

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

ORDINANCE NO. 189

An ordinance to regulate peddlers and solicitors in the Township and to repeal Ordinance 173.

The Charter Township of Superior hereby ordains:

Section 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:

- 1.1 *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.
- 1.2 *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)(3) of the Federal Internal Revenue Code, that solicits or obtains contributions solicited from the public for charitable, religious or political purposes.
- 1.3 *Clerk* means the clerk for the Township, or the Clerk’s designated representative.
- 1.4 *Commercial purposes* means any business or activity carried on for profit.
- 1.5 *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.

- 1.6 *Minor* means a person under 18 years of age.
- 1.7 *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. This also means candidates or persons going door-to-door on behalf of a political candidate(s) or other political purposes or voter registration.
- 1.8 *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".
- 1.9 *Person* means and includes any person, agent, firm, partnership, association, corporation, company or organization of any kind.

Section 2. Soliciting, peddling or canvassing on posted private property or when requested not to do so.

It shall be unlawful for any person to solicit, peddle or canvass upon any private property 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 includes religious proselytizing, political speech (anonymous or otherwise) and passing out handbills.

Section 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 dusk, at any location within the Township.

Section 4. Use and restriction of stops, scales, bells, horns, etc.

- 4.1 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 in the Township on any day during which school is in session. 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.

- 4.2 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.

Section 5. Vehicles, sanitation; health standards.

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 All vehicles used in the sale of any products shall be maintained in good working condition. Applicant shall maintain evidence of proper public liability and personal injury insurance in the amount of not less than the minimum amounts required by the State Motor Vehicle Code. Upon request they shall provide proof of inspection by the Township's designated agent to ensure the motor vehicle used for soliciting or peddling meets all the requirements of the Michigan Vehicle Code.

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

If an applicant is a minor, the following provisions shall apply:

- 6.1 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
- 6.2 Minor(s) shall at all times be under the direct supervision of an adult

Section 7. Misrepresentation.

- 7.1 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.
- 7.2 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.

Section 8. 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.

Section 9. Fixed stands prohibited.

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 the Township Zoning Ordinance.

Section 10. License required.

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 from the Township in compliance with the provisions of this Ordinance. and each vehicle, piece of equipment or container used in connection therewith.

Section 11. Application.

- 11.1 An application for the license required by this Ordinance shall be made upon a form provided by the Clerk, which shall be signed by the applicant 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 the name of the registered agent for the corporation.
 - (4) Two current photographs of 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).

- (5) A statement as to whether the applicant has been convicted of any crime, including any misdemeanor or violation of any municipal ordinance, the date and location of the conviction and the sentence imposed and if the applicant is currently under any court or parole board ordered supervision. A statement indicating if the applicant has been arrested and is awaiting disposition for any violation of federal, state or local laws or ordinances.
 - (6) The length of time for which the right to do business is sought.
 - (7) A brief description of the product or services involved.
 - (8) A description of each vehicle, along with a license plate number of each such vehicle, piece of equipment or container used in connection with the operation of the canvasser, solicitor and/or peddler.
 - (9) A current photo identification issued by a federal or state government agency.
 - (10) Provide two character references, preferably from residents of Superior Township.
- 11.2 If the applicant will be selling any products from a motor vehicle, they shall attach to the application the following:
- (1) Evidence of proper public liability and personal injury insurance in the amount of not less than the minimum amounts required by the State Motor Vehicle Code. Proof of inspection by the Township's designated agent to ensure the motor vehicle used for soliciting or peddling meets all the requirements of the Michigan Vehicle Code.
 - (2) A copy of a valid Michigan driver's license, if the applicant is selling any products from a motor vehicle;
 - (3) A copy of the applicant's master driving record obtained from the Secretary of State.
- 11.3 Application for a license under this ordinance shall be deemed as agreement by the applicant to observe all pertinent laws and regulations of the Township and defend, indemnify, and save harmless the Township from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the licensee's activities under this ordinance.
- 11.4 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.

Section 12. Investigation.

- 12.1 Upon receipt of the application for a license, the Clerk shall review the same for completeness and if the application is complete, shall cause an investigation to ensure that the applicant meets all requirements set forth in this ordinance and to insure that the representations in the application are truthful.
- 12.2 The investigation shall be completed within twenty-eight (28) calendar days of receipt of the application and after such investigation is concluded, the Clerk may:
- (1) Issue the license, upon payment of the appropriate license fee;
 - (2) Deny the license for any of the reasons set forth in Section 13.1;
 - (3) Request additional information from the applicant, if the Clerk determines that such information is needed to process the application. Once the additional information is received from the applicant, the Clerk shall have fourteen (14) calendar days to either issue or deny the license request.

Section 13. Issuance or denial; appeal of denial.

- 13.1 The clerk may refuse to issue a license to an applicant:
- (1) Whose Solicitor's license under this ordinance has been revoked within the last year.
 - (2) Who fails to completely and truthfully complete the application or who fails to fully disclose all arrests and convictions other than those that are traffic related.
 - (3) Who materially misrepresents any facts or statements on his license application.
 - (4) 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, criminal sexual misconduct or any crime that is an unreasonable threat to persons or property within the Township. Who is arrested for 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 applied for.

