

SOLICITORS; PEDDLERS; TRANSIENT MERCHANTS OR VENDORS
Ordinance No. 707
Adopted: April 20, 2009

An ordinance to protect the public health, safety and welfare of the citizens of the Charter Township of Fenton by the regulation, licensing and control of solicitors, peddlers, transient merchants and similar sales persons conducting business within the Township.

THE TOWNSHIP OF FENTON, COUNTY OF GENESEE, MICHIGAN ORDAINS:

SECTION 1. Definitions

The following terms shall, for purposes of this ordinance have the meanings stated below, unless the context indicates that a different meaning was intended:

Solicitor: any person traveling either by foot or conveyance from place to place, who solicits, asks for or invites donations of money or goods, or who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. The term solicitor also includes the driver of any conveyance used for or associated with soliciting and shall include the term canvasser.

Peddler: any person traveling either by foot or conveyance from place to place, carrying goods, wares or merchandise, and offering the same for sale, or making sales and delivering articles to purchasers, or offering to provide services either immediately or in the future. Peddler also includes the driver of any conveyance used for or associated with peddling and shall also include the terms hawkler and huckster.

Transient merchant or vendor: any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure, provided however that such definition shall not include merchants having regularly established places of business within the Township if they are operating from their established place of business, persons making sales at any annual fair, street fair, festival, annual celebration or observance, or regularly employed route salespeople.

Commercial sales persons, selling or attempting to sell only to business establishments, shall be exempt from these definitions

Solicit: To make petition, to approach with a request or plea, to urge, entice or lure as in selling, begging, or to try to obtain by asking for; to travel about with wares for sale, to sell from place to place or to retail in small quantities.

Person: the word person as used in this ordinance shall include an individual, business, firm, corporation, partnership, club, society, association or other organization or entity.

SECTION 2. Prohibited Acts

It shall be unlawful to engage in the practice of going in and upon private residences, and/or properties in the Township by solicitors, peddlers, transient merchants or vendors not having been requested or invited so to do by the owner or occupant of said private

residence, for the purpose of soliciting unless otherwise permitted in the provisions of this ordinance.

No solicitors, peddlers, transient merchants or vendors shall conduct any business within any Township park or upon any property owned or controlled by the Township, without specific approval of the Township Board, separate from this ordinance.

SECTION 3. Permitted Acts

Persons or their agents engaged in the sale of perishable food products in the public ways of the Township if such activity is otherwise in compliance with Township ordinances and is not deemed to be conducted in such a manner that may constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

SECTION 4. Permit Required

Except as otherwise provided in this ordinance, it shall be unlawful for any solicitor, peddler or transient merchant or vendor whether a person, firm or corporation to solicit, peddle or engage in business within the Charter Township of Fenton without first having secured a permit to conduct such business from the Township. The agents or other representatives of a permittee doing business in the Township shall be responsible for compliance with this ordinance by their principals and by the businesses they represent.

SECTION 5. Exemptions from Permit

Any person under 18 years of age, when engaged in soliciting or selling on foot under the direct supervision of a school or a recognized charitable or religious organization, when such soliciting is solely for the benefit of their respective school, classes, activity groups, athletic teams or charity.

Members of churches, synagogues, mosques and other religious organizations when such soliciting is solely for the benefit of the respective religious organization.

Persons or their agents who display and sell used household goods at their own dwelling (garage/yard sales) if such activity is in compliance with the Township garage and yard sale ordinance.

Persons soliciting at private homes for the purpose of soliciting or obtaining orders for the sale of goods or merchandise, if such persons are on the premises of such homes because of prior invitation by the owner or resident.

Any person who is exempt from such license under the terms of state or federal law. These persons shall remain subject to the other provisions of this ordinance except as to those provisions which may be preempted by state or federal law.

A person soliciting exclusively to canvass or petition for a public official, political candidate, public policy or initiative being promoted for purposes of public referendum, initiative, or election, or a person canvassing solely for the limited purpose of distributing religious, political or other noncommercial information. These persons shall remain subject to the other provisions of this ordinance.

SECTION 6. Permit Application and Fees

Application for a permit for a solicitor, peddler or transient merchant or vendor shall be made to the Charter Township of Fenton Zoning Administrator or his/her designee. In the event an application is made by an organization, business, firm, corporation, partnership, club, society, association or other organization or entity, an application must be made for each agent or employee who will be engaging in active soliciting, peddling or transient merchandising or vending. The application shall be in the form prescribed by the Zoning Administrator and shall include the following:

The name, address and telephone number of the applicant, and business if different than the applicant, to include both local information and permanent information, if different.

The name, address and telephone number for each person, agent and independent contractor who shall be operating as a solicitor, peddler, transient merchant or vendor.

A description of the nature of the business and the goods or services to be offered.

The period of time during which the proposed soliciting or sales is proposed to occur.

The hours of the day and the days of the week during which the applicant and all employees, agents and independent contractors will be engaging in the proposed soliciting, peddling or other sales activities.

If the applicant will be soliciting on behalf of an employer, the application shall be accompanied by a letter from the employer stating authorization for the employee to carry out such business on the employer's behalf, and also provide the employers federal taxpayer identification number and state employer identification number.

If motor vehicles are to be used in the proposed activity, the applicant shall provide a complete description for each vehicle, their respective license plate numbers and proof of valid insurance for each.

