

ORDINANCE NO. 2015-447

*An Ordinance to Amend Chapter 22 of the Ypsilanti
Charter Township Code of Ordinances by Repealing
Current Chapter 22, Article IV Regarding Peddler's
Licenses and Adding a New Peddler's License Ordinance*

The Charter Township of Ypsilanti hereby **Ordains** that the Ypsilanti Township Code of Ordinances is amended as follows:

DELETE: in its entirety, Chapter 22, Article IV Peddler's Sections 23-146 – 22-153 inclusive:

ADD: the following new provisions to Chapter 22, Article IV:

1. **Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvassing and soliciting meaning the going from door to door, house to house, place to place, street to street or remaining in one place within the Township for the purpose of soliciting orders for or canvassing occupants or residents for the sale of food products, books, magazines, goods, wares or merchandise of any nature whatsoever for future delivery, or for the purpose of soliciting orders for or canvassing occupants or residents for the installation or servicing of any household equipment or appliances, including but not limited to, furnace or boiler repair and maintenance, repair and servicing of washing windows and screens, awnings, roofing and siding of buildings or for any other services to be furnished. It shall also include persons soliciting for funds or donations of any kind. It shall also include the assisting of others in canvassing and/or soliciting. Newsboys and persons traveling on a regularly established route at the request, expressed or implied, of their customers, are not to be considered within the definitions of "peddler" or "canvasser" under the terms of this chapter.

Charitable, religious or political organization means a not-for-profit charitable, religious, political, benevolent, educational, philanthropic, humane, patriotic, or civic organization of persons, registered and in good standing under Section 501(c) of the Federal Internal Revenue Code, that solicits or obtains contributions solicited from the public for charitable, religious or political purposes.

Clerk means the clerk for the Township.

Commercial purposes means any business or activity carried on for profit.

Handbill means any written or printed notice distributed by hand for the purpose of communication, including but not limited to any pamphlet, booklet or leaflet.

Minor means a person under 17 years of age.

Non-commercial purposes means any purpose other than that involving a business or activity carried on for profit, including, but not limited to, a political, religious or charitable purpose, or an activity sponsored by a political, religious, not-for-profit charitable, benevolent, educational, philanthropic, humane, patriotic or civic organization of persons, registered and in good standing under Section 501(c)(3) of the Federal Internal Revenue Code.

Peddling means the going from door to door, house to house, place to place, street to street, or remaining in one place, in the Township carrying or conveying or transporting by person, wagon, motor vehicles or other type of conveyance for the purpose of offering for immediate sale, food products, including but not limited to, meat, fish, vegetables, farm produce or provisions, candy, goods, wares or merchandise of any nature and landscaping materials of all types. It shall also include the assisting of others in "peddling".

Person means and includes any person, agent, firm, partnership, association, corporation, company or organization of any kind.

2. **Soliciting, peddling or canvassing on posted premises or when requested not to do so.** It shall be unlawful for any person to solicit, peddle or canvass upon any premises in the Township, if requested by anyone in control upon the premises not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign or similar notice indicating in any manner that the occupants of such premises do not desire to have solicitors, canvassers or peddlers call upon them. For purposes of this section, soliciting and peddling include religious proselytizing, political speech (anonymous or otherwise) and passing out handbills.
3. **Hours of operation.** It shall be unlawful for any person to conduct, or attempt to conduct, any canvassing, soliciting or peddling before the hours of 9:00 a.m. and after sundown, at any location within the Township.
4. **Use and restriction of stops, scales, bells, horns, etc.**
 - (a) No person shall stop in any one place longer than is necessary to make a sale or stop on private property without the consent of the owner. No person shall stop for the purposes of selling or offering to sell any food products within a distance of 300 feet from any public, private, charter or parochial school building, or the lands on which such buildings are located on any day during which school is in session, unless express permission is granted by the school principal or their designee. No person operating as a solicitor, canvasser or peddler shall interfere with traffic or cause or permit large numbers of persons, especially children, to congregate upon the public streets.
 - (b) It shall be unlawful for any person to call out or make any noise of any kind whatsoever, or to use a bell, horn or other noise making device so as to unreasonably disturb persons in the immediate vicinity for an extended period of time with the purpose of attracting persons to buy goods such licensee has for sale.
5. **Vehicles, sanitation; health standards.**
 - (a) All vehicles used in the sale of food products must be kept clean and sanitary conditions at all times, and when containing loads or parts of loads of food products they must be kept only in places and operated in a manner which, in the opinion of the health officer for the county department of health and the state department of agriculture, are sanitary and wholesome. This subsection does not apply to the sale of whole and uncut fresh fruit and vegetables.
 - (b) All vehicles used for the purpose of selling or transportation of meat, milk, pastry, ice cream and all other food products for human consumption in the Township shall be inspected and have in possession a current valid approval by the county board of health, or the state department of agriculture before a license is

