

**CITY OF TAWAS CITY  
COUNTY OF IOSCO  
STATE OF MICHIGAN**

Ordinance No. 328

Public Hearing:

First Reading:

Adopted:

Published:

Effective:

**AN ORDINANCE TO REPEAL ORDINANCE NO. 150 and 150-A, CHAPTER 16 – “PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS” OF THE CODE OF ORDINANCES, CITY OF TAWAS CITY, MICHIGAN.**

The City Council of the City of Tawas City, Michigan hereby ordains as follows:

**SECTION 1:** Repeal Ordinance No. 150 and 150-A, Chapter 16 – “Peddlers, Solicitors, Canvassers and Transient Merchants” of the Code of Ordinances, City of Tawas City, Michigan.

**SECTION 2:** This ordinance shall be in effect from and after its final passage, approval, and publication by law.

Passed by the City Council of the City of Tawas City this \_\_\_\_ day of \_\_\_\_\_ 2023 *and* approved this \_\_\_\_ day of \_\_\_\_\_ 2023.

THE CITY OF TAWAS CITY

\_\_\_\_\_  
Brian McMurray, *Mayor*

\_\_\_\_\_ (attesting)  
Michelle Westcott, *Clerk*

I certify that the foregoing was published as Ordinance No. 328 on this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Michelle Westcott, *Clerk*

**CITY OF TAWAS CITY  
COUNTY OF IOSCO  
STATE OF MICHIGAN  
CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 328 duly adopted by the City of Tawas City at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2023 at which all Council Members were present and that public notice of said meeting was given pursuant to Act No. 267 of the Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by publication and posting at least 18 hours prior to the time set for the meeting.

I further certify that the Councilperson \_\_\_\_\_, moved and that Councilperson \_\_\_\_\_, seconded the adoption of said ordinance.

I further certify that the following Councilpersons voted for adoption of said Ordinance: \_\_\_\_\_ . Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

I further certify that said ordinance has been recorded in the Ordinance Book of the City of Tawas city and that such recording has been authenticated with the signatures of the Mayor and the Clerk and published in the Iosco County News-Herald.

This ordinance may be purchased or inspected at the Tawas City City Hall, 550 West Lake Street, Tawas City, Michigan 48763 between 7:30 am and 5:00 pm Monday through Thursday, and between 7:30 am and 1:00 pm Friday.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2023.

City of Tawas City

\_\_\_\_\_  
Michelle Westcott Its: Clerk

CITY OF TAWAS CITY CODE  
PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS 16

ARTICLE 1. IN GENERAL

**Sec. 16-1. Definitions.**

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

*Peddler* means any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, 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, magazines, photographs, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or 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 makes deliveries to purchases 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 chapter. The term "peddler" shall include the terms "hawker" and "huckster."

*Solicitor* and *canvasser* means any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, meter 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, or doing preliminary work designed to result in the ultimate taking of orders, for the 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 or subjects of such sale or sales or whether he is collecting advance payments on such sale or sales or not; provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hire, leases, uses, or occupies any building, structure, tent, railroad car, boat, hotel room, lodginghouse, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

*Transient merchant* shall include itinerant merchant or itinerant vendor, and means any person whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said city, or the taking of photographs for sale or for a service fee within the city, and who in the furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, box car, or boat, public room in hotels, lodginghouses, apartments, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction; provided that such definition shall not include any person who, while occupying such temporary location, does not sell from stock, does not take deposits, but exhibits samples only for the purpose of securing orders for future delivery. (Ord. No. 150, § 2, 1-4-1960; Ord. No. 150-A, § 2, 10-4-1965)

### **Sec. 16-2. Loud noises.**

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

*(Ord. No. 150, § 10, 1-4-1960)*

### **Sec. 16-3. Use of streets.**

No licensee shall have an exclusive right to any location in the public streets, nor shall any be permitted a stationary location longer than is necessary to make such sale, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public.

*(Ord. No. 150, § 11, 1-4-1960)*

### **Sec. 16-4. Enforcement and records.**

The chief of police shall examine all persons engaged in the covered activities to determine whether they are licensed and whether the provisions of the ordinance from which this chapter is derived are being complied with. It is the duty of the city clerk to keep all records necessary to identify complaints, convictions and to process the same.

*(Ord. No. 150, § 12, 1-4-1960)*

### **Secs. 16-5—16-30. Reserved.**

## **ARTICLE II. LICENSES**

### **Sec. 16-31. License required.**

It shall be unlawful for any person to engage in the business of peddler, transient merchant, solicitor or canvasser, as respectively defined in section 16-1, without first having obtained a license therefor as provided in this article.

*(Ord. No. 150, § 1, 1-4-1960; Ord. No. 150-A, § 1, 10-4-1965)*

### **Sec. 16-32. Application.**

Applicants for a license under this chapter must file with the city clerk a sworn application, in writing (in duplicate), on a form to be furnished by the city clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (legal and local);
- (3) A brief description of the nature of the business and the goods to be sold and in the case of a farm or orchard, whether produced or grown by the applicant;
- (4) If employed, the name and address (no P.O. Box) of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, the license number and state of licensing or other means of identification;
- (7) A photograph of the applicant, taken within 60 days, which shall be two inches by two inches, showing the face, head, and shoulders clearly;
- (8) The fingerprints of the applicant and evidence of good character and business responsibility, local business references preferred;
- (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of a city ordinance, if so, the nature of the infraction and penalty assessed;
- (10) The applicant shall file with his application a statement by a reputable physician licensed to practice in the state, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious, or communicable disease;
- (11) At the time of filing the application, a fee, as currently established or as hereafter adopted by resolution of the city council from time to time, shall be paid to the city clerk to cover the cost of investigation;
- (12) If the application is for a permit and license as a transient merchant, in addition to the foregoing, the application shall contain:
  - a. The state of incorporation and local resident agent for service of process; or names and addresses (no P.O. Box) of all partners of partnership involved;

- b. The place or places in the city where the business is to be located and the length of time in each;
- c. The places where the applicant has conducted a transient business in the last six months, the nature thereof, and the street address of each;
- d. The nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city, the invoice value and quality of such, the manner of sale, whether in part by sample and part from stock, by auction or direct sale, what deposits will be required, where the goods are manufactured and where the goods are at the time of the application;
- e. A brief statement of the nature of advertising to be done;
- f. Such other reasonable information as to the identity or character of the person or persons having the management of the applicant's business and method of doing business as the clerk may deem proper to fulfill the purpose of this chapter and protect the public good.

*(Ord. No. 150, § 3, 1-4-1960)*

### **Sec. 16-33. Investigation and issuance.**

Upon receipt of such application and investigation fee, the city clerk or such other person as he may designate, including the chief of police, shall cause such investigation to be made as may be necessary to determine the applicant's business responsibility or moral character for the public good and grant or deny said application in writing. If granted, a license shall issue upon fulfillment of other requirements of this chapter.

*(Ord. No. 150, § 4, 1-4-1960)*

### **Sec. 16-34. Licensing standards for good moral character.**

- (a) The phrase "good moral character," when used in this article for the purpose of licensing, shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.
- (b) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used, the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability to, and is likely to serve the public in a fair, honest and open manner, that he is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

(c)

The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:

(1)

Records of an arrest not followed by a conviction;

(2)

Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction;

(3)

Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner;

(4)

Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(d)

When a person is found to be unqualified for a license because of a lack of good moral character, or similar criteria, the person shall be furnished by the city clerk with a statement to this effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the city council if he has relevant evidence not previously considered regarding his qualifications.

#### **Sