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FRUITPORT CHARTER TOWNSHIP

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS ORDINANCE

ORDINANCE NO. 775

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CHARTER TOWNSHIP OF FRUITPORT, TO ADD A NEW CHAPTER 23 ENTITLED PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS, WHICH PROVIDES FOR THE LICENSING AND REGULATION OF PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.

THE CHARTER TOWNSHIP OF FRUITPORT, COUNTY OF MUSKEGON, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Adoption of Chapter. Chapter 23 of the Fruitport Charter Township Code of Ordinances is added, which Chapter will be known and cited as the "Fruitport Charter Township Peddlers, Solicitors, and Transient Merchants Ordinance" and shall read in its entirety as follows.

"CHAPTER 23

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Sec. 23-1. General prohibitions.

No vehicle or other equipment shall be operated or otherwise used on the public streets, sidewalks, parks, or other public ways or places in the township between the hours 8:00 p.m. and 8:00 a.m., by any person licensed under this chapter, for the purpose of carrying on the licensed activity under this chapter. In this way, this chapter shall protect the ability of township residents to be free from sales calls at their dwellings and elsewhere during certain portions of each day.

No peddler, solicitor, or transient merchant shall shout, make any outcry, blow a horn, ring a bell, or use any sound device, including any loud-speaking radio or sound amplifying system, upon any public street, sidewalk, park, or other public place in the township for the purpose of attracting attention to any goods, wares, merchandise, or services.

No peddler, solicitor, or transient merchant shall have an exclusive right to any location upon a public street, sidewalk, park, or other public place. No peddler, solicitor, or transient merchant shall be permitted to operate in any congested area where operations might unreasonably impede or inconvenience the public.

Sec. 23-2. General exceptions.

The provisions of this chapter shall not apply to any person representing any public or private school, or any youth activities such as but not limited to Girl Scouts, Boy Scouts, church youth

groups, or youth athletic leagues, or any newspaper delivery personnel. Decisions on whether a person should be provided an exception shall reside with the township public safety director or the director's designee. Any decision by the public safety director or the director's designee may be appealed to the township board.

Sec. 23-3. Definitions.

Peddler means any person traveling from place to place in the township, transporting goods, wares, or merchandise, offering them for sale. A person who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter.

Solicitor means any person traveling from place to place in the township, taking or attempting to take orders for sale of goods, wares, or merchandise for future delivery, or for services to be furnished or performed in the future.

Transient merchant means any person who engages in a temporary (one year or less) business of selling and delivering goods, wares, or merchandise within the township and who, in furtherance of that purpose, uses or occupies any place within the township for the purpose of exhibition and sale of such goods, wares, or merchandise.

Sec. 23-4. License requirement.

It shall be unlawful for a person to engage in the activities of being a peddler, solicitor, or transient merchant within the township without first obtaining a license for those activities in compliance with the provisions of this chapter.

Sec. 23-5. Application.

Applicants for licenses under this chapter shall file a written, sworn statement, in duplicate, with the township clerk, giving the following information:

1. Name and description of the applicant;

2. Permanent home address and full local address of the applicant;

3. A brief description of the nature of the business and the goods, wares, merchandise, or services to be sold, and in the case of farm products, whether they are produced or grown by the applicant;

4. If the applicant is employed, the name and address of the employer, together with credentials establishing the exact relationship;

5. The length of time for which the right to do business by the applicant is desired;

6. The place where the goods, wares, or merchandise proposed to be sold or orders taken for sales thereof are manufactured or produced, where they are located at the time the application is filed, and the proposed method of delivery;

7. A photograph of the applicant taken within 60 days immediately prior to the date of filing the application, which picture shall be at least two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

8. A statement whether or not the applicant has been convicted of any crime or any other violation of a federal, state, county or local law or ordinance, and, if so, the nature of the offense and the punishment or penalty assessed;

9. A statement of how the applicant intends to travel or otherwise conduct business in the township; and

10. A statement to the effect that if a license is granted, it will not be used or represented in any way as an endorsement by the township or by any township department or officer.

Sec. 23-6. Fees.

A person seeking a license issued under this chapter shall pay, at the time the application is filed, a fee of $50.00, or such other amount as is established by resolution of the township board.

Sec. 23-7. Investigation of an application.

