

**ARTICLE 21
WHITEHALL TOWNSHIP GENERAL CODE**

**PROVISIONS REGARDING
SOLICITORS, PEDDLERS AND ITINERANT MERCHANTS**

GENERAL:

2101 PURPOSE

This is an ordinance to adopt rules and regulation for solicitors, peddlers and itinerant merchants, applying to and/or conducting services within the Township of Whitehall, Muskegon County, Michigan and to provide penalties for violation.

2102 DEFINITIONS

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 indicated a different meaning:

Peddling includes all activities ordinarily performed by a peddler, as indicated under the definition of "Peddler" in this section.

Person means a natural person or any firm, corporation, association, club, society or other organization.

Solicitation or soliciting includes all activities ordinarily performed by a solicitor as defined in this section.

Canvasser or solicitor means any individual, whether a resident of the township or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

It further includes any person who, without invitation, goes upon private property, to request contributions of funds or anything of value, or sell goods or services for political, charitable, religious or other noncommercial purposes.

Peddler means any person, whether a resident of the township or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, foods or food products, offering and exposing the same for sale, or making sales and delivering articles to purchasers, who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, ~~railroad-car~~ or other vehicle or conveyance and further provided that one who solicits orders and, as a separate transaction, make 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 article. The term "peddler" shall also include the terms "hawker" and "huckster".

Religious solicitor means a person who carries on the activities of a charitable solicitor, but on behalf of a religious organization duly incorporated or permitted to operate in the state and having one or more established locations or places of worship

Transient merchant or itinerant vendor means any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the township or not, who engages in a temporary (30 days or less) business of selling and delivering goods, wares and merchandise within the township, and who, in furtherance of such purpose, hires, leases, any structure, motor vehicle, tent, ~~railroad-boxcar~~, public room in motels or hotels, apartment shop, street, parking lot or alley, or other place within the township for the purpose of exhibition and sale of such goods, wares and merchandise, either privately or at a public auction.

2103 EXEMPTION

Any person claiming to be legally exempt from regulations set forth in this Article, shall cite to the Township Zoning Administrator the statute or other legal authority under which exemption is claimed and shall present to the township zoning administrator proof of qualification for such exemption.

The provisions of this article shall not apply to:

- A. Any newsboy or newspaper delivery personnel;
- B. Veterans qualifying for a state peddlers license issued by the county clerk pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq.);

- C. Farmers, truck gardeners, or their employees or affiliates, selling merchandise and farm products in established farmers' markets;
- D. Persons participating or selling merchandise or food or advertising at organized athletic events, conventions, or at community celebrations or events, or on behalf of public or private schools, or recognized youth athletic organizations;
- E. Those involved in the Boy or Girl Scouts of America.

2104 LOUD NOISES AND SPEAKING DEVICES

No transient merchant or itinerant vendor or any solicitor, canvasser or peddler, nor any person in his/her behalf, shall shout, make any outcry, blow a horn or ring a bell, except for small tinkle bells which are not audible for over 200 feet, or use any sound device, including any loud-speaking radio or sound amplifying system, upon any of the street, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee purposes to sell.

2105 USE OF STREETS

No transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler shall have an exclusive right to any location in the public right-of-way nor shall they be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgement of the zoning administrator and/or his/her designated agent, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced.

2106 PENALTY

Any person(s) violating provisions of this article shall be responsible for a municipal infraction.

LICENSES:

2107 REQUIRED AND DURATION

It shall be unlawful for a transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler to engage in such business within the corporate limits of the township without first obtaining a license therefore compliant with the provisions of this article. The

township and/or its agent shall conduct all background investigations required by the terms and conditions of this article for applicants prior to the issuance of a license. A license shall be good for a period of 30 consecutive days. The license may not be renewed or extended without the written approval of the township zoning administrator and/or his/her designated agent.

2108 APPLICATION

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

- A. Name and description of the applicant and each individual or entity that will be assisting the applicant in any way;
- B. Permanent home and business addresses and full local address of the applicant;
- C. A brief description of the nature of the business and the goods to be sold, and in the case of farm products, whether produced or grown by the applicant;
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- E. The length of time, *days of the week, hours and location* for which the right to do business is desired;
- F. The place where the goods or property proposed to be sold or orders taken for sales thereof are manufactured or produced, where such goods or products are located at time said application is filed and the proposed method of delivery;
- G. 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 department or office thereof.
- H. *A statement whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (Other than a traffic violation), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and any other pertinent detail thereof.*
- I. *Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under such law or regulation, would exempt the applicant from the licensing requirement of this Article; and*
- J. *Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing of the application. The photographs shall measure two inches by two inches (2"x2") and show the head and shoulders of the applicant in a clear and distinguishing manner.*
- K. *A driver's license, state identification card, passport, or other government-issued identification card containing this information.*

- L. *A waiver signed by the applicant and each person peddling/soliciting for or on behalf of applicant, for the Township (or agent thereof) to perform a criminal background check.*
- M. *The motor vehicle make, model, year, color, state license plate and number of any vehicle which will be used by each person peddling/soliciting.*

2109 FEES

At the time of the application for a license required by this article is approved, a license fee as currently established or as hereafter adopted by resolution of the township board from time to ~~cover~~ time in accordance with this article shall be paid to the treasurer to cover investigative and administrative fees servicing this article. Each motor vehicle involved shall also be licensed upon the same schedule as each person *listed in the application*. No fee shall be required of one selling products of the farm or orchard actually produced by the seller or one selling products of a charitable organization.

2110 INVESTIGATION OF APPLICANT; DENIAL OF LICENSE

Upon receipt of the application for a license required by this article, the same shall be referred to the zoning administrator or his/her agent, who shall cause such investigation of such person(s) or person(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 he / *she* deems necessary *for* ~~to~~ the protection of the public good. If as a result to the investigation, the character and business responsibility are found to be unsatisfactory, and the licensing of such applicant may pose a risk to health, safety and/or welfare of the citizens of the township, the applicant shall be denied. The zoning administrator and/or his/her agent shall endorse on such application his/her disapproval and his/her reasons for the same and return the same to the township clerk, who shall notify the applicant that his/her application is disapproved and no license will be issued.

2111 APPROVAL

If, *as* result of the investigation described in section 2010, the character and responsibility of the applicant are found to be satisfactory, and the licensing of such applicant does not appear to pose a risk to the health, safety and/or welfare of the citizens of the township, the zoning administrator, and/or his/her agent shall endorse on the application his/her approval; and upon such approval, the township clerk shall, upon payment of the prescribed license fee to the treasure, deliver to the applicant the license.

Such license shall contain the signature of the issuing township official and shall show their name, the address and photograph of the licensee; the class of the license issued and the kind of goods to be sold thereunder; the amount of fee paid and the date of issuance; and the length of time the same shall be operative as well as the license number and other identifying description of any vehicle used by the applicant. The clerk shall keep a permanent record of all licenses issued and copies on file. *The license shall be nontransferable.*

2112 EXHIBITION OF LICENSE

Transient merchants and itinerant vendor, religious solicitor or any solicitor, canvasser or peddler are required to exhibit their licenses at the request of the township zoning administrator or his/her designated agent, *police officer* or any other person with whom they are transacting or attempting to transact any business.

2113 REVOCATION

- A. Licenses issued under the provisions of this article may be revoked by the township after notice and hearing by the township board for any of the following causes:
1. **Fraud** – Misrepresentation or false statement contained in the application for a license;
 2. **Fraud** - Misrepresentation or false statement made in the course of carrying on his/her business;
 3. Any violation of the article *and/or license*;
 4. Conviction of a crime or misdemeanor involving moral turpitude; or
 5. Conducting of 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.
- B. Notice for 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. Such notice shall be mailed, postage prepaid, to the licensee at *the address listed on the permit or at his/her last known address* at least four days prior to the set date of hearing. The clerk, upon the recommendation of the zoning administrator or his/her designated agent, may suspend a license issued under the provisions of this article if it is determined that continued activity would jeopardize the health, safety or well-being of the citizens of the township. In any case in which a license is suspended, the hearing shall be held not later than 30 calendar days from the date of the suspension.

2114 APPEALS OF DENIAL, REVOCATION OR WRITTEN COMPLAINT

Any person aggrieved by the action of the township zoning administrator or his/her designated agent, township clerk, taken in pursuant of this article shall have the right of appeal to the township board. Such appeal shall be taken by filing with the township clerk, within 14 days after the action complained of, a written statement setting forth the grounds of the appeal. The board shall set a time and place for a hearing on such appeal, which shall be no later the next regular schedule township board meeting held at least four days after the filing of the application for appeal. Notice of such hearing shall be given to the appellant in the same manner as provided in *Section 2113 (B)*. The decision and order of the board on such an appeal shall be final and conclusive.

2115 SEVERABILITY

The provisions of the Article are declared to be severable. If any section, sentence, clause, or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Article, but they shall remain in effect; it being the legislative intent that this Article shall remain in effect notwithstanding the validity of any part.

2116 EFFECTIVE DATE

This Article shall become effective upon publication of the approval of the Article in a qualified newspaper of general circulation within the Township.



CLERK'S CERTIFICATE OF ADOPTION

At a Regular Meeting of the Whitehall Township Board, held on August 22, 2016 at 6:00 p.m. at the Whitehall Township Hall, at 7644 Durham Road, Whitehall, MI 49461, the attached Article No. 21 of the General Code was adopted in its entirety by the Whitehall Township Board.

The motion for adoption was made by Chuck Schmitigal and seconded by Tim Ryan.

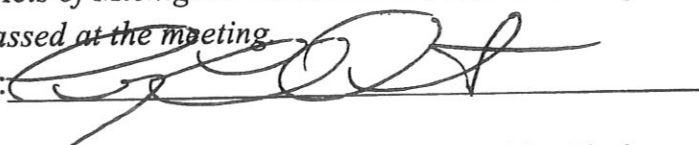
Upon a roll call vote the following voted

Chuck Schmitigal	Aye
Cherry Orent	Aye
June Lydens	Aye
Dennis Atchison	Absent
Tim Ryan	Aye

The Supervisor declared the General Code Ordinance Amendment adopted. This amendment provision of the Whitehall Township General Code Ordinance shall take effect 7 days after the publication of Notice of Adoption.

I, Cherry L. Orent, the duly elected and acting Clerk of Whitehall Township, hereby certify that the foregoing Policy was adopted by the Whitehall Township Board. The meeting was held in accordance with the Open Meetings Act, being Act 267, Public Acts of Michigan. The above is a true and complete copy of the resolution passed at the meeting.

Attested by:



08/22/16

Cherry L Orent, Whitehall Township Clerk

Date