

05/17/2005 10:50 3172633483 CITY ATTORNEY PAGE 02/05

VILLAGE OF CLINTON
ORDINANCE NUMBER 02 OF 2009

AN ORDINANCE TO REPEAL THE VILLAGE SECTION 11-51 THROUGH 11-71, PEDDLERS, SOLICITORS AND TRANSIENT TRADERS, OF THE VILLAGE CODIFIED ORDINANCES, AND REPLACE IT WITH NEW REGULATIONS.

THE VILLAGE OF CLINTON ORDAINS:

SECTION 1. SECTIONS 11-51 THROUGH 11-71 REPEALED. Sections 11-51 through 11-71, Peddlers, Solicitors, and Transient Traders, are hereby repealed in their entirety.

SECTION 2. DEFINITIONS. Peddler, person engaged in commercial solicitation, or transient trader means any individual traveling either by foot, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to sell or take order for sale of goods, wares and merchandise, farm products, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed immediately, in the future, whether or not such individual has, carries or exposes for sale a sample of the subject to such sale or whether he is collecting advance payments on such sales or who without traveling from place to place, shall sell or offer the same for sale from a yard, wagon, stand, street, alley, public place, automotive vehicle or other vehicle or conveyance; or who shall sell or offer the same for sale along an established route with an established customer list.

SECTION 3. PERMIT EXCLUSIONS. Properly permitted garage sales are exempt from this article. The village community schools, village nonprofit organizations or groups including religious groups do not need a permit to solicit for commercial purposes if they provide the village with advanced notice of the solicitation and its purpose.

SECTION 4. STATE LICENCED BUSINESS. The fact that a license or permit has been granted to any person by the state, any of its subdivisions or the village, to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a permit from the village if such license or permit is required by this Code. Applicants must provide the village with a copy of the license or permit at time of application.

SECTION 5. PERMIT REQUIRED. It shall be unlawful for any peddler, person engaged in commercial solicitation or transient trader to engage in such business within the corporate limits of the village without first obtaining a permit therefore in compliance with the provisions of this article.

SECTION 6. CLINTON FALL FESTIVAL. No permits shall be issued and all issued permits shall not be effective for all fall festival locations during the fall festival weekend from 6:00 AM Thursday to 12:00 midnight Sunday. All vendors, peddlers, persons engaged in commercial solicitation, and transient traders, who shall have made application to the Clinton Fall Festival and who have been authorized by the Clinton Fall Festival to conduct their trade or business during that year's Fall Festival shall be deemed

to satisfy the permit requirements herein for conducting their business for that year's Fall Festival.

Prior to the Fall Festival, the Clinton Fall Festival shall provide the village with a list of names and addresses of all vendors, peddlers, those engaged in commercial solicitation, and transient traders, that Clinton Fall Festival recommends that the village issue a permit to conduct trade or business within the village for that year's annual Fall Festival.

The Clinton Fall Festival shall also provide a list to the Village of all applications that were denied by the Clinton Fall Festival. The list shall include the name and address of the applicant as well as the reason for the denial. All denials of permits by the Clinton Fall Festival shall be based solely on the standards set forth in Section 18. An applicant who is denied a permit by the Clinton Fall Festival may appeal that denial to the Village.

SECTION 7. PERMIT DURATION. The duration of permits can be for any combination of daily, weekly, or monthly, or annually, within a calendar year. All permits expire on December 31 of the year the permit was issued.

SECTION 8. APPLICATION. Applicants for a permit under this article must file with the village a sworn application in writing on a form to be furnished by the village. The Village shall process the application within five business days.

SECTION 9. APPLICATION AND PERMIT FEE. At the time of filing the application under this article, a fee, to be established from time to time by a resolution of the village council, shall be paid to the village to cover the cost of investigation of the facts stated therein and for the permit. The application fee is non-refundable even if the application is denied.

SECTION 10. INVESTIGATION OF APPLICANT. Upon receipt of an application under this article, the original shall be referred to the police department for investigation by the police chief or his/her designee.

SECTION 11. DENIAL OF APPLICATION AND PERMIT. If as a result of the investigation, the police chief or his/her designee denies the application for reasons set forth in Section 18, he/she shall state the reasons for denial and shall notify the applicant that the application is disapproved and that no permit will be issued.

SECTION 12. ISSUANCE OF PERMIT; CONTENTS, RECORDS. If as a result of investigation, the police chief or his/her designee determines that the application should be approved, he/she shall complete and approve the application and forward a copy to the Village office.

SECTION 13. SUBSTITUTION OR ADDITION OF PERSONS BY PERMITTEE. In cases where a licensee under this article shall request the substitution or addition of persons engaged in commercial solicitation, or peddling under the license, the licensee shall be required to apply for a permit for the substitute(s) or additional person(s) so that an investigation of such substitute or additional person can be made.

SECTION 14. DUTY TO EXHIBIT PERMIT. Persons engaged in commercial

solicitation, peddlers, and transient traders are required to exhibit their permit at the request of any citizen.

SECTION 15. ENFORCEMENT OF ARTICLE. It shall be the duty of any police officer of the village to require any person seen engaging in commercial solicitation, peddling, or conducting transient trades and who is not known by such officer to be duly licensed, to produce permit and to enforce the provisions of this article against any person found to be violating the same.

SECTION 16. REPORTS, RECORDS OF VIOLATIONS. The Village shall maintain a record for each license issued, violations and convictions therein.

SECTION 17. PRACTICES PROHIBITED. No peddler, person engaged in commercial solicitation or transient trader shall shout or cry out his/her goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

SECTION 18. APPLICATION DENIAL OR REVOCATION; GROUNDS. The police chief may deny an application or revoke an approved permit for doing or omitting any act, or permitting any condition to exist in connection with any trade, profession, business or upon any premises or facilities used in connection therewith, which act, omission or condition is:

- (1) Contrary to the health, safety or welfare of the public;
- (2) Unlawful, irregular or fraudulent in nature;
- (3) Unauthorized or beyond the scope of the permit granted;
- (4) Forbidden by the provisions of this Code or any duly established ordinance, rule or regulation of the village.
- (5) Conviction of any crime or misdemeanor involving moral turpitude.
- (6) Conducting the business or commercial soliciting, or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

SECTION 19. REQUEST FOR APPEAL. The denied applicant or revoked permittee must notify the village clerk within 14 days of the date on the denied application or the revoked permit notice if they want to appeal the decision of the police chief or his/her designee. The request must be properly postmarked or date stamped at the village office. The request must specifically state the grounds for the appeal.

SECTION 20. RIGHT OF APPEAL; HEARING Any person aggrieved by the action of the police chief in the denial of an application or revocation of a permit as provided herein shall have the right of appeal to the Municipal Civil Infraction Bureau. The village clerk shall schedule a hearing with notice given to the applicant at their last known address at least ten days prior to the hearing. The decision of the Municipal Civil Infraction Bureau on such appeal shall be final and conclusive.

SECTION 21. STATE LAW PROVISIONS. Permits issued under this article shall be subject to the provisions of Act 350 of 1917, of the Public Acts of the State of Michigan.

SECTION 22. PENALTY. Whoever violates any provision of this ordinance is responsible for a municipal civil infraction, and shall be subject to such civil infraction fines and costs as provided in the Village of Clinton Code of Ordinances. Each day that a violation exists or continues shall constitute a separate and additional violation.

SECTION 23. HEADINGS. The headings used in each section of this ordinance are for the purposes of identification and are not a substantive part of this ordinance.

SECTION 24. SEVERALBILITY. If any section of this ordinance is held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any section should be ruled invalid by such tribunal, the remainder of the ordinance shall not be affected thereby.

SECTION 25. CONFLICT. In the event that there is conflict with any other ordinance, this ordinance shall supersede.

SECTION 26. EFFECTIVE DATE. This ordinance shall be effective twenty (20) days after publication in a newspaper of general circulation in the Village.

This Ordinance duly adopted on July 20, 2009 at a regular meeting of the Clinton Village Council and will become effective August 12, 2009.

Merlin Mowery
Merlin Mowery, Village President

7-21-09
Date

Toni Gibson
Toni Gibson, Village Clerk

7/21/09
Date

Adopted: July 20, 2009
Published: July 27, 2009
Effective Date: August 12, 2009

I hereby certify that this ordinance was duly adopted by the Clinton Village Council with an affirmative vote of four or more council members at the regularly scheduled council meeting of July 20, 2009

Toni Gibson
Village Clerk

9-9-09
Date