

VILLAGE OF RIPLEY, OHIO

ORDINANCE NO. 1183

AN ORDINANCE TO REGULATE MALL MARKET OPERATORS AND VENDORS
WITHIN THE VILLAGE OF RIPLEY, BROWN COUNTY, OHIO

WHEREAS, the Council of the Village of Ripley, Brown County, Ohio realizes the need to control the gathering of persons to offer personal property for sale or exchange;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Ripley, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

Section 1.1 Definitions

(A) "Mall market" means any event:

- (1) At which two or more persons offer personal property for sale or exchange; and
- (2) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or
- (3) At which a fee is charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange; or
- (4) Regardless of the number of persons offering or displaying personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if the event is held more than six times in any 12 month period.

(B) The term "Mall market" is interchangeable with and applicable to "flea market," "swap meet," "indoor swap meet," "antique mall" or other similar terms regardless of whether these events are held inside a building or outside in the open. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular course of business.

(C) The term "Mall market" shall not mean or shall not apply to:

- (1) An event which is organized for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers or the gross receipts or net earnings from the sale or exchange of person property, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event; or

(2) Any event at which all of the personal property offered for sale or displayed is new, and all persons selling, exchanging, or offering or displaying personal property for sale or exchange are manufacturers, licensed retailers, or wholesale merchants.

(B) "Personal property" is defined as merchandise, wares, fabric, material, furniture, clothing, shoes, and other articles of commerce. Provided, however that "used personal property" shall not include the sale of motorized vehicles or boats.

(C) "Operator" means a person, firm or corporation which operates the business of renting space or allocating space to Mall market vendors.

(D) "Vendor" means a person who engages in the retail sale of personal property at a Mall market.

(E) "Village" means the Village of Ripley, Brown County, Ohio.

Section 2.1 Licenses.

(A) Each Mall Market Operator shall be required to obtain an annual license from the Village Tax Commissioner. The license shall be valid for one calendar year only (i.e., from January 1 through December 31) and shall not be pro-rated for periods of less than one calendar year. Each Mall Market Operator shall file an application with the Village Tax Commissioner for such license, which application shall contain, at a minimum the following information:

- (1) Name of applicant;
- (2) Name of the owner of the property on which the Mall market is to be conducted, and consent owner if applicant is other than the owner;
- (3) Location at which the Mall market is to be conducted;
- (4) Local address and telephone number of applicant;
- (5) Applicant's date of birth and age, if an individual;
- (6) Applicant's social security number or federal employer's identification number;
- (7) If applicant is a partnership or corporation, the name and home address of each partner, principal, or corporate officer;
- (8) Dates to be in business and total number of days to be in business;
- (9) Hours in which the business will be conducted; and

- (10) List of cities or places where business has been conducted by the applicant within the past twelve (12) months.

The license application shall be signed under oath by the applicant.

(a) In the event the applicant provides all required information to the Village Tax Commissioner and the applicant qualifies for the license, then such license shall be issued by the Tax Commissioner upon payment of the appropriate fees.

(b) A separate application, license, and fee shall be required for each separate location from which applicant proposes to do business.

(c) In the event that a licensee violates any of the provisions of this ordinance, then the license may be revoked by the Village Tax Commissioner, and the justification of each revocation may be considered by the Tax Commissioner in the event that such licensee applies for a license under this ordinance at a future date.

(B) Each Mall Market Vendor shall be required to obtain a license from the Village Tax Commissioner on either a quarterly basis or an annual basis. A quarterly license shall be valid for one calendar quarter only (i.e., from January 1 through March 30; from April 1 through June 30; from July 1 through September 30; and from October 1 through December 31) and shall not be pro-rated for periods of less than one calendar quarter. An annual license shall be valid for one calendar year only (i.e., from January 1 through December 31). Each Mall Market Vendor shall file an application with the Village Tax Commissioner for such license, which application shall contain, at a minimum the following information:

- (1) Name of applicant;
- (2) A copy of picture identification;
- (3) Permanent address and telephone number of applicant;
- (4) Local address and telephone number of applicant;
- (5) Applicant's date of birth and age, if an individual;
- (6) Applicant's social security number or federal employer's identification number;
- (7) If applicant is a partnership or corporation, the name and home address of each partner, principal, or corporate officer;
- (8) Type of merchandise or service offered for sale;

- (9) Place where business is to be conducted and written consent from the Mallr Market Operator;
- (10) Dates to be in business and total number of days to be in business;
- (11) Hours in which the business will be conducted; and
- (12) List of cities or places where business has been conducted by the applicant within the past twelve (12) months.