granted. The holder of a license under which a food vending vehicle is operated shall be the person responsible for all the conditions and requirements of this chapter.

- (c) Failure to maintain the standards and requirements of the county board of health or the state department of agriculture for the sale or transportation of food will constitute cause for revocation of the license under which such vehicles are operated.

6. Minors; soliciting, canvassing or peddling, requirements.

If an applicant intends to use a minor or minors to do the actual solicitation, canvassing, or peddling for commercial purposes, the following provisions shall apply:

- (a) an approved copy of the work permit issued by the State of Michigan, showing the approved hours of work and the job duties of each minor shall be attached to the application, and
- (b) minor(s) shall at all times be under the direct supervision of the adult who was issued the license under Section 15.

7. Minors; soliciting, canvassing or peddling, accompanied by parent or guardian.

A minor who is accompanied by his parent or legal guardian during all times of soliciting, canvassing or peddling is exempt from the licensing provisions of this article

8. Misrepresentation.

- (a) No fraudulent or misleading representations to any person shall be made in connection with any peddling or soliciting activities, including, but not limited to, any misleading representation concerning the product or service involved, the purposes for which contributions solicited will be used, the name of the peddler or solicitor, the trade name and nature of the parent organization, or the purposes for which the parent organization was organized.
- (b) No person shall represent that the issuance of a solicitor registration certificate under this chapter is an endorsement by the Township of the solicitor, its products or the organization the solicitor represents.

9. Solicitation of persons inside motor vehicles prohibited. No peddler or solicitor shall solicit the immediate payment of money from a person who is inside a motor vehicle.

10. Fixed stands. No peddler or solicitor shall establish a fixed stand and/or store for soliciting upon any street, road, highway, lane, sidewalk, driveway, alley or publicly-owned property, unless said stand and/or store shall be in compliance with all applicable provisions of Appendix A to this Code, the Zoning Ordinance.

11. License required.

- (a) Unless exempt, it shall be unlawful for any person to engage in or carry on the business of soliciting, canvassing or peddling for commercial purposes in the Township as defined Section 1, without first obtaining a license in compliance with the provisions of this Ordinance.

- (b) Unless exempt, it shall be unlawful for any person to operate as a solicitor, canvasser, or peddler without first having obtained a license for each vehicle, piece of equipment or container used in connection therewith.

12. Application.

- (a) Application for licenses required by this Ordinance shall be made upon forms provided by the clerk, which shall be signed and verified under oath by the applicant of an individual, or by the authorized agent for any firm, partnership, association, corporation, company or organization and shall, as a minimum, contain the following:
 - (1) If an individual, the name, address and telephone number of the individual.
 - (2) If a partnership, the name, residence and business address and telephone number of each partner.
 - (3) If a corporation, the name, business address and telephone number of the corporation and names of the principal officers, directors and local representatives, their residence and business address, telephone numbers, and if a foreign corporation, whether they are authorized to do business in the state.
 - (4) If an employee the name, residence and telephone number of the employee together with written credentials setting forth the exact nature of his employment.
 - (5) The length of time for which the right to do business is sought.
 - (6) Two current photographs of the applicant or the agent(s) for the applicant who is to do the actual canvassing, soliciting or peddling. Each photograph shall be two inches by two inches showing the head and shoulders of the applicant or agent(s).
 - (7) A brief description of the product or services involved.
 - (8) A description of the vehicle or vehicles being used in the operation of the canvasser, solicitor and/or peddler along with a license plate number of each vehicle.
- (c) The application shall be accompanied by a nonrefundable application fee to be established by resolution of the Township Board. The Township Board may, from time to time, modify the established fee schedule. The application fee is separate from the license fee described in Section 13.

