

**ORDINANCE NO. 2012-16**

**AN ORDINANCE ESTABLISHING REGULATIONS FOR SOLICITATION AND ESTABLISHING PENALTIES FOR VIOLATION THEREOF.**

**WHEREAS**, the City of Oak Grove, Kentucky (“the City”), has significant and legitimate interest in the protection and security of residents, visitors and motor vehicle traffic within its incorporated limits; and

**WHEREAS**, the City Council finds that certain solicitation impedes the orderly flow of pedestrian and vehicular traffic that leads to concerns regarding traffic and public safety; and

**WHEREAS**, the City recognizes free speech rights for all citizens, while at the same time the need to protect the coexistent rights for all residents and visitors in public and private areas free of intimidation, coercion and harassment that can stem from solicitation; and

**WHEREAS**, the City Council finds there has been an increase in solicitation in the City, which threatens the security and privacy of residents, visitors and motor vehicle traffic alike and may constitute harassment of such persons; and

**WHEREAS**, the City Council does not intend this ordinance to limit an individual’s right to exercise free speech associated with solicitation; rather it aims to impose specific time, place and manner restrictions on solicitation and associated conduct in certain limited circumstances; namely, aggressive solicitation, solicitation at locations or times deemed particularly threatening and dangerous, or soliciting in places where people are a “captive audience” and there is a wish to avoid or reduce a threat of inescapable confrontations; and

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK GROVE AS FOLLOWS:**

**SECTION I. DEFINITIONS**

As used herein, the following words and phrases have the meanings indicated below:

1. ***Anti-Solicitation Property***: The words “anti-solicitation property” mean any property in the City, which has been posted with signs of “No Solicitors” or “No Trespassing” or other words of similar import thereon.
2. ***Bona Fide*** - made in good faith without fraud or deceit.
3. ***Charitable or Civic Organization*** – Any person determined by the Internal Revenue Service or the Kentucky Department of Revenue to be a tax-exempt organization; or a person or organization defined under KRS 367.650(2).
4. ***Charitable or Civic Purpose*** – Any purpose or activity which holds itself out to be benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary or fraternal or to be established for a social welfare or advocacy, public health, environmental conservation, or civic purpose, or is designed to serve the welfare of society generally or any class or group to which society is morally obligated or a

specific community or to preserve or improve the culture thereof or environment enjoyed thereby; or as may otherwise be defined under applicable federal or Kentucky statutes or revenue rulings of the Internal Revenue Service or the Kentucky Department of Revenue.

5. **Solicitation** – The word “Solicitation” shall mean the act of standing at or traveling on or near a crosswalk, highway, intersection or roadway and taking or attempting to take contributions, or making a sale of, or taking orders for the sale of, any personal property. This definition also includes a person standing in the median, crosswalk, highway, intersection, or roadway for the purpose of advertising a sale or service. Visits by sales representatives pursuant to invitation, or as part of a continuing business relationship, shall not be deemed as solicitation.
6. **Solicitor**- The word “Solicitor” means any person who engages in solicitation.

## **SECTION II – CRITERIA FOR PERMIT APPLICATION AND APPROVAL**

Permits shall be issued only to charitable organizations with an association to Oak Grove, Christian County.

All persons, organizations, partnerships, etc., desiring to solicit on roadways within the incorporated limits of Oak Grove shall complete a permit application form at the Oak Grove Police Department. The permit application shall provide the following information:

1. Name and address of the responsible person who will meet all requirements and be responsible for the persons soliciting and monies collected;
2. Organization represented and acknowledgement by applicant that it is a bona fide charitable organization and that the funds collected will be used only for the purpose stated;
3. The objective for the funds;
4. Names of all participants;
5. Photo identification that will be provided on solicitation site;
6. Assurance that all participants will be provided with approved traffic safety vests. At any time a participant in solicitation fails to properly wear a safety vest, the activity shall be ordered stopped immediately. All participants must sign a waiver that the city will not in any way be responsible for injuries, that all risk and responsibility of injury in on the participant(s);
7. Evidence that the registrant has third-party liability insurance with single limit of no less than \$500,000.00 which insurance covers the activities of all of the registrants’ officers, agents, employees, volunteers and contractors;
8. Location, dates, and hours of the solicitation event;
9. Application must be approved one (1) week (seven (7) days) prior to beginning the activity;
10. The Police Chief or designee shall maintain a calendar schedule of solicitation activities in Oak Grove. Said calendar shall be maintained to allow no more than one (1) solicitation activity per organization, per calendar month. Solicitation events may be scheduled for any calendar month in the year. Said calendar will run from January 1 to December 31 of each year. Dates for solicitation will be granted on a first request basis;

11. It shall be the obligation of all organizations soliciting on a public roadway within the incorporated limits of Oak Grove to place a sign on the site to identify the organization and to have available a receipt to all individuals making a contribution. The need for a sign permit will be waived.
12. The Chief of Police or his designee shall have the discretion to approve, reject and/or waive any permit criteria.

