ORDINANCE #09-15:

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE VILLAGE OF PINEHURST WITH REGARD TO ESTABLISHING REGULATIONS GOVERNING PEDDLING AND SOLICITING ON PRIVATE PROPERTY IN THE VILLAGE OF PINEHURST.

THAT WHEREAS, the Village Council of the Village of Pinehurst provides services for the public health, safety, and general welfare of the community; and

WHEREAS, North Carolina General Statute 160A-174 gives authority to municipalities to regulate acts that may be detrimental to the health and safety of its citizens; and

WHEREAS, regulation of peddling and solicitation on private property in the Village of Pinehurst should be done in a manner that protects the safety of both residents and visitors; and

WHEREAS, the Village Council feels it is necessary to establish and adopt regulations governing the manner in which businesses and individuals will be allowed to peddle and solicit for business and other purposes on private property in the Village of Pinehurst;

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Pinehurst, North Carolina in regular meeting assembled this 26th day of May, 2009, as follows:

SECTION 1. That Section 3.8 of Chapter 3 of the Municipal Code is hereby established for the purpose of governing the manner in which businesses and individuals will be allowed to peddle and solicit for business and other purposes on private property in the Village of Pinehurst, reading as follows:

CHAPTER 3

SECTION 8

3-8.1.	Definitions
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3-8.1. DEFINITIONS:

For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them by this Section:

CANVASSER or **SOLICITOR** A. An itinerant vendor of merchandise who shall go from door-to-door or place-to-place, selling causing to be sold, offering for sale or taking orders for present or future delivery of merchandise, products or services of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations.

B. A person who makes or conducts surveys for research purposes, analyses, opinion polls, rating data and any such similar work; which, by nature, involves door-to-door or place-to-place activity.

C. A person who goes from door-to-door or place-to-place for the purpose of soliciting contributions, donations or any other thing of value for any person or organization.

D. A person who goes from door-to-door or place-to-place for the purpose of distributing circulars or other printed or electronic media.

CANVASSING or SOLICITING The Act of going from door-to-door or place-to-place for the purpose of (a) sale, distribution, advertising, promoting, demonstrating, and/or vending of merchandise, products, services, or materials, or taking orders for present or future delivery of merchandise, products, services or materials, of any description whatever, including but not limited to magazines, periodicals, books and orders or contracts for home improvements or alterations; (b) making or conducting surveys for research purposes, analyses, opinion polls, rating data and any such similar work, which, by nature, involves door-to-door or place-to-place activity; (c) soliciting contributions, donations or any other thing of value for any person or organization; of (d) distributing circulars, advertisements, brochures, or other, similar printed matter.

PERSON Any individual, firm, partnership, association, group or persons or corporation.

3-8.2. PURPOSE:

The purposes of this Chapter are:

A. Deterring the use of soliciting, vending and canvassing to gain access to home for commercial purposes.

B. Maintaining quiet and privacy for residents of the Village of Pinehurst.

C. Discouraging unethical and dishonest business practices.

D. For the general protection, health and welfare of the residents of the Village of Pinehurst.

E. To preserve a record to identify names and addresses of all canvassers, vendors and solicitors.

3-8.3. PERMIT REQUIRED:

No person, except as provided herein, shall canvass, solicit or sell food, beverages, services, or merchandise or engage in any act of canvassing or soliciting in any public or quasi-public place, door-to-door, or place-to-place, within the Village of Pinehurst, without first having obtained a permit therefore in accordance with the provisions of this Chapter.

3-8.4 APPLICATION FOR PERMIT:

A. Applicants for permits shall be made upon forms provided by the Village Clerk, who shall file a duplicate copy with the Police Department, containing the following information:

1. The name, date of birth, age and physical description of the applicant.

2. The complete permanent home and local address of applicant.

3. The name and address of the Organization or person for whom canvassing, vending or soliciting is being made.

4. A description of the nature of the business or activity and the goods, services or wares to be sold.

5. Two (2) recent photographs of the applicant, which shall be approximately two and one-half by two and one-half (2 ½ " x 2 ½") inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner.

6. The days and dates upon which the canvassing or soliciting is to take place.

7. A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.

8. The make, model, year, color and license plate number of each vehicle used by the applicant during the period of canvassing, vending or

soliciting within the Village of Pinehurst and copies of the applicant's driver's license, registration and insurance certificate.

9. A list of current canvassing, vending or soliciting permits received from other municipalities.

10. A statement as to whether or not the applicant has been denied a canvassing, vending or soliciting permit during the past year.

B. A separate application shall be filed for each individual soliciting or canvassing within the Village of Pinehurst.

3-8.5 FEES:

A. The Village Council shall annually adopt by Resolution, fees and charges for peddling and soliciting permit applications.

3-8.6 INVESTIGATION OF APPLICANT; DENIAL OR ISSUANCE OF PERMIT:

A. Upon receipt of a duplicate application, the Police Department shall cause an investigation to be made of the applicant's business or moral character for the protection of the public safety and welfare.

In the event that the investigation as aforesaid should reveal any of the following, the Chief of Police shall deny a permit to the applicant:

1. Conviction of any crime or misdemeanor involving arson and/or other burnings, assault and battery, breaking and entering, bribery and corruption, burglary, embezzlement, conspiracy, conversion and misappropriation of funds, extortion or threats, forgery and counterfeiting, frauds and cheats, indecency and obscenity, larceny, loan sharking, possession or use of a controlled dangerous substance, rape and carnal abuse, receiving stolen property and any other crimes against the person or crimes involving moral turpitude.