13. Investigation; issuance or denial; appeal of denial.

- (a) Upon receipt of the application for a license, the clerk shall forward the same to the director of the department of Community Standards, or his designated representative, for a review of the same. Upon receipt by the director or his designated representative, the director or designated representative shall cause an investigation to ensure that the applicant meets all requirements set forth in subsection (b) of this section. After such investigation, the director of Community Standards, or his

designated representative, shall certify to the clerk that the application is complete and that the information contained therein and other information known to the department of Community Standards does not reasonably lead to the conclusion that the applicant, or the activity to be licensed, constitutes an apparent danger to the health, safety and welfare to the people of the township.

- (b) The clerk may refuse to issue a license to:
 - (1) A person whose license under this article has been revoked within the last year.
 - (2) A person unless the application is fully and completely filed, and the applicant discloses fully all arrests and convictions other than those that are traffic related. Failure to completely and truthfully complete the application shall result in a denial.
 - (3) A person who materially misrepresents any facts or statements on his license application.
 - (4) A person who has been convicted of a felony or any crime related to or involving larceny, assault, fraud, receiving and concealing stolen property, embezzlement, robbery, home invasion, breaking and entering, theft, dishonesty, false statement or fraudulent scheme, trick or device, or any crime that is an unreasonable threat to persons or property within the township.
 - (5) A person who has been convicted of a violation of any municipal soliciting ordinance within the two (2) years prior to the application being submitted to the Township.
 - (6) A person whose master driving record indicates that his use of a motor vehicle in association with a requested license may present an unreasonable threat to persons or property within the township by such use of a motor vehicle.
 - (7) If the applicant or activity licensed constitutes an apparent danger to the health, safety and welfare to the people of the township.
- (c) No license shall be issued to any applicant as a solicitor, canvasser, or peddler until such applicant shall have obtained the age of 18 years.
- (d) Any person whose license application has been denied shall have the right to petition the board of trustees of the township for an appeal. A written request for an appeal must be filed with the Clerk's office within 14 days after notice of the denial has been mailed to the applicant's last known address. A written statement setting forth the grounds for the appeal must be included with the written request for an appeal. The township board shall grant a public hearing on this appeal, and the applicant shall have the right to appear and present evidence on his behalf. Following such hearing, the board shall submit to the applicant a written statement of its findings and determinations. The board's determination shall be based upon whether the Clerk's refusal to issue a license pursuant to Section 13(b) was supported by competent, material and substantial evidence.

14. Exemptions; registration of charitable and nonprofit organizations.

- (a) Persons involved in soliciting, canvassing or peddling for any noncommercial purpose, and/or delivery of handbills are hereby exempt from the licensing, registration and fee requirements of this Ordinance, but shall be subject to the other sections of this Ordinance.
- (b) Any person who has obtained a peddler's license from the state pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq.), on account of such person being honorable discharged from the armed forces of the United States of America shall be exempt from the licensing provisions of this article.

15. Fees.

- (a) A license fee for soliciting, canvassing and peddling for commercial purposes shall be established by resolution of the township board. The township board may, from time to time, modify the established fee schedule. This fee is separate from the application fee described in Section 12.
- (b) No license fee shall be charged to any person selling produce which he has raised himself, who has attained the age of 65 years, or who shows evidence of being an honorably discharged military veteran.

16. Term and limitation. Each license and registration issued pursuant to this article shall expire on midnight on December 31 of each year, unless previously terminated pursuant to this article.

