

23.000 SOLICITING AND VENDING* Ord. No. 90 Adopted: August 16, 1978

***Cross references:** Food service, outdoor amusements, § 24.011; outdoor merchandising, § 190.228; sale of food and beverages, private parks, § 25.013; soliciting and vending, Stony Creek Park, § 124.008.

An Ordinance requiring the licensing of persons engaged in soliciting and vending in the Township of Washington, providing a procedure for the suspension, review or revocation of such license, regulating the conduct of solicitors and vendors, providing a penalty for a violation of said Ordinance and repealing any and all resolutions and/or ordinances in conflict therewith.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF WASHINGTON, MACOMB COUNTY, MICHIGAN,
ORDAINS:

23.001 Short title.

Sec. 1. This Ordinance may be known and cited as the "Washington Township Soliciting and Vending Ordinance."

23.002 Purpose.

Sec. 2. The purpose of this Ordinance is to protect the public safety and welfare of property and persons residing in the Township of Washington from fraud, deceit, misrepresentation, trespass, invasion of privacy and/or interference with the quiet use and enjoyment of residences and/or property resulting from or which may result from the activities of solicitors and/or vendors.

23.003 Enabling authority.

Sec. 3. This Ordinance is adopted in accordance with and pursuant to the provisions of Act 246, Public Acts of 1945, as amended.

23.004 Definitions.

Sec. 4. As used in this Ordinance,

- (a) "*Township Board*" shall mean the Washington Township Board of Trustees;
- (b) "*Township Clerk*" shall mean the duly elected and qualified Clerk of the Township of Washington, or employees of the Clerk's staff appointed by the Clerk to administer this Ordinance;
- (c) "*Soliciting*" shall mean and include any one or more of the following activities:
 - (i) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatsoever, for any kind of consideration; or

- (ii) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (iii) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or
- (iv) Seeking to obtain gifts or contributions of money, clothing or any other valuable item for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

Notwithstanding anything to the contrary contained herein, the term "Soliciting" shall not mean and include seeking to obtain orders for the manufacturing or wholesale purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatsoever from the owners and/or operators of any commercial and/or industrial establishment situated in the Township of Washington.

- (d) "*Solicitor*" shall mean and include any person who engages in soliciting as heretofore defined;
- (e) "*Vending*" shall mean and include any one or more of the following activities:
 - (i) Selling or attempting to sell any goods, wares, merchandise, foodstuffs or services of any kind, character or description, whatsoever, from any parked or standing vehicle of any kind, character or description whatsoever; or
 - (ii) Selling or attempting to sell any goods, wares, merchandise, foodstuffs or services of any kind, character or description, whatsoever, from any temporarily erected stand, booth or display structure of any kind, character or description whatsoever.
- (f) "*Vendor*" shall mean and include any person who engages in vending as heretofore defined;
- (g) "*Residence*" shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure;
- (h) "*Commercial Property*" shall mean any land and/or structure of any type utilized for commercial purposes including, but not limited to, the sale of products or the furnishing of services;
- (i) "*Industrial Property*" shall mean any land and/or structure of any type utilized for industrial purposes including, but not limited to the production, fabrication or assembly of any product.
- (j) "*Religious Societies*" shall mean voluntary organizations whose members are associated together, not only for religious exercises, but also for the purpose of maintaining and supporting their ministries, and providing the convenience of a church home, and promoting the growth and efficiency of the work of the general church of which it forms a coordinate part.
- (k) "*Law Enforcement Officer*" shall mean a member of the Macomb County Sheriff's Department regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the State of Michigan.

(Amended: Ord. No. 90-94-1, 3-18-94)

23.005 License.

Sec. 5.

Section 5.1 It shall be unlawful from and after the effective date of this Ordinance for any person, firm or corporation, either as principal or agent, to engage in soliciting or vending anywhere in the Township of Washington without having first secured a license therefor issued by the Township Clerk. All licenses shall be valid for the intended period of soliciting or vending which shall not exceed seventy-two (72) hours. In no event, shall a permit be effective for a period exceeding five (5) days from the date of issuance. Notwithstanding anything to the contrary contained herein, a special seasonal commercial vending permit may be issued for the sale of seasonal trees, wreaths, blankets and other holiday vegetation commencing Thanksgiving Day and terminating on December 31 of each year. Only four (4) soliciting or vending permits may be issued to any one person, firm or corporation, either as principal or agent, during each calendar year.

Section 5.2

A. An application for issuance of a solicitor's or vendor's license shall be made on forms approved by the Township Board, which forms shall be available in the Office of the Township Clerk. Application for a license shall be made at least seventy-two (72) hours prior to the requested effective date of the license. All statements of an applicant for a soliciting or vending license upon application or in connection therewith shall be under oath. In the case of an applicant desiring to conduct soliciting activities on commercial and/or industrial property, said applicant shall furnish the Township Clerk with a written statement of the owner or person in charge of said property consenting to such activity in addition to satisfactorily meeting all other requirements for licensing set forth in the license application. In addition to all requirements for licensing set forth in this Ordinance, any applicant desiring issuance of a vendor's license shall furnish the Township Clerk with a Transient Merchant's license as may be required by Act 51, Public Acts of 1925 and any and all Michigan Department of Revenue, Department of Agriculture and Department of Public Health licenses required by applicable state law. Additionally, an applicant for a vendor's license shall provide a lease, leases or other document evidencing approval of the applicant's use of the property for vending purposes by the owners thereof. Only one vending license shall be issued for each site at any one time, and not more than four (4) vending licenses shall be issued for each site per year. For purposes of this Ordinance, a site shall mean a parcel of land having not less than 250 feet of frontage on an improved public street, road or highway.