2. Conviction or any misdemeanor or disorderly persons offense, common thievery, burglary, pick pocketing, carrying weapons, conspiracy, unlawful soliciting, assault and battery, fraud and misrepresentation, possession or use of habit producing drugs, shoplifting and any other offense involving moral turpitude.

3. Business pursuits resulting in fraud, misappropriation of funds or similar activity.

B. The above crimes, misdemeanors or disorderly persons offenses shall be deemed to be those as defined or equivalent to crimes and disorderly person's offenses defined by law in the State of North Carolina.

C. In the event that the Chief of Police shall deny a permit to the applicant, he shall detail the reasons for such denial.

D. In the event that the investigation as aforesaid should not disclose any of the above, a permit shall be issued forthwith by the Chief of Police, upon which shall be affixed one (1) photograph of the applicant.

3-8.7 APPEALS:

In the event that the Chief of Police shall deny any application for a permit, the applicant may appeal that decision within a period of ten (10) days from the date of denial. Said appeal shall be filed with the Village Clerk and shall be heard by the Village Manager within a period of seven (7) days from the date it is filed. The Village Manager may affirm, modify or reverse the decision of the Chief of Police and shall indicate, in writing, the reason for its determination. The Village Manager shall apply the standards indicated hereinabove and shall relate his findings and conclusions to the objectives of this Chapter. The Village Managers' determination shall be rendered forthwith and shall be final.

3-8.8. DISPLAY OF PERMITS:

Each applicant, when canvassing or soliciting within the Village of Pinehurst, shall carry the permit at all times and shall exhibit the same to any citizen or Police Officer upon request.

3-8.9. REGULATIONS; PENALTIES:

A. All permits issued pursuant to this Chapter, shall be for a term of one (1) week (7 days) from date of issuance with no solicitation taking place on Sundays.

B. Canvassing and Soliciting shall be conducted between the hours of 9:00 am and 5:00 pm, Monday through Saturday.

C. No canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident of the Village of Pinehurst without an express invitation from the occupant thereof.

D. No canvasser or solicitor shall conduct himself in such a manner as to become objectionable to or annoy any person while canvassing or soliciting.

E. No canvasser or solicitor shall canvass or solicit upon premises where signs so located give adequate notice of the prohibition of such activities.

1. The owner and/or occupant of premises identified in the Village of Pinehurst may obtain a sign, placard or sticker from the Village Clerk, which may be affixed to a front door, front window or front facing wall of the premises, and giving notice that canvassing and soliciting is not permitted on the premises.

2. All circulars, samples, merchandise, or other printed or electronic media distributed by the canvasser or solicitor shall be handed to an occupant of the property or left in a secure location on the premises.

3. Any person who violates any provision of this Chapter, upon conviction thereof, shall be punished by a fine not exceeding five hundred ($500.) dollars or by imprisonment for a term not exceeding ninety (90) days or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

3-8.10. EXCEPTIONS; SPECIAL PERMITS, CANVASSING OR SOLICITING BY EXPRESS INVITATION:

A. The provisions of this Section shall not apply to: (a) any person canvassing or soliciting for a political candidate, organization or program, including the solicitation of donations or contributions for any political, candidate, organization or program; or, (b) any non-profit, religious, charitable, recreational, civic or veteran's organization, service club, or volunteer fire or first aid company desiring to solicit or have solicited or canvassed in its name money, donations or financial assistance of any kind.

B. Notwithstanding the foregoing, any person claiming the exemption set forth in paragraph A of this Section shall, prior to conduct of canvassing or soliciting within the Village of Pinehurst, file an application, in writing, with the Village Clerk, for a special permit. Said application shall contain the following information:

1. The name and address of the person or organization;

2. The purpose for which the special permit is required;

3. The names and addresses of the officers, directors or trustees of the organization;

4. The period during which canvassing or soliciting is being carried on. Day and time limitations are the same as in Section 3-8.9. B, above;

5. The names and addresses of all canvassers or solicitors engaged or utilized by the applicant.

The Village Clerk shall file a copy of all applications for a Special Permit with the Chief of Police.

C. Upon being satisfied that the person or organization, is bona fide, subject to the exemptions set forth herein and as represented in its application, the Village Clerk shall issue a special permit, without charge, for the period of time during which canvassing or soliciting is requested.

D. Any person conducting solicitation or canvassing on private property subject to prior express permission of the property owner is exempt from all of the provisions of this ordinance.

3-8.11. REVOCATION OF PERMITS:

A. Permits issued under this Chapter may be revoked by the Chief of Police, after written notice outlining reasons, for any of the following causes:

1. Misrepresentation or false material statement contained in the application.

2. Misrepresentation or false material statement contained in the course of carrying on activities regulated herein.

3. Conviction of any crime, misdemeanor or disorderly person's offense or engaging in business activity that would have precluded issuance of a permit as set forth hereinabove.

4. Conducting canvassing or soliciting in an unlawful manner in violation of the provisions of this Chapter or in such manner as to cause a breach of the peace or to constitute a menace to safety or general welfare of the public.

B. Any person whose permit has been revoked shall have the right of appeal, subject to the procedure and standards as set forth in Section 3-8.7 above.

SECTION 2. That all ordinances or sections thereof in conflict herewith are hereby repealed and declared null and void from and after the date of adoption of this ordinance.

SECTION 3. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

Adopted this 26th day of May, 2009.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
George P. Lane, Mayor

Attest:

_____
Linda S. Brown, Village Clerk

Approved as to Form:

_____
Michael J. Newman, Village Attorney