

PEDDLERS LICENSING
Ord. No. 06-03

Adopted: May 9, 2006
Publication Date: 5/31/06
Effective Date: 6/30/06

19.000 **PART 19**

An Ordinance to provide for the licensing of peddlers and solicitors within the Township of Birch Run and to create a procedure for the procurement of such license: to create certain conditions for the issuance of the license relating to its duration, to the prohibition of illegal peddling, to protect the public interest by providing a public registry of peddlers and solicitors; to exempt political, charitable and religious establishments from the operation and effect of this ordinance; to provide penalties for the violation thereof.

THE TOWNSHIP OF BIRCH RUN, SAGINAW COUNTY, MICHIGAN ORDAINS:

19.001 Title.

Sec. 1, this ordinance shall be known and may be cited as the Birch Run Township Peddlers Licensing Ordinance.

19.002 Definitions.

Sec. 2, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable means the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

Contribution means alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property.

Licensing Agent means the Township Clerk or such other Township Official or Employee as may be designated by Resolution of the Township Board.

Peddler means any person who travels from house to house or place to place, or who, on the streets or alleys or open places, or in public grounds or places, sells or offers for sale, or exposes for sale, any goods, wares or merchandise to any person not a dealer therein, or who takes orders for the purchase of goods, wares or merchandise by samples, lists, or catalogue, or subscription for magazines and books from any person not a dealer therein. The term "peddler", as used in this ordinance, shall not be applicable to any party selling the products of his own farm, orchard, or garden on those premises.

Person means *any individual, partnership, association or corporation.*

Promoter means any person who promotes, manages, supervises, organizes, or attempts to promote, manage, supervise, or organize a campaign of solicitation.

Religious and *religion* shall not mean and include the word "charitable," as defined in this section, but shall be given their commonly accepted definitions.

Solicit and *solicitation* shall mean the request, directly or indirectly, of money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property,

financial assistance, or other thing of value will be used for a charitable or religious purpose by means of going from door to door.

Township means the Township of Birch Run.

19.003 Purpose

Sec.3, Numerous complaints that have been received by township officials from occupants of residences and dwelling units about persons who have gained, or sought to gain, admittance to their residences for the purpose of soliciting or, on the pretext of soliciting, have by their conduct made nuisances of themselves by disturbing and annoying the occupants, or by their acts and conduct have violated the right of the occupants to the quiet and peaceful enjoyment and security of their homes; and in some cases persons have sought admittance to a residence as a solicitor for the purpose of gaining information for some illegal act. The township declares that the regulations established by this ordinance are necessary for the safety, health, comfort, good order, protection, and welfare of those residents of this township who desire the protection of the regulations established by this ordinance.

19.004 Vehicle and equipment use at night

Sec. 4, No vehicle or other equipment shall be operated, propelled, located, or otherwise used on the public streets, sidewalks, parks or other public ways or places, between 7:00 p.m. and 8:00 a.m., by any person licensed under this article, for the purpose of carrying on the licensed activity; provided, however, that:

(1) The Township Board with the approval of the Saginaw County Road Commission may authorize the use of equipment for street vending within such hours, where the occasion, locations and circumstances are such that there is no danger to the public or the operator, and on such terms and conditions as the approving bodies finds necessary as to the time, location, equipment, and mode of operation to protect the public and operator from hazard; and

(2) Motor vehicles, licensed under the state statutes and meeting their requirements, may be operated as authorized thereby.

19.005 Misrepresentations by solicitors.

Sec. 5, No person shall directly or indirectly, solicit contributions for any purpose, by misrepresentation of his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the township.

19.006 Hours.

Sec. 6, No peddler shall operate between the hours of 7:00 p.m. and 8:00 a.m.

19.007 Courteous; respectful of resident rights.

Sec. 7, Persons engaged in these activities shall at all times be courteous and respectful of the private property and rights to privacy of township residents.

19.008 Request to leave.

Sec. 8, If a resident requests a peddler to leave the premises, he shall immediately do so without further discussion.

State law references: Refusal to leave, MCL 750.552.

19.009 Proper entry onto private property.

Sec. 9, No person engaged as a peddler shall enter onto private property for the purposes except that he may enter only from the driveway and proceed directly to the entrance that represents the street address of such private property. This is intended to prohibit such individuals from crossing from one parcel to another and not using the public right-of-way; i.e., they shall not walk across front yards and shall not enter side yards or rear yards.

19.110 License*

*State law references: Veteran's license for peddlers, MCL 35.441 et seq.

19.110. a License Required.

Sec. 10, No person shall act as a peddler unless the person shall first obtain a license from the township clerk's office.

19.111 Application.

Sec. 11, any person desirous of obtaining a license as a peddler shall apply to the township clerk, upon proper forms to be furnished by the township clerk, or their designee, and signed by such applicant, stating:

- (1) In what manner he intends to travel, trade, or conduct business;
- (2) His name, age, permanent home address;
- (3) A physical description of himself;
- (4) If employed, the name and address of his employer;
- (5) The address of his place of residence for the past three years; and
- (6) The name and class of the license desired with two true photographs of the applicant.

The application for a license must be filed with the township clerk, or their designee, 14 days prior to the start of any such sale.

19.112 Fee.

Sec. 12, Licenses issued shall be charged a nonrefundable fee as determined from time to time by resolution of the Township Board, which shall be paid for at the time the application is filed. Exempt from the payment of such fee shall be any licensed township business operating normally from a permanent location but conducting a door-to-door advertising campaign.