Upon receipt of an application for a license required by this chapter, the application shall be referred to the public safety director or the director's designee, who shall cause an investigation of the applicant's business responsibility or moral character (as defined and regulated in Public Act No. 381 of 1974; MCL 338.41 et seq.) to be made as the director or the director's designee deems necessary for the protection of the public good. If, as a result of the investigation, the moral character and business responsibility of the applicant are found to be unsatisfactory, and the licensing of the applicant may pose a risk to the health, safety, and welfare of the citizens of the township, the application shall be denied. The public safety director or the director's designee shall endorse on the application the disapproval and the reasons for the same and return the application to the township clerk, who shall notify the applicant that the application is disapproved. The application denial may be appealed to the township board.

Sec. 23-8. Approval and exhibition of licenses.

If the moral character and business responsibility of the applicant as regulated by Public Act No. 381 of 1974 (MCL 338.41 et seq.) are found to be satisfactory, and the licensing of the applicant does not appear to pose a risk to the health, safety and welfare of the citizens of the township, the public safety director or the director's designee shall endorse approval on the application. Upon such approval, the township clerk shall, upon payment of the prescribed license fee, deliver to the applicant the license. The license shall contain the signature and seal of the township clerk

and shall show the name, address, and photograph of the applicant; the kind of goods, wares, merchandise, or services to be sold per the license; the amount of fee paid and the date of issuance of the license; the length of time the license shall be operative; the license number of any motor vehicle used by the applicant when engaging in licensed activities in the township; and other identifying description of any motor vehicle used by the applicant in the township. The township clerk shall keep a permanent record of all licenses issued and copies on file.

All licensees under this chapter are required to exhibit their licenses at the request of any officer or agent of the township or any person with whom they are transacting or attempting to transact any business.

Sec. 23-9. License revocation.

Licenses issued under this chapter may be revoked by the public safety director or the director's designee after written notice is given to the licensee and a hearing held as described below. Licenses may be revoked for any of the following causes:

1. Fraud, misrepresentation, or false statement by the licensee in the application for a license;

2. Fraud, misrepresentation, or false statement by the licensee in the course of carrying on the licensee's business;

3. Any violation of this chapter by the licensee;

4. Conviction of any crime involving moral turpitude by the licensee; or

5. The licensee conducting business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety, or general welfare of the public.

Notice of a hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. The notice shall be mailed, postage prepaid, to the licensee at the licensee's last known address at least four days prior to the date set for hearing. The public safety director or the director's designee may suspend a license issued under the provisions of this chapter if the director or the director's designee determines that continued activity would jeopardize the health, safety, or well-being of the public. In any case in which a license is suspended, the hearing shall be held not later than seven calendar days from the date of the suspension. Any revocation or suspension by the public safety director or the director's designee may be appealed to the township board.

Sec. 23-10. Appeals to the township board.

Any person aggrieved by the action of the public safety director or the director's designee pursuant to this chapter, and who appeals to the township board pursuant to the chapter, must file such an appeal with the township clerk within 14 days after the action which is appealed. The appeal must include a written statement setting forth the grounds of the appeal. The township

board shall set a time and place for a hearing on the appeal, which shall not be later than the next regularly scheduled township board meeting held at least four days after the filing of the appeal. Notice of the hearing shall be given to the appellant by the township clerk. The decision and order of the township board on the appeal shall be final.

Sec. 23-11. Penalties.

Any person violating this chapter shall be responsible for a misdemeanor pursuant to section 2-156."

Section 2. Repeal. All resolutions, ordinances or orders in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 3. Effective date. This Ordinance was approved and adopted by the Township Board of Fruitport Charter Township, Muskegon County, Michigan, on September 24, 2012, after introduction and a first reading on August 27, 2012, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective 30 days after its publication.

Brian Werschem, Township Supervisor

Carol Hulka

Carol Hulka, Township Clerk

CERTIFICATE

I, Carol Hulka, the Clerk for the Charter Township of Fruitport, Muskegon County, Michigan, certify that the foregoing Peddlers, Solicitors, and Transient Merchants Ordinance was adopted at a regular meeting of the Township Board held on September 24, 2012. The following members of the Township Board were present at that meeting: Brian Werschem, Carol Hulka, Rose Dillon, Dave Markgraf, Marjorie Nash, and Chuck Whitlow. The following members of the Township Board were absent: Ron Becklin. The Ordinance was adopted by the Township Board with members of the Board - Whitlow, Markgraf, Hulka, Dillon, Nash, and Werschem voting in favor, and members of the Board - there were none - voting in opposition. Notice of Adoption and Posting of the Ordinance was published in The Muskegon Chronicle on October 2, 2012.

Carol Hulka

Carol Hulka, Clerk
Fruitport Charter Township