B. No license shall be issued to any person who has not attained the age of 18 years or has been convicted of a felony under the laws of the State of Michigan or any other state or the federal government within five (5) years of the date of the application. Further, no license shall be issued to any person who has been convicted of a violation of any of the provisions of this Ordinance. All licenses shall be furnished with an identification card signed by the Clerk.

Section 5.3 Any license may be suspended by an Ordinance Enforcement Officer for a period of no more than twenty-one (21) days whenever:

- (a) Any provision of this Ordinance is being violated; or
- (b) Any condition of the license is not being observed; or
- (c) It is determined to be necessary to preserve the public health, safety or welfare of the residents of the Township.

PROVIDED, HOWEVER, that the Ordinance Enforcement Officer shall forthwith report his act of suspension and the reasons therefor to the Township Clerk. The Township Clerk shall notify the licensee that the Township Board will review the action of the Ordinance Enforcement Officer at its next regular meeting to determine whether the license shall be reinstated, suspended for a further period of time or permanently revoked.

(Amended: Ord. No. 90-94-1, 3-18-94)

23.006 Prohibition against soliciting; notice.

Sec. 6. Every person, firm or corporation in the Township of Washington desiring to prohibit solicitation on the premises owned and/or occupied by said person, firm or corporation shall conspicuously post a sign on said premises reading "No Solicitors" or containing such other language which clearly states the desire of said person, firm or corporation to prohibit solicitation on said premises.

23.007 Uninvited soliciting.

Sec. 7. From and after the effective date of this Ordinance, it shall be unlawful for any solicitor to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of said residence or said commercial or industrial property, for the purpose of securing an audience with the occupant or occupants thereof and engage in soliciting as herein defined, in defiance of a notice conspicuously posted on said residence or commercial or industrial property in accordance with the provisions of Paragraph 6 hereof.

23.008 Duty of solicitors.

Sec. 8. It shall be the duty of every solicitor upon going onto any premises in the Township of Washington to first determine whether soliciting is prohibited thereon by posted notice as heretofore provided. In the event soliciting is prohibited by such notice, then, and in such event, the solicitor whether licensed or not, shall immediately and peacefully depart from the premises. Any solicitor who has gained entrance to any residence, or commercial or industrial property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by the occupant or occupants as the case may be.

23.009 Time.

Sec. 9. From and after the effective date of this Ordinance it shall be unlawful for any person, firm or corporation to engage in soliciting, whether licensed or not, from 9:00 p.m. to 9:00 a.m. of any weekday, or at any time on a Sunday or on a State or National holiday.

23.010 Vending activities.

Sec. 10.

A. It shall be unlawful from and after the effective date of this Ordinance for any person, firm or corporation to engage in vending within the public right-of-way of any state, county or private road. Further, it shall be unlawful for any person, firm or corporation to conduct vending activities within 100 feet of any road intersection. Any temporarily erected stand, booth or display structure shall not exceed fifty (50) square feet of display or floor area. Not more than two signs having an aggregate display area not exceeding forty-eight (48) feet shall be permitted. All signs must set back at least ten (10) feet from the right-of-way of an abutting road. All parked or standing vehicles and any temporarily erected stand, booth, display structure and signs utilized for vending shall be removed from the site immediately upon expiration of the vending license.

B. No person engaged in vending shall shout, cry, ring a bell or use any electronic or other sound device or amplifier for the purpose of attracting attention to vending activities. No person engaged in vending shall use or cause to be employed any flashing lights from a motor vehicle or other device for the purpose of attracting attention to the vending activities. Lastly, every person, firm or corporation engaged in vending shall provide off-street parking for all customers.

(Amended: Ord. No. 90-94-1, 3-18-94)

23.011 Variance.

Sec. 11. Upon application clearly demonstrating hardship, the Township Board may vary or waive any or all provisions of this Ordinance. For purposes of this Ordinance "hardship" shall mean that a strict application of this Ordinance will result in physical or financial burdens which will prevent the applicant from engaging in soliciting or vending as originally contemplated by him.

23.012 Enforcement.

Sec. 12. This Ordinance shall be enforced by Ordinance Enforcement Officers of the Township of Washington designed by resolution of the Township Board consistent with the provisions of Ordinance No. 55 of the Washington Township Ordinances [Part 2 of the Compiled Ordinances].

23.013 Violation; penalty.

Sec. 13. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty not to exceed Five Hundred and 00/100(\$500.00) Dollars, or imprisonment in the Macomb County Jail for a period not to exceed Ninety (90) days, or by both such fine and imprisonment.

23.014 Repeal of conflicting provisions.

Sec. 14. All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

23.015 Severability.

Sec. 15. If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

23.016 Publication.

Sec. 16. This Ordinance shall be published in full in the ROMEO OBSERVER, a newspaper of general circulation in the Township of Washington, within thirty (30) days after its adoption.

23.017 Effective date.

Sec. 17. This Ordinance shall take effect thirty (30) days from and after the date of publication of a true copy thereof in a newspaper circulating within the Township of Washington, as heretofore provided by Section 16.