

BILL NO. 4524

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI TO REPEAL AND REPLACE SECTION 44-416, SOLICITING RIDES OR BUSINESS, OF CHAPTER 44, TRAFFIC & VEHICLES, OF THE CODE OF ORDINANCES OF THE CITY OF WEST PLAINS, MISSOURI.

WHEREAS, the City of West Plains, Missouri repeals and replaces Section 44-416 of Chapter 44, Traffic and Vehicles, of the Code of Ordinances for the City of West Plains, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI AS FOLLOWS:

Section 1: Section 44-416, Soliciting Rides or Business is hereby repealed and replaced. (EXHIBIT A).

Section 2: This Ordinance shall be in full force and in effect after the date of its passage and approval.

PASSED AND APPROVED THIS 21st DAY OF AUGUST 2017.

CITY OF WEST PLAINS, MISSOURI

BY: _____
MAYOR JACK PAHLMANN

ATTEST:

CITY CLERK MALLORY PREWETT

Sec. 44-416. - Solicitation on public streets.

- (a) *Purpose.* For the purpose of this section, the term “solicit” shall mean and include the act of standing on, or in the median of, or in the right-of-way of any city street or highway, or entering on the same, for the purpose of soliciting contributions or selling, offering for sale or advertising any product, property or service of any kind from persons in vehicles on behalf of any organization or person. No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
- (b) *Permit required.*
- (1) *Application.*
- a. Organizations or persons desiring to *solicit* contributions, sell, collect money or items from persons in vehicles on city streets by standing in, or beside, city streets & highways must apply for a permit at least eleven (11) days prior to the collection event.
 - b. A permit is required of any individual or organization soliciting, as defined in this chapter, within the city.
 - c. The application and permit shall be developed by the police department, and shall include:
 1. The date and time solicitation is to occur;
 2. The location of the solicitation;
 3. The number of solicitors to be involved at each location of the solicitation;
 4. The name, address, and date of birth of each solicitor shall be provided in writing;
 5. That the permit authorizes a maximum of four (4) days of consecutive or nonconsecutive solicitation per calendar year; and
 6. Confirmation of satisfaction of the qualifications herein.
- (2) *Qualifications.*
- a. The organization seeking a permit to *Solicit* must provide services / benefits as anticipated by its charitable purpose.
 - b. The organization receiving a benefit from the collection must be qualified by the Internal Revenue Service under IRS Code Section 501 (c);
 - c. To the fullest extent permitted by law, the organization must agree to indemnify, defend and hold harmless the City of West Plains, its officers, agents, volunteers, and employees from and against all suits, claims, damages, losses, and expenses, including but not limited to attorneys’ fees, court costs, or alternative dispute resolution costs arising out of, or related to any use of City’s facilities, buildings, equipment or infrastructure under this agreement involving an injury to a person or persons, whether bodily injury or other personal injury (including death), or involving an injury or damage to property (including loss of use or diminution in value), but only to the extent that such suits, claims, damages, losses or expenses are caused by the negligence or other wrongdoing of the organization, its officers, agents and volunteers, or anyone directly or indirectly employed or hired by the organization or anyone for whose acts the organization may be liable, regardless of whether caused in part by the negligence or wrongdoing of City and any of its agents or employees.

At the time of application for permit, the organization must provide a Certificate of Insurance, with the City of West Plains named as an additional insured, in the amount of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate for any liability arising out of solicitation activities. Additionally, there is a minimum notification of thirty (30) days for policy cancellation.

- d. The insurance shall provide coverage against claims against the applicant; and claims against the city, the city's elected and appointed officials and the city's employees.
- (c) *Conduct.*
- (1) It is unlawful for an individual who is less than seventeen (17) years of age to *solicit* as described herein.
 - (2) It is unlawful for more than ten (10) persons to *solicit* at one intersection at one time.
 - (3) It is unlawful to *solicit* at an intersection on US Highway Bypass 63, US Highway 63 Business Route and US Highway 160 due to high traffic volume and safety hazards to Pedestrians.
 - (4) It is unlawful to *solicit* the occupant of a vehicle, unless the vehicle has come to a complete stop.
 - (5) It is unlawful to *solicit* unless the solicitor is wearing at all times a brightly colored safety vest, which meets ANSI/ISEA 107-2004, Class 2, Level 2 standards to help insure solicitor safety.
 - (6) It is unlawful to *solicit* except during daylight hours, between thirty (30) minutes after sunrise and thirty (30) minutes before sunset.
 - (7) It is unlawful to permit any person, on the registry of the federal government or any state listing for sex offenders, to *solicit* under this section.
 - (8) It is unlawful to engage in solicitation using any bullhorn, sound amplification device or any sign or poster larger than two (2) feet by two (2) feet in size.
 - (9) It is unlawful for any solicitor to block the free flow of traffic, or to have or attempt to exercise exclusive right or right-of-way over any location, in the public streets.