17. Transfer or misuse of license, badge or identification. No license, badge or identification issued under the provisions of this Ordinance shall be used or worn at any time by any person other than the one to whom it was issued and only when engaged in the activities for which the license or I.D. card was issued.

18. Display.

- (a) Unless exempt, it shall be unlawful for any person to operate as a peddler, canvasser, or solicitor without displaying on the outer clothing the license issued by the township provided for in this Ordinance. Unless exempt, each vehicle, conveyance and container must have a license attached to it so it can be seen from the outside of such vehicle, conveyance or container.
- (b) Peddlers, solicitors and canvassers are required to exhibit their license at the request of any citizen or public official.

19. License suspension or revocation.

- (a) The township clerk may suspend a license for a period not to exceed ninety (90) days upon determining, based on his or her own investigation or upon certification by the local law enforcement agency that any of the following circumstances exists:
 - (1) The licensee failed to truthfully provide in his or her application the information required in this Ordinance, or that the licensee has engaged in a fraudulent transaction or enterprise;
 - (2) The licensee has been convicted of a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the licensee's ability to conduct the business

for which the license has been issued in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct;

- (3) The licensee is listed on any criminal sex offender registry or has any outstanding warrants for any misdemeanor or felony and such information was not disclosed on the application;
 - (4) If the licensee will be engaging in peddling from or out of a motor vehicle in the streets and roads of the township, the licensee's driver's license has been suspended or revoked or the licensee has been convicted of a felony moving violation; or
 - (5) The licensee has, in the course of peddling in the township, engaged in conduct that is contrary to the peace, privacy, safety, health and welfare of the residents, businesses and persons in the township.
- (b) A licensee shall be given written notice of the cause and term of the suspension and of the right to have such suspension reversed, modified or affirmed following a hearing to be conducted by the township board at the next available board meeting, but in all cases not later than 21 days following receipt of a written request by the licensee. At the hearing, the licensee shall have the right to hear the evidence relied upon by the clerk and the right to present evidence and witnesses on his or her behalf. At the hearing, or at an adjourned date, the township board shall determine whether to reverse, modify or affirm the suspension and shall put its decision and the reasons therefore in the form of a resolution, which the township clerk shall forward to the licensee.
- (c) Before a license or registration can be revoked, the township board shall serve the license holder or registered applicant, by first class mail, mailed not less than four days prior to the hearing with a notice of hearing, which notice shall contain the following:
- (1) Notice of proposed action.
 - (2) Reason for the proposed action.
 - (3) Date, time and place of hearing.
 - (4) A statement that licensee may present evidence and testimony and confront adverse witnesses.
- Following the hearing, the township board shall submit to such person a written statement of its findings and determination.
- (d) The township board shall revoke a license issued under this Ordinance upon determination by it that based upon competent, material and substantial evidence presented at the hearing, either of the following exists:
- (1) A violation of any of the prohibitions set forth in this Ordinance.
 - (2) The person, entity or organization is engaged or has engaged in any fraudulent scheme, device or trick in any place in the township to obtain money or other valuable things, or is aiding or abetting any person engaged in such scheme, device or trick

Severability

Should any section, subdivision, sentence, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Publication

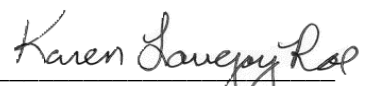
This Ordinance shall be published in a newspaper of general circulation as required by law.

Effective date and repeal of conflicting ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

This Ordinance shall take effect after publication in a newspaper of general circulation as required by law.

I, Karen Lovejoy Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify adoption of Ordinance No. 2014-447 by the Charter Township of Ypsilanti Board of Trustees assembled at a Regular Meeting held on June 16, 2015 after first being introduced at a Regular Meeting held on May 19, 2015. The motion to approve was made by member Roe and seconded by member Doe. Yes: Mike Martin, Scott Martin, Stumbo, Roe, Doe. ABSENT: Currie, Eldridge NO: None. ABSTAIN: None.



Karen Lovejoy Roe, Clerk
Charter Township of Ypsilanti

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