The license application shall be signed under oath by the applicant.

(a) In the event the applicant provides all required information to the Village Tax Commissioner and the applicant qualifies for the license, then such license shall be issued by the Tax Commissioner upon payment of the appropriate fees.

(b) A separate application, license, and fee shall be required for each separate location from which applicant proposes to do business.

(c) In the event that a licensee violates any of the provisions of this ordinance, then the license may be revoked by the Village Tax Commissioner, and the justification of each revocation may be considered by the Tax Commissioner in the event that such licensee applies for a license under this ordinance at a future date.

Section 3.1 Applicability to residents and nonresidents.

The provisions of this ordinance shall apply to all persons, whether residents of the Village, nonresidents of the Village; residents of the state or nonresidents of the state.

Section 4.1 Permitted Exceptions.

(a) The provisions of this ordinance shall not apply to the sale by the producers of agricultural products within the state; provided however, such producers shall fully comply with all regulations heretofore and hereafter prescribed by the governing body and by any federal or state agency or department relative to the inspection and the sale of such products.

(b) The provisions of this ordinance shall not apply to sales made by dealers, traders, manufactures, merchants, or businesses at their established places of business.

(c) The provisions of this ordinance shall not apply to any sidewalk sale, Mall market, art show, or arts and crafts show or other merchandise on the public sidewalks, walkways, or other open areas at the invitation of or as a part of the downtown promotional activities of the downtown development authority or an organization licensed to do business as a charity under Ohio law.

Section 5.1 Fees.

(A) Mall Market Operators licensed under this ordinance shall pay an annual license fee of one hundred dollars (\$100.00) for each location at which the licensee proposes to do business within the Village.

(B) Mall Market Vendors licensed under this ordinance shall pay a license fee for each location at which the licensee proposes to do business within the Village as follows:

- (1) Quarterly license: fifteen dollars (\$15.00)
- (2) Annual license: forty-five dollars (\$45.00)

Section 6.1 Display of License.

(A) Each Mall Market Operator shall display the license issued under this Ordinance at a prominent place whereat the Mall market is operated.

(B) Each Mall Market Vendor shall display the license issued under this Ordinance at a prominent place at the immediate location or space wherein the Mall Market Vendor displays such personal property for sale or exchange.

Section 7.1 Records to be Kept by Mall Market Operators; Penalties.

(A) Each Mall Market Operator shall keep accurate records of the names and addresses of each Mall Market Vendor to which the Mall Market Operator rents or allocates space together with a brief description of the type or types of merchandise offered for sale by that Vendor. Such records shall be made available to the Village Tax Commissioner upon demand for the purpose of insuring compliance with this Ordinance.

(B) Any person, firm or corporation who violates any provision of this Ordinance shall be fined not more than \$500.00 for each such violation. Each day that a violation occurs shall be considered as a separate violation.

Section 8.1 Credit Against Income Tax Liability.

Each Mall Market Operator and Mall Market Vendor who pays the license fee(s) provided for in Section 5.1 of this ordinance, or as provided for in Section 5.1 of Ordinance No. 1173 of the Ordinances of the Village of Ripley, Ohio, shall be entitled to a non-refundable credit against the tax imposed by Ordinance No. 1129 (the Ripley Income Tax Ordinance) up to the amount of license fee(s) so paid to the Village of Ripley by said Mall Market Operator or Mall Market Vendor during the period of time covered by the Village of Ripley annual tax return filed by such Mall Market Operator or Vendor.


Section 9.1 Repeal of Ordinance No. 1173.

Ordinance No. 1173 shall be and hereby is repealed as of the effective date of this Ordinance.

Section 10.1 Effective Date.

This ordinance shall be in full force and effect from and after the earliest date allowed by law; i.e., thirty days after its adoption.

Passed: October 10th, 2006



Tom Leonard, Mayor

ATTEST:



Lesley Myers, Clerk/Fiscal Officer