

ARTICLE II. - PEDDLERS, SOLICITORS, TRANSIENT MERCHANT AND VENDING REGULATIONS¹¹

Footnotes:

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Editor's note— Ord. No. 18.2, § XV, adopted October 26, 2009, repealed and replaced ch. 5, §§ 5-21—5-29 in its entirety. Former ch. 5 pertained to similar material and was derived from Ord. No. 18, arts. I—IV, adopted February 8, 1971; Ord. No. 18.1, § 1, 1-22-1979; Res. No. 090962, adopted September 28, 2009.

Sec. 5-21. - Title.

The ordinance from which this article is derived shall be known as the "DeWitt Charter Township Peddlers, Solicitors, Transient Merchant and Vending Regulation Ordinance."

(Ord. No. 18.2, § I, 10-26-2009)

Sec. 5-22. - Purpose.

The purpose of this article shall be:

- (1) To secure and protect the general welfare and safety of the citizens and other persons within the township;
- (2) To require solicitors and peddlers to obtain a license to solicit, peddle or vend within the township;
- (3) To establish an application process and fee for the issuance of a peddler's, vendor's or solicitor's license;
- (4) To set forth the information that must be supplied to the township before a peddler's, solicitor's or vendor's license may be granted;
- (5) To set forth the exemptions from this article;
- (6) To provide for penalties upon violation of the provisions of this article.

(Ord. No. 18.2, § II, 10-26-2009)

Sec. 5-23. - Definitions.

Peddler shall mean any person traveling by any means from place to place, from house to house, street to street, or remaining stationary in any place, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits or ice cream, flyers or other reading material, offering or exposing the same for sale, gift or information. The word "peddler" shall include the words "hawker" and "huxter."

Person shall mean an individual, business, firm, corporation, partnership or other organization or entity.

Solicitor shall mean any person traveling by any means from place to place, house to house, street to street, or remaining stationary in any place, taking or attempting to take orders for the sale or gift of goods, wares, merchandise, meats, fish, vegetables, fruits, ice cream, flyers or other reading material, offering or exposing the same for sale, gift or information for future delivery or for services to be furnished

or performed in the future, or requesting money donations. The word "solicitor" shall include the word "canvasser."

Township clerk as used herein shall include the deputy clerk or a person designated to perform the clerk's functions pursuant to this article.

Transient merchant shall mean any person, firm or corporation, whether owner, agent, consignee or employee, or whether a resident within the township limits or outside said limits, that engages in any temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public for franchises, distributorships, contracts where other business opportunities are offered to participants, or one who sells, offers or exhibits for sale any goods, wares or services out of motor vehicles or temporary structures, or stands located on street/road corners, parking lots, lawns or other devices and locations. The foregoing notwithstanding, however, a transient merchant for purposes of this section shall not include persons, firms or corporations who shall occupy any of such places for the purpose of conducting a permanent business therein or thereon. However, no person, firm or corporation shall be relieved from the licensure provisions of this article by reason of temporary association with any such local property owner, trader, merchant or auctioneer, or by conducting such temporary transient business in connection with or as part of or in the name of a local business owner or operator.

Vending shall mean the act of engaging citizens of the township as a peddler or solicitor, not including the act of offering merchandise for wholesale to retailers or for resale to manufacturers for use in their processes, and also not including regular route delivery persons delivering products.

Vendor shall mean any person engaged in the act of vending. For purposes of this article, the terms "canvasser," "drummer," "hawker," "huxter," "itinerant merchant," "itinerant vendor," "peddler," "solicitor" and "transient merchant" shall be included as persons defined as "vendors."

(Ord. No. 18.2, § III, 10-26-2009)

Sec. 5-24. - License required.

It shall be unlawful for any vendor, solicitor, transient merchant or peddler to engage in such business within the township without first obtaining a license in compliance with this article.

(Ord. No. 18.2, § IV, 10-26-2009)

Sec. 5-25. - Exemptions.