A recent photograph clearly showing the head and shoulders shall be provided for each person, agent or independent contractor who shall be engaging in the proposed soliciting, peddling or sales activity.

The applicant shall provide a statement as to whether the applicant and/or any person, agent or independent contractor who will be engaging in the proposed soliciting, peddling or sales activity has been convicted of any crime, misdemeanor, or violation of any municipal ordinance. The statement shall describe each offense and the penalty assessed.

If the applicant proposes to handle or sell any food or other item for human consumption, the applicant shall provide proof of any required health permit issued by the Genesee County Health Department or Michigan Department of Agriculture.

Such other information as the Zoning Administrator or his/her designee may reasonably determine is necessary to verify the character and nature of the proposed soliciting, peddling or other sales activity.

A non-refundable permit fee as established by the Township Board.

SECTION 7. Review of Application, Approval/Denial and Issuance

Upon receipt of an application, the Zoning Administrator or his/her designee shall determine whether all requirements of the application have been submitted. If any required information or supplements have not been included, the Zoning Administrator or his/her designee shall notify the applicant and require correction before further review.

If the Zoning Administrator or his/her designee determines that all required contents of the application have been submitted and the application fee has been paid, the Zoning Administrator or his/her designee shall make an investigation of the applicant, the applicant's business and other matters as the Zoning Administrator or his/her designee deems necessary for the protection of the public with respect to soliciting, peddling and any other sales activity governed by this ordinance.

If as a result of such investigation, the Zoning Administrator or his/her designee determines that the applicant should not be issued a permit for any of the following reasons:

1. Misleading or false information on the application
2. Prior history or conduct which may be detrimental to the health, safety and welfare of the citizens of the Township
3. Any conviction of a licensee of any felony or any misdemeanor that may jeopardize public health, safety and/or welfare.
4. Any other reason the Zoning Administrator or his/her designee determines necessary to protect the public consistent with the purposes of this ordinance.

The applicant shall be notified in writing that the permit request has been denied and the reasons for such denial.

If as a result of such investigation the applicant and application are found to be satisfactory for purposes of issuing a permit under the provisions of this ordinance, such approval shall be endorsed on the application by the Zoning Administrator or his/her designee. Permits issued shall be subject to all terms and conditions contained in this ordinance. The Zoning Administrator or his/her designee shall then prepare the permit on a prescribed form and forward it to the applicant.

Upon issuance of a permit, each person actively soliciting, peddling or engaging in sales activity shall have a copy of the endorsed permit in their possession and readily available for proof.

A permit issued under the terms of this ordinance shall be valid for no longer than 1 year from the date of issue.

The permit/license is not renewable or transferrable.

SECTION 8. Hours of Operation

No person shall travel from place to place, street to street or door to door, within the boundaries of the Charter Township of Fenton, for the purposes of soliciting, peddling or other sales activity including activity performed on behalf of a charitable/religious or political organization except; Monday through Saturday between the hours of 9:00 a.m. to 8:00 p.m. or the time of sunset whichever is earlier, without an appointment.

SECTION 9. Identification

No person shall travel from place to place, street to street or door to door, within the boundaries of the Charter Township of Fenton, for the purposes of soliciting, peddling or other sales activity including activity performed on behalf of a charitable/religious or political organization without a recognized form of identification displayed as evidence that they are authorized to do so under the provisions of this ordinance.

SECTION 10. Revocation of Permit

The Zoning Administrator or other authorized representative of the Township may revoke a permit for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the permit application.
2. Fraud, misrepresentation or false statements made in the course of soliciting, peddling or other sales activities.
3. Any conviction of a licensee of any felony or any misdemeanor that may jeopardize public health, safety and/or welfare.
4. Conducting the business of soliciting, peddling or transient merchant sales in such a manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public.
5. Going in and upon the premises of a private residence or property.
6. Soliciting, peddling or conducting a transient merchant business outside permitted days or hours as provided for in this ordinance.
7. Any violation of the terms of the permit or this ordinance.

SECTION 11. Appeal

Any person, firm or corporation aggrieved by the action of the Zoning Administrator or his/her designee in the application for a permit or revocation of a permit may appeal to the Township Board.

Such appeal shall be commenced by filing the appeal in writing with the Township Board within 21 days after notice of the denial or revocation.

At the hearing the Township Board shall consider comments made by the applicant and any written materials submitted. If the applicant fails to appear at the time of the hearing the denial of the application or revocation of the permit by Zoning Administrator or his/her designee shall stand.

SECTION 12. Penalty for Violation

Violation of any of the provisions of this Ordinance shall constitute a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) together with the cost of prosecution and/or imprisonment for a period of time not to exceed ninety (90) days.

SECTION 13. Severability

This ordinance and the various parts, sections, subsections, provisions, sentences and clauses thereof are hereby declared to be severable, and if any part, section, subsection, provision, sentence or clause is adjudged unconstitutional or invalid it is hereby declared that the remainder of the ordinance shall not be affected thereby.

SECTION 14. Repeal

Ordinance No. 169, adopted May 28, 1969, is hereby repealed.

SECTION 15. Effective date.

This Ordinance shall be published as required by law and shall take effect thirty (30) days after its enactment and publication.

Enacted at a regular meeting of the Board of Trustees of the Charter Township of Fenton, held on the 20th day of April 2009.

Bonnie K. Mathis, Supervisor

Robert E. Krug, Clerk