19.113 Investigation and issuance.

Sec. 13, the township clerk, or their designee, may withhold the granting of a license applied for until such time as may be required to receive information on the applicant from the code enforcement department. Whenever the township clerk, or their designee, receives information from any source indicating that the applicant has violated any law or ordinance of any state or municipality, the township clerk, or their designee, shall refer the application to the Township Board and the code enforcement department, who will determine whether the license shall be granted.

(b) The township clerk, or their designee, is authorized to issue licenses to those who have complied with the provisions of this ordinance.

19.114 Duration of license.

Sec. 14, No peddler shall be issued a license for more than 30 days per one calendar year.

19.115 Form and content.

Sec. 15, each license granted shall be in such form as to contain a true photograph of the licensee, the name, address, physical description, length of time the license is issued for, and description of how business will be conducted.

19.116 Expiration date.

Sec. 16, all licenses issued shall expire 30 days from the date of issue, unless a prior date is fixed therein.

19.117 Nontransferable; return upon expiration.

Sec. 17, any license issued shall be nontransferable and shall be returned to the township clerk within two days after its date of expiration, together with all facsimile copies thereof.

19.118 Alterations prohibited.

Sec. 18, No licensee shall alter, remove or obliterate any entry made on his license.

19.119 Carried by licensee.

Sec. 19, all licensees while going from door to door shall carry with them, at all times, the license issued under the provisions of this ordinance.

19.120 Solicitor credentials.

Sec. 20, all persons to whom licenses have been issued shall furnish proper credentials to their solicitors for such solicitation.

(1) *Content.* Such credentials shall include:

- a. The name of the organization;
- b. The name of the license holder;
- c. The date;
- d. A statement describing the holder's charitable or religious activity;
- e. A description of the purpose of the solicitation;
- f. The signature of the license holder or of the holder's chief executive officer;
- g. The name, address, age, sex and signature of the solicitor to whom such credentials are issued; and
- h. The specific period of time during which the solicitor is authorized to solicit on behalf of the license holder.

(2) *Copy filed and approved by township clerk.* A copy of such credentials must be filed with the township clerk, or their designee, at the time the application for a license is filed and must be approved by the township clerk, or their designee, as conforming to the requirements of this ordinance.

19.121 Suspension.

Sec. 21, the township clerk, or their designee, shall have the power to suspend any license issued for violation of a township ordinance or any condition or regulation under which the license was granted. The township clerk, or their designee, shall report all suspensions to the Township Supervisor and code enforcement department, which may, for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard.

19.122 Revocation.

Sec. 22, Failure to exercise proper courtesy and respect or engaging in obnoxious sales tactics or behavior shall be grounds for the withdrawal of the license and further enforcement action as permitted by law.

(1) Upon written complaint to the township clerk or another township official by offended citizens, the township supervisor and code enforcement officer shall meet with the licensee to determine whether or not the complaint justifies revocation of the license.

(2) If the licensee disagrees with the determination, he may appeal to the township board at its next regular meeting. Until such meeting, the license will be suspended and no further activity shall be conducted.

(3) In the event of revocation, the license fee shall not be refunded. No person whose license has been revoked shall receive another license for a period of one year thereafter.

19.123 Records of licenses.

Sec. 23, a full, complete record of each license issued, including renewals, suspensions, or revocations thereof and serious complaints and charges against the licensee, together with their photograph, shall be kept on file by the township clerk, or their designee.

19.124 Exemptions.

Sec. 24, Nonpecuniary, *profit organizations*, The provisions of this ordinance shall not apply to any established society, association or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable or reformatory purposes, and not operated for pecuniary profit, where:

(1) No part of the net earning of which benefits any person, private shareholder or individual; and

(2) The solicitation of such organization is conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation; or

(3) Such solicitation is in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order or fraternity or similar organizations, or of any branch thereof.

(a) *School related youth activities*. Any group or individual associated with any school related youth activities such as Girl Scouts, Little League, soccer leagues, and Boy Scouts shall be exempt from the provisions of this ordinance.

19.125 Permitted hours of soliciting for Exemptions.

Sec. 25, No person or organization shall conduct charitable or religious solicitations between the hours of 7:00 p.m. and 8:00 a.m.

19.126 Records of donations and contributions.

Sec. 26, No person shall solicit any contributions for any charitable or religious purpose without maintaining a system of accounting whereby all donations and all disbursements are entered upon the books or records of such person's treasurer or other financial officer.

19.127 Violation and penalties.

Sec. 27, All violation of this Ordinance shall constitute a municipal civil Infraction and shall be handled through the process outlined in Township Ordinance # 98-1.

19.128 Severability clause.

Sec. 28, If any section, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not effect the validity or constitutionally of the remaining portions of this ordinance.

19.129--19.150 Reserved.

19.151 Effective Date.

Sec. 51, this ordinance shall become effective ten days after adoption and publication of this ordinance.

STATE OF MICHIGAN)
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk of the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the foregoing is a true and complete Copy of a resolution adopted at a regular meeting of the Township Board of the Township of Birch Run, Michigan, held on the 9th day of May, 2006, the original of said meeting was given to and in compliance with Act 267, Public Acts of Michigan, 1976.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 10th day of May 2006.

**Amy Cook, Clerk
Birch Run Township**