- (a) Persons engaged in soliciting, peddling or vending under the direct supervision of any school or recognized charity or non-profit organization shall be exempt from one or more of the provisions of this article upon demonstration of their status as such an organization to the township clerk.
- (b) Persons engaged in canvassing and distributing printed material or obtaining signatures for political candidates, ballot issues or other political issues, or for religious solicitation or distribution of printed material, shall be exempt from the licensing requirements of this article, but shall be subject to the provisions of section 5-29 (Prohibited conduct).
- (c) No vending license shall be required to sell fruit or vegetable produce on the same property on which it was grown.
- (d) No vending license shall be required for regular route delivery persons, not including ice cream peddlers and similar vendors.
- (e) No vending license shall be required for any garage sales by owners of the property thereon, or any auction sales on property owned by the resident and involving the sale of the property of said owner.
- (f) Notwithstanding the provisions of this section, the persons engaged in activities identified in subsections (a) and (b) shall, upon request of the clerk, provide the information identified in section 5-

26 (Application process), subsections (a)(1)—(3), (10) and (11). Persons found to have been convicted of any crime involving malicious destruction of property, home invasion, burglary, sexual offenses of any nature, crimes of violence or offenses of a similar nature shall not be eligible to engage in the activities otherwise authorized by this article.

(Ord. No. 18.2, § V, 10-26-2009)

Sec. 5-26. - Application process.

(a) Except as provided in section 5-25 (Exemptions), no person shall vend within the township without first obtaining a license therefor. An application for such license shall be made to the township clerk. In the event an application is made by an organization, business, firm, corporation, partnership or other entity, an application must be made for each agent or employee who will be engaging in active vending. The application shall be made on the form supplied by the township clerk, and the applicant shall supply all the information listed on the application before the application will be processed. The application filed with the clerk shall be a sworn application and include, at a minimum, the following information:

- (1) The name and a description of the applicant;
- (2) The applicant's address, legal and local;
- (3) The applicant's date of birth, driver's license number, and home and work telephone numbers;
- (4) A brief description of the nature of the business and the goods to be offered;
- (5) If the applicant is employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (6) The length of time for which the right to do business is desired;
- (7) If a vehicle is to be used, a description of the vehicle, together with the license number and state of registration;
- (8) Proof of insurance for all vehicles to be used in the vending operations of the applicant;
- (9) Unless a photocopy of the applicant's driver's license is adequate to provide positive identification of the applicant, the applicant shall provide two recent photographs of the applicant which are two inches by two inches in size and depict the head and shoulders of the applicant;
- (10) Upon the request of the township, fingerprints of the applicant;
- (11) A statement as to whether the applicant has been convicted of any crime or violation of any municipal ordinance and the nature of the offense;
- (12) The names, addresses and telephone numbers of three local references. If the applicant has never lived or done business within the township, then references from where the applicant lives or has done business may be used;
- (13) A statement as to whether the applicant has ever received a similar license from any other state municipal authority and whether said license was revoked for any cause whatsoever. If so, the name of the municipality and the circumstances of the revocation, if any, are required;
- (14) The signature of the applicant acknowledging his or her understanding of the regulations contained within this article and acknowledging that failure by the applicant to comply with any of these regulations may result in revocation of the license.
- (15) As to transient merchants, the application shall identify all locations where vending is proposed to take place, and shall demonstrate that each such location shall not cause a hazard to vehicular traffic, that adequate off-street parking is available, and that the owner of the property has authorized in writing its use by said merchant. Said written authorization shall be provided to the township clerk.

- (b) At the time the application is filed, an application fee shall be paid to cover the cost of processing the application and conducting an investigation. If the application is approved, an additional fee for the licensing period approved shall be collected by the clerk. The foregoing fees shall be determined by the township board and modified at the discretion of the board from time to time.
- (c) Upon receipt of an application for a vending license, the township clerk shall cause an investigation of the applicant to be made, which is intended to ensure the protection of the public health, safety and welfare of the township citizens. The investigation of the applicant shall at a minimum include the following:
 - (1) Verification of the applicant's identification, driving record and criminal history by local law enforcement;
 - (2) Contact with the references listed on the application for background information regarding the applicant;
 - (3) The township clerk may contact any other source deemed necessary to determine the applicant's business responsibility and/or criminal history.

(Ord. No. 18.2, § VI, 10-26-2009)

Sec. 5-27. - Issuance of license.

If the result of the clerk's investigation of the applicant is satisfactory and payment of the prescribed license fee has been made, the clerk shall issue to the applicant a vendor's license, which shall contain the signature of the clerk and show the name, type of license issued and date of issue and expiration. Licenses issued pursuant to this article shall not be valid for a period in excess of 90 days from the date of issuance. If the result of the investigation is that the applicant's business history and/or criminal history are unsatisfactory, the clerk shall issue the applicant a notice of denial, stating the specific reason for denial, and including notice of the right to appeal pursuant to section 5-31 (Enforcement, Suspension, revocation, appeal), subsection (d). The notice shall be in writing and served by certified mail, return receipt requested, postage prepaid, to the address on the application.

(Ord. No. 18.2, § VII, 10-26-2009)

Sec. 5-28. - Display of license.