### **SECTION III – FEES**

Solicitation permits for weekday solicitation shall cost Twenty Five dollars (\$25.00) per day. Saturday solicitation permits shall cost Fifty dollars (\$50.00) per day. Sunday solicitation permits shall cost One Hundred dollars (\$100.00) per day. Such fee(s) will be non-refundable.

### **SECTION IV – PROHIBITIONS**

1. It shall be unlawful for any person to engage in solicitation in the City of Oak Grove, Kentucky without first obtaining a Solicitation Permit. Permits shall be issued by the Police Chief or his designee, upon satisfactory completion of a solicitation registration form. Permits shall be issued for one (1) day only, and may be renewed upon application and payment of applicable permit fee.
2. No person under the age of eighteen (18) years of age shall participate in a solicitation event. All children under the age of eighteen (18) years of age are prohibited from the solicitation area.
3. It shall be unlawful to solicit within twenty (20) feet in any direction of an automated teller machine.
4. It shall be unlawful for any person to knowingly make any false or misleading representation in the course of solicitation. False or misleading representation includes, but is not limited to, the following:
  - a. Stating that the solicitor is from out of town and/or stranded when such is not true;
  - b. Stating or suggesting falsely that the solicitor is either a current or former member of the armed services, or a current or former firefighter, police officer, law enforcement, sheriff, or constable;
  - c. Wearing or displaying an indication of physical disability when the solicitor does not suffer the disability indicated;
  - d. Stating the solicitor is homeless, when he or she is not;
  - e. Stating the donation is needed to meet a specific need that does not exist.
5. It shall be unlawful for any person to solicit after sunset and before sunrise.
6. The following manners of solicitation are expressly prohibited, at any time and any manner, because of the coercive nature of each:
  - a. Soliciting in any manner that serves to block, obstruct or interfere with the orderly flow of either vehicles or pedestrians.
  - b. Soliciting in any manner that intentionally causes vehicles or pedestrians to take evasive action to avoid physical contact.
  - c. Soliciting in any manner that violates traffic regulations for vehicles or pedestrians.
  - d. Aggressive solicitation shall be unlawful and includes any of the following actions:
    - i. Approaching or speaking to a person, or following a person before, during or after

- solicitation, if that conduct is intended or is likely to cause reasonable fear of bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;
- ii. Intentionally touching or causing physical contact with another person without that persons' consent in the course of solicitation;
  - iii. Directing violent or threatening gestures toward the subject of solicitation:
    1. By blocking the path of the person solicited;
    2. By following or walking behind, ahead of, or alongside the person solicited;
    3. By using profane or abusive language, either during the solicitation or following refusal;
    4. By accosting or forcing oneself upon the company of another;
    5. By any statement, gestures or other communication that a reasonable person in the situation of the person solicited would perceive to be a threat;
    6. By soliciting in a group of two (2) or more persons.

#### **SECTION V- EXEMPTION**

The provisions of this ordinance which require a Solicitation Permit shall not apply to any person or entity engaged in religious proselytizing, political speech, or distribution of handbills, leaflets, or other printed advertisements and all such persons or entities shall be exempt from the requirements and penalties contained herein.

#### **SECTION VI – PENALTIES**

1. Each violation of this ordinance shall be a Class “B” Misdemeanor for which any person convicted thereof in a court of competent jurisdiction shall be sentenced to a period of incarceration in the county jail not to exceed ninety (90) days and pay a criminal fine not to exceed the amount of \$250.00.
2. Each separate violation of this ordinance is hereby classified as a civil offense, for which:
  - a. The maximum civil fine required by KRS 65.8808(2)(b) that may be imposed for each separate violation of this ordinance is hereby established as \$100.00;
  - b. The specific Civil fine required by KRS 68.8808(2)(c) that shall be imposed for each separate offense and violation of this ordinance if the person who has committed the violation and offense does not contest the citation is hereby established as \$50.00;
  - c. Any law enforcement officer may, in lieu of immediately issuing a civil citation, give notice that the violation of this ordinance shall be remedied within a specific period of time.
3. Non-compliance with any section of this ordinance shall be cause for the permit to be revoked, which can be appealed to the Oak Grove City Council.

#### **SECTION VII - UNCONSTITUTIONALITY**

The provisions of this ordinance are severable. The invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those

provisions determined to be invalid.

Approved on First Reading this 4<sup>th</sup> day of December, 2012.

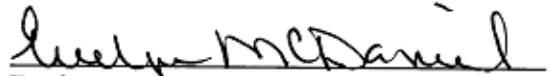
Approved on Second Reading this 18<sup>th</sup> day of December, 2012.

**APPROVED:**

**ATTEST:**



Dan Potter, Mayor  
City of Oak Grove, KY



Evelyn McDaniel, CAO/City Clerk  
City of Oak Grove, KY

*PUBLISHED: In full in the Kentucky New Era this 3rd day of January, 2013.*