- (5) Whose master driving record indicates that his use of a motor vehicle in association with a requested license may present an unreasonable risk to persons or property within the township by such use of a motor vehicle. Who is selling any products from a motor vehicle, and
 - (a) The applicant does not have a valid Michigan driver's license, or
 - (b) The applicant has been convicted of operating a motor vehicle under the influence of liquor or operating a motor vehicle with an unlawful blood alcohol content or operating a motor vehicle under the influence of narcotics and/or other controlled substances or operating a motor vehicle while visibly impaired or any other drinking and drive offenses or any other offenses pertaining to driving and narcotics and/or controlled substances, or
 - (c) The vehicle does not meet the standards set forth in Sections 5 and 11.2 of this ordinance.
 - (6) If the applicant or activity licensed constitutes an apparent danger to the health, safety and welfare to the people of the Township.
- 13.2 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 calendar 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 hearing on this appeal, and the applicant shall have the right to appear and present evidence on their behalf. Following such hearing, the Board shall make its decision by a majority vote of those Board members present at the meeting. The Township clerk shall forward notice of the decision to the licensee.
- 13.3 The Board's determination shall be based upon whether the Clerk's refusal to issue a license pursuant to Section 13.1 was supported by competent, material and substantial evidence.
- 13.4 Any person whose license application and/or appeal has been denied may not reapply for a solicitor's license until one-year after the date of application of the denied license.

Section 14. Exemptions; registration of charitable and nonprofit organizations.

- 14.1 Persons involved in soliciting, canvassing or peddling for any noncommercial purpose, and/or delivery of handbills. This includes those working on behalf of a charitable, religious or political organization, political candidate(s) or voter registration. Persons when engaged in soliciting in the neighborhood of their residence, which solicitation is sponsored by any public, parochial or private elementary, middle, junior or high school or by a recognized charitable, religious,

political or subdivision organization are hereby exempt from the licensing, registration and fee requirements of this Ordinance, but shall be subject to the other sections of this Ordinance.

- 14.2 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.
- 14.3 Persons engaged in uses or activities, which have been reviewed and approved by the Township as provided for in the Zoning Ordinance or a General Ordinance, including but not limited to the following: Section 5.102 Farm-Based Tourism / Entertainment Activities; Section 5.103, Farm Products Direct Marketing Business; Section 5.109 Roadside Stands; Section 5.204 Home Occupation; Section 6.05 Transient and Amusement Enterprises (this includes all vendors approved by the approved applicant); and uses and activities covered by the Michigan Right to Farm Act; State of Michigan Compiled Law or Federal Law are exempt from regulation by this ordinance.

Section 15. Fees.

- 15.1 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.
- 15.2 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.

Section 16. Term and limitation.

Each license and registration issued pursuant to this article shall expire one year from the date of approval, unless previously terminated pursuant to this article.

Section 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.

Section 18. Display.

- 18.1 Peddlers, solicitors and canvassers are required to exhibit their license at the request of any citizen or public official.
- 18.2 If selling from a motor vehicle, the license must be displayed in a place on the motor vehicle so that it is visible from outside of the motor vehicle.

Section 19. Refuse.

The licensee shall provide refuse receptacles, which shall be used for all refuse generated by the licensee's activities conducted under this ordinance. Such refuse shall not be deposited in Township's refuse containers. The licensee shall remove the refuse receptacles at the end of the licensee's business day and leave the public right-of-way clean and free of all refuse.

Section 20. License suspension or revocation.

20.1 The Clerk may suspend a license for a period not to exceed ninety (90) calendar days upon determining, based on his or her own investigation or upon certification by a law enforcement agency that any of the following circumstances exists:

- (1) The licensee failed to truthfully provide the information required in this Ordinance in the license application, or that the licensee has engaged in a fraudulent transaction or enterprise.
- (2) The licensee has been convicted of or arrested for 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; 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.
- (3) 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.
- (4) 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.
- (5) The licensee refuses to allow any law enforcement official or Township official to enter into vehicle from which the licensee is doing business for purposes of enforcing this ordinance.
- (6) If the licensee will be engaging in peddling from or out of a motor vehicle in the streets and roads of the Township and the licensee fails to maintain any vehicle to the standards set forth in Section 5 of this ordinance.

20.2 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, 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 make its decision by a majority vote of those Board members present at the meeting. The Township clerk shall forward notice of the decision to the licensee.

20.3 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 calendar 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 make its decision by a majority vote of those present at the meeting. The Clerk shall forward notice of the decision to the licensee.

20.4 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.

Section 21. Nuisance Per Se

Any violation of this ordinance is deemed to be a nuisance per se.

Section 22. Penalties

22.1 Upon discovering a violation of this ordinance, the Clerk shall notify the violator orally or in writing by means of first class letter. Such notice shall give up to 5 calendar days for the violation to be abated or a civil infraction shall be issued.

No further notification is required for subsequent violations in a three year period.

- 22.2 Any person violating any provision of this Ordinance shall be deemed responsible for a civil infraction. Penalties may be imposed as set forth in Ordinance 162 as amended, the Charter Township of Superior Civil Infraction Penalty Ordinance and Ordinance 137 Superior Township Municipal Civil Infractions Ordinance.
- 22.3 In addition to pursuing a municipal civil infraction proceeding, the Township may also initiate an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- 22.4 All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- 22.5 Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this Ordinance involved for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision of this Ordinance involved as if the violation had been successful or completed.

Section 23. 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.

Section 24. Publication

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

Section 25. Repeal of conflicting ordinances

All ordinances or parts of ordinances in conflict herewith, including without limitation Ordinance 173 "Peddlers, Solicitors and Transient Merchants" are hereby repealed.

Section 26. Effective date.

This Ordinance shall take effect after publication in a newspaper of general circulation.

YEAS:

NAYS:

ABSENT:

Ordinance Declared Adopted on _____, 2015.

Kenneth Schwartz
Township Supervisor

CERTIFICATE OF ADOPTION AND PUBLICATION

I, David Phillips, the duly elected Clerk of the Charter Township of Superior, certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the Township Board of the Charter Township of Superior on _____, 2015 and published in a newspaper, circulated in the Charter Township of Superior on _____, 2015.

David Phillips, Clerk
Charter Township of Superior