- (a) A licensee shall carry his or her license at all times when engaged in the activity for which the license is granted;
- (b) A licensee shall exhibit his or her license at the request of any properly identified public authority or by any person with whom the licensee is dealing in connection with the license activities;
- (c) A licensee shall not loan, sell, give or assign to any other person, or allow any other person to use or display, any license which has been issued to the licensee;
- (d) No person shall display an expired license, a license for which a duplicate has been issued, a license which has been suspended or revoked, or a license which was approved and issued for another person.

(Ord. No. 18.2, § VIII, 10-26-2009)

Sec. 5-29. - Prohibited conduct.

The following acts or activities shall be prohibited:

- (1) No peddler, solicitor or vendor shall enter upon or call upon a place of residence or business within the township after having been expressly notified by the occupant that no solicitation is desired, or where the owner or occupant has displayed a "no soliciting," "no peddlers," "no solicitors," "no salespersons," "no trespassing" or similar sign or containing words of similar meaning on the premises;
- (2) No peddler, solicitor or vendor shall threaten or annoy any resident of the township in the course of their solicitation, peddling or vending, or in any way engage in conduct which is or would tend to create a nuisance;
- (3) No peddler, solicitor or vendor shall engage in business without carrying the license issued under the terms of this article;
- (4) No peddler, solicitor or vendor 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 license;
- (5) No peddler, solicitor or vendor shall obstruct any street, alley, sidewalk, driveway or other place;
- (6) No person shall write upon, alter, amend, modify or change a license, except as authorized by the clerk;
- (7) No transient merchant shall operate in residential zoning districts as defined in the township zoning ordinance.

(Ord. No. 18.2, § IX, 10-26-2009)

Sec. 5-30. - Hours of operation.

Peddling, soliciting or vending (except sales by transient merchants) may take place within the township only between 9:00 a.m. and 8:00 p.m., Monday through Saturday.

(Ord. No. 18.2, § X, 10-26-2009)

Sec. 5-31. - Enforcement, suspension, revocation, appeal.

- (a) *Enforcement.* It shall be the responsibility of the township board, or its designee, or local law enforcement personnel to enforce the terms of this article, together with the authority to issue cease and desist orders immediately upon evidence that a vending activity is being conducted within the township prior to the issuance of a license, or are occurring in violation of any of the terms of this article.
- (b) *Suspension.* A license issued pursuant to this article may be suspended by the clerk and subsequently revoked by the township board, upon notice and a hearing, for any of the following causes:
 - (1) Fraud—Misrepresentation or a false statement contained in the application for license;
 - (2) Fraud—Misrepresentation or false statement made in the course of carrying on the business of peddler, solicitor or vendor;
 - (3) Any violation of this article or any other ordinance of the township;
 - (4) Conducting the business of a peddler, solicitor, vendor in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public or in violation of any duly issued court order.
- (c) *Revocation.* Upon suspension, the licensee shall be provided with notice of a revocation hearing, which shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed to the licensee by registered or certified mail, return receipt requested, postage prepaid, at his or her last known address or personally delivered to the

licensee at least five days prior to the date set for the hearing. Subsequent to the hearing, the township board may continue the suspension, revoke or reinstate the license. The action taken by the township board shall be final, and any licensee whose license has been revoked shall not be eligible to apply for a new license for a period of one year after such revocation.

- (d) *Appeal of denial of license.* Any person aggrieved by the township's denial of an application for licensure may appeal to the township board within 14 days after the mailing of the notice of license denial. The appeal shall contain a written statement setting forth the grounds for the appeal and, upon receipt, the township board shall conduct a hearing in the same manner as provided in subsection (c). The decision and order of the township board upon such hearing shall be final and conclusive.

(Ord. No. 18.2, § XI, 10-26-2009)

Sec. 5-32. - Indemnification.

Application for a license under this article shall be deemed an agreement by the applicant to observe all pertinent ordinances and regulations of the township and defend, indemnify and save harmless the township from all damages, costs 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.

(Ord. No. 18.2, § XII, 10-26-2009)

Sec. 5-33. - Penalties.

Any person violating any of the provisions of the ordinance from which this article is derived shall be guilty of a misdemeanor, punishable by a fine of not to exceed \$100.00, or by imprisonment in the county jail for not to exceed 90 days, or both, in the discretion of the court; or

Violation of the provisions of the ordinance from which this article is derived shall be a municipal civil infraction.

(Ord. No. 18.2, § XIII, 10-26-2009)

Secs. 5-34—5-50. - Reserved.