

**FRENCHTOWN CHARTER TOWNSHIP
PEDDLER, SOLICITOR AND ICE CREAM VENDOR ORDINANCE
Ord. No. 215; Date of Adoption: October 26, 2010**

An Ordinance to establish licensing requirements for peddlers and solicitors and ice cream vendors in the interests of the prevention of fraud and other crimes, the protection of personal privacy and of the general health, safety and welfare of the residents of Frenchtown Charter Township.

FRENCHTOWN CHARTER TOWNSHIP HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known and referred to as the Frenchtown Charter Township Peddler, Solicitor and Ice Cream Vendor Ordinance.

Section 2. Definitions

The following terms used in this Ordinance shall have the following meanings:

A. “Conveyance” means every device in, upon or by which any person or property is or may be transported or drawn on a road, street, highway, sidewalk or alley.

B. “Ice Cream” means all frozen desserts of any kind, including, but not limited to ice cream, ice milk, yogurt, popsicles or ice sherbets.

C. “Ice Cream Sales Vehicle” means every conveyance or motor vehicle in, upon or by which any person or property is or may be drawn upon a road, street or highway in which ice cream of any kind is carried for purposes of retail sales on any road, street or highway within the Township.

D. “Motor Vehicle” means every vehicle which is self propelled.

E. “Peddler”, shall mean 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 or motor vehicle used for or associated with peddling.

F. “Person”, shall include a business, firm, corporation, partnership or other organization or entity.

G. “Solicitor”, shall mean 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. Solicitor also includes the driver of any conveyance or motor vehicle used for or associated with soliciting.

H. “Vend” or “Vending” means offering ice cream of any kind from a ice cream sales vehicle or conveyance on any road, street or highway within the Township for retail sale.

I. “Vendor” means any individual who vends.

Section 3. Peddlers and Solicitors.

A. License.

It shall be unlawful for any person to sell, offer for sale or peddle any commodity, goods, wares, or merchandise or to solicit funds or donations from residence to residence on foot or from a conveyance or motor vehicle, or at a location in which they have no real property interest, within the limits of the Township until a license authorizing such sale, offering for sale, peddling or soliciting shall have been issued by the Township Clerk.

B. Application for Peddlers and Solicitors License.

Application for a peddlers and solicitors license required by this Ordinance shall be made by written application to the Township Clerk on a form provided by the Clerk. The application shall at a minimum contain the following:

1. The full name of the applicant or applicants and of every person interested in the issuance of the license applied for, together with the business and residence address of such person. If the applicant is an entity, this shall apply to the officers and directors of such entity.

2. Each application shall set forth the nature of the articles to be sold, offered for sale, or peddled, or the purpose of the solicitation of funds or donations and the method to be used to effect such sale, offering for sale, peddling or soliciting and shall be accompanied by the required fee.

3. A listing of all criminal convictions of the applicant within the last two years, and all earlier felony convictions.

C. Misrepresentation by Peddler or Solicitors.

No person shall directly or indirectly solicit sales or contributions for any purpose, by misrepresentation of his or her name, occupation, financial condition, social condition or residence. Further 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.

Section 4. Ice Cream Vendors.

A. License.

It shall be unlawful for a person to engage in the retail sale of ice cream, on foot or from any conveyance or ice cream sales vehicle within the Township without having first obtained an ice cream vendor's license. No person shall vend or allow an ice cream sales vehicle to be used for the retail sale of ice cream on the streets and public areas of the Township without having first obtained a license. All licenses issued by the Township allowing for the sale of ice cream shall contain a clause prohibiting the assignment or transfer of the license. All licenses shall be prominently displayed and affixed to the conveyance or ice cream sales vehicle or be worn by the vendor at all times while vending.

B. Application for Ice Cream Vendors License.

Each person desiring to engage in the business of selling ice cream as a vendor shall make a written application to the Township Clerk on a form provided by the Clerk. The application shall at a minimum contain the following:

1. The full name, permanent residence and local address of the applicant.
2. The name and address of the person, firm or corporation for whom or which the applicant is employed in the retail sale of ice cream.
3. A listing of all criminal convictions of the applicant within the last two years, and all earlier felony convictions.
4. The type of ice cream sales vehicle to be operated by the applicant and the motor vehicle registration number or bicycle license number. If the vehicle is classified as a motor vehicle, the applicant shall provide sufficient verification to the Clerk that he or she possesses a valid driver's license and shall also provide the Clerk with a certificate of insurance showing that the applicant is carrying the following minimum amounts of insurance: public liability insurance of \$500,000 for injuries, including those resulting in death from any one occurrence and on account of any one accident, and property damage insurance of \$25,000 for damages on account of any one accident or occurrence.

If the applicant is to operate a motor vehicle, the Clerk shall cause an investigation to be made into the driving record of the applicant by the Monroe County Sheriff's Department. The applicant shall on the application authorize the Township Clerk and the Monroe County Sheriff to review said driving record if necessary. The Clerk may upon finding the applicant not to be a safe and competent driver based on said driving record, deny the application.

5. An affidavit that the information contained in the application is accurate and correct.

Section 5. Fees.

A Peddlers or Solicitors license or Ice Cream Vendors license shall not be issued or renewed under the terms of this Ordinance, unless the applicant shall pay to the Township Clerk a license fee of twenty-five dollars (\$25.00) at the time of making the application. In the event that there is background or criminal investigation required through the Monroe County Sheriff's Department

pursuant to this Ordinance and there is a fee charged to the Township for such investigation, the applicant shall also be required to pay that fee to the Township. In the event that the applicant is not a resident of the County of Monroe, a cash bond in the sum of \$500.00 shall be required.

Section 6. Consideration, Issuance.

The Township Clerk shall make a record of all applications received for licenses under this Ordinance, and shall present such applications at the next regular meeting of the Township Board following completion of the necessary review and investigation and shall keep a record of the action of the Board on each application. If the Township Board, upon examination of the matter shall deem the issuance of a license consistent with the safety and good government of the Township and the welfare of its habitants, the Clerk shall be directed to issue the license.

Section 7. Disclaimer.

By issuance of a license under this Ordinance, the Township makes no endorsement, warranty or guaranty of the product or service. Further, the Township by issuance of a license makes no guaranty of authority to peddle or solicit or offer ice cream for sale in the incorporated areas of the Township and advises applicant to verify any additional requirements of any such incorporated areas.

Section 8. Additional copies.

Additional copies of a license issued under this Ordinance will be authorized and signed by the Clerk, at a fee equal to the reasonable cost of reproduction, as determined by the Township Clerk.

Section 9. Duration; Assignment, Transferability.

1. Each license issued under this Ordinance shall be valid for the time period as approved by the Board and as specified on the face of the license.
2. In any event, no license shall be granted for peddling or soliciting commodities from residence to residence from a motor vehicle or conveyance or at a location in which the applicant holds no property interest or for an ice cream vendors license, for a period in excess of 90 days from the date of issuance.
3. No license shall be granted for peddling or soliciting or for ice cream sales for a period in excess of eight hours which shall be between the hours of sunrise and sunset. Such days, hours and location of the peddling or soliciting shall be specified on the license.
4. Licenses issued shall not be transferable or assignable.

Section 10. Possession.

A license issued under this Ordinance shall be in the possession of the licensee when peddling, soliciting or vending and shall be available for presentation upon request by an agent or representative of the Township, the Monroe County Sheriff's Department or the Michigan State Police.

Section 11. Prohibited Activities.

1. It shall be unlawful to sell or offer for sale, any candy, ice cream, confection or any food or beverage for human consumption from any motor vehicle or any vehicle or cart of any kind on any street or sidewalk in the Township without first having received a permit from the Michigan Department of Agriculture and/or from the Monroe County Health Department when required.

2. It shall be unlawful to peddle or solicit or vend ice cream within the road right-of-way such that it interferes with the normal flow of vehicular traffic.

3. It shall be unlawful to attempt to peddle or solicit or vend ice cream from the owner or occupant of any residence or business which displays a sign stating that peddlers or solicitors are not invited onto or welcome on the property or no trespassing is permitted or some similar language providing adequate notice to the peddler or solicitor.

4. It shall be unlawful to permit any unauthorized person to ride in or on an ice cream sales vehicle and no person shall ride in or on an ice cream sales vehicle, unless he or she is employed by its owner or unless he or she is authorized, in writing, to do so by the licensee and the licensee has provided their name and required information to the Township Clerk.

5. No person shall use bells, amplified music or other audible devices to vend between the hours of sunrise to 10:00 am and 5:00pm to 6:00 pm or after sunset.

6. No person shall vend ice cream from an ice cream sales vehicle unless the vehicle is lawfully stopped or parked and except from the side of the vehicle away from moving traffic.

Section 12. Enforcement; Revocation.

A license issued under this Ordinance may be revoked by the Township Clerk, Township Supervisor or Township Building Official or his designee for violation of the terms of this Ordinance or violation of any state or federal law. The Township Clerk Township Supervisor, Township Building Official or his designee, the Monroe County Sheriff's Department or the Michigan State Police shall have the right to inspect any article sold or offered for sale, or any container, package, or vehicle from which goods are sold, offered for sale, or peddled, at any reasonable time, and if found unmarketable, or if conditions in or around place of sales are not kept and maintained in a sanitary condition or if the Ordinance has been violated such license may be revoked. The licensee shall have the right to appeal to the Township Board at its next regular meeting. An ice cream vendor's license may be suspended by the Clerk upon a subsequent conviction of the licensee of a criminal offense, a violation or suspected violation of this Ordinance or suspicion of fraud in obtaining a license under this Ordinance. A license may be revoked only by the Board for the same causes as above specified for suspension, after giving the licensee reasonable notice and an opportunity to be heard.

Section 13. Ordinance Not Applicable.

Minors selling products pursuant to a school or tax exempt nonprofit organization or activity or any individual selling products grown from his own farm, orchard or garden and sold from that location are not subject to the provisions of this Ordinance.

Section 14. Penalty.

Whoever violates the provisions of this Ordinance, upon conviction thereof, shall be deemed guilty of a misdemeanor and fined in an amount not exceeding Five Hundred Dollars (\$500.00) for each offense plus costs and restitution to the Township for costs incurred thereby as permitted by MCL 769.1a and other state law. Every day a violation exists shall be deemed a separate violation. The imposition of sentence shall not exempt offender from compliance with this Ordinance. Further, the Township may take necessary action to abate or enjoin the violation of this Ordinance in a court of competent jurisdiction.

Section 15. Repeal.

All Ordinances in conflict with this Ordinance including Ordinance No. 194 are to the extent of such conflict hereby repealed.

Section 16. Severability.

This Ordinance and the various parts, sentences, paragraphs, sections, subsections, phrases and clauses thereof are declared to be severable and if any of them are adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected.

Section 17. Effective Date.

This Ordinance shall become effective thirty (30) days after adoption and publication in a newspaper having general circulation in the Charter Township of Frenchtown, Monroe County, Michigan.

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