "peddler" shall include the words "drummers" and "hawkers."

PERSON: Includes an individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, limited liability company or other legal entity.

SALESPERSON: A solicitor who travels from place to place and offers inventory for retail sale.

SOLICITOR: A solicitor is a person, whether a resident of the Town, or not, traveling by foot, motor vehicle, or any other type of conveyance, from place to place, from house to house, from street to street, or in a stationary position for a temporary period of time, taking or attempting to take orders for sale of goods, merchandise, personal property and/or selling goods, etc. This includes intangible personal property, investment products, and product promotions, for future delivery or services, whether or not such individual carries sample of subject services or product for sale, or whether they are collecting advanced payment on such sales. The word "solicitor" shall include the words "itinerant merchants," "salespersons," and "peddlers."

YARD SALE: A sale of personal goods at a person's residence for profit. The term shall include "garage sales", "rummage sales", and "estate sales".

SOLICITATION PERMIT

§ 112.004 APPLICATION.

Any person requesting a permit for the purposes of acting as a Solicitor or Peddler within the corporate limits of the Town shall complete a written application containing the following information and attachments:

- (A) The name and address of the applicant, and other person(s) involved in solicitation.
- (B) The applicant's full address and phone number, and other person(s) involved in solicitation.
- (C) An acceptable form of identification such as a U.S. Driver's License, Learner's Permit, or Identification Card with photo for all persons involved in solicitation.
- (D) The name and address of the person and/or company, if any, the applicant represents.
- (E) The year, make, model, tag number, state of registration, and color of all motor vehicles used for solicitation.
- (F) The types of goods and services offered for sale.

(G) The price of product/service being sold.

(H) Whether the applicant, upon any sale or order, shall demand, accept, or receive payment or deposit of money in advance of final delivery.

(I) The period of time such applicant intends to engage in associated business within the Town.

(J) Whether or not the applicant and other person(s) involved have ever been convicted of a felony and if so, the complete circumstances thereof.

(K) The last five municipalities or counties the applicant has solicited in before coming to making the application.

(L) Business license number of the business the applicant represents, if applicable.

(M) Signed solicitors conduct and behavior pledge.

(N) An application fee as set in the Town's adopted fee schedule. A fee schedule is on file and available on the Town's website.

(O) Any other information the Town determines necessary to process the application, perform a criminal offender search, and/or sex offender registry search, including written consent for such searches.

§ 112.005 ISSUANCE OF PERMIT

(A) After the Town receives a completed application and fulfills all application requirements listed in § 112.004, Town staff shall notify the applicant of the approval and the fee amount due, based on the time period approved for solicitation. The permit fee shall be paid prior to the issuance of the permit.

(B) After payment, the applicant will be given a copy of the approved permit, which shall be carried on person at all times while conducting solicitation in Town.

§ 112.006 PERMIT FEES AND PAYMENT METHOD

(A) The permit fee shall be \$10 per day for the number of days for which the solicitation permit is approved.

(B) The solicitation fee shall be paid in person at Town Hall or by credit card on the Town's online permit portal.

(C) If the solicitor(s) discontinues solicitation during the approved permit period, they will not be entitled to a refund.

§ 112.007 PERMIT PERIOD

The permit period is solely based off the approved time frame when solicitation occurs as specified by the applicant on the application. No standard permit period exists.

§ 112.008 REVOCATION OF PERMIT

Any permit issued under the provisions of this Chapter by the Town may be revoked for violation of any provision in this chapter and/or state law or the solicitor's misconduct or misbehavior.

§ 112.009 EXEMPTIONS

(A) Except as explicitly provided in this section, no person or business conducting solicitation in Town is exempt from the application process for a solicitation permit and associated fees, required by this chapter.

(B) *Charitable Organizations.* An organization operating for religious, educational, civic, patriotic, or charitable purposes, whose funds are used for such purpose may conduct solicitation or fundraising in the Town no more than twice each calendar year. If any such organization conducts more than two (2) separate fundraising or soliciting activities within a one (1) year period, such organization shall no longer be exempt from the requirements of this ordinance and will immediately be required to obtain a permit for all such activities at any time.

(C) *Farmer Markets.* Peddlers who sell farm and/or nursery products at farmer markets shall be exempt from the requirements and regulations in this chapter.

(D) *Temporary Vendor.* Individual or business operating under a temporary vendor permit, issued and approved, by the Town of Mills River.

(E) *Yard Sales.* Yard sales shall be exempt from the solicitation permit application process and associated fees.

(F) *Bona Fide Farms.* Bona fide farms shall be exempt from the provisions of this chapter, including, but not limited to, permit application processes and associated fees. However, the provisions of this chapter shall apply to all non-farm solicitation, peddling, and itinerant operations.

(G) *Local Commercial Fee Exemption.* Any business with a store or other operating facility within the Town corporate limits who desires to utilize solicitors shall be required to complete a solicitation permit application, but associated fees will be waived.

(H) *Permit Exemption.* Organizations and/or individuals who use in-store face-to-face means for solicitation of commercial businesses are exempt from solicitation permit application processes and fees as conveyed in this chapter.

BUSINESS CONDUCT AND REGULATIONS

§ 112.010 HOURS OF OPERATION

Solicitation, peddling, and itinerant merchant operations shall not be conducted between the hours of 7:00 PM and 8:00 AM.

§ 112.011 PROHIBITED ACTIVITIES

(A) It shall be unlawful for individuals to sell or offer goods and/or services for sale upon public streets, public parking lots, or engage in solicitation or peddling anywhere in Town without first applying for and obtaining a solicitation permit from the Town.

(1) Any solicitation or peddling conducted in public streets, public parking lots, or anywhere in Town, regardless of having a solicitation permit, shall not interfere with vehicular traffic and/or solicit services to drivers and occupants of motor vehicles.

(2) All solicitation and peddling conducted on highways and/or streets shall adhere to *G.S. § 20-175 Pedestrians Soliciting Rides, Employment, Business, or Funds upon Highways or Streets*.

(B) It shall be unlawful to enter private property for the purpose of solicitation when the property is posted with “No Trespassing” and/or “No Solicitation” signs, or otherwise similar in context.

(C) It shall be unlawful to solicit or peddle on Town-owned property, unless approved by Town Council. See § 90.011 *PROFITEERING* for reference.

§ 112.012 BEHAVIOR AND CONDUCT

It shall be unlawful for any solicitor, peddler, or person on their behalf to do the following:

(A) Accost another or forcing oneself upon the company of another.

(B) Touch a person being solicited without their consent.

(C) Block the path of a person being solicited or block the entrance or exit of any building or vehicle.

(D) Use profane or abusive language or threaten any person during solicitation.

(E) Use a gesture or act intended to cause a reasonable person to be fearful of the solicitor, or make a person feel compelled to consent to the solicitation.

(F) Be under the influence of alcohol and/or illegally used controlled substances.

(G) Continue to solicit services to a person after the person has made a negative response to the solicitation, either verbally or physically.

(H) Advertise, represent, or hold out in any manner that the permit required by this chapter is an endorsement of the permit holder by Town Council, Town staff, or the Town.

INVESTIGATIONS

§ 112.013 LAW ENFORCEMENT TO INVESTIGATE

If local law enforcement has reason to believe that a person is soliciting door-to-door within Town limits, in violation of this chapter, they shall investigate and take appropriate action.

§ 112.014 REQUIREMENT TO CARRY LICENSE.

(A) All solicitors and peddlers must carry in their immediate possession an approved solicitation permit, provided by the Town upon payment of the permit fee.

(B) All solicitors must present their permit to town residents if asked prior to engaging them for solicitation purposes. If a solicitor refuses to show their approved Town of Mills River Solicitation Permit, residents should contact law enforcement immediately.

§ 112.015 ENFORCEMENT OF ORDINANCE

The Town of Mills River shall have authority to enforce this ordinance and to seek or impose all sanctions and penalties provided herein.

Pursuant to *G.S. § 160A-175(d)*, the Town may seek an injunction against any person who conducts solicitation services in violation of this chapter.

(A) Upon a first violation, enforcing authority shall issue a warning to the individual or business notifying them there is a violation of this section that must be corrected immediately.

(B) Upon a second violation, enforcing authority shall issue a Notice of Violation and associated fine to the individual or business, not more than \$250. The cited violation shall be corrected within 15 days upon issuance.

(C) Upon a third violation, enforcing authority shall issue a Notice of Violation and associated fine to the individual or business of not more than \$500. The cited violation shall be corrected within 15 days upon issuance.

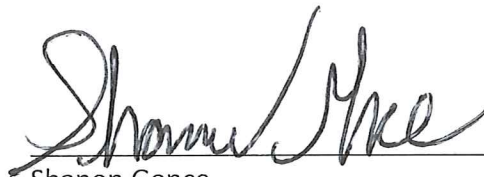
(D) Subsequent and continued violations will result in a penalty of \$1,000 per day of noncompliance. Each day is a separate and finable offense. The cited violation shall be corrected within 15 days upon issuance of a Notice of Violation.

(E) If the violation is still not corrected following issuance of the aforementioned citations, the Town may pursue an injunction in the appropriate court of law ordering the defendant to correct the violation.

SECTION 2. That all ordinances in conflict herewith are hereby declared null and void while this ordinance is effective.

SECTION 3. That this ordinance take effect and be effective at 12:01 AM on September 13, 2024 and shall be in full force and effect at all times thereafter until duly amended.

ADOPTED AND PASSED by the Town Council of the Town of Mills River, North Carolina, this 12th day of September 2024.



Shanon Gonce
Mayor

ATTEST By:



Patty Brown, CMC, NCCMC
Deputy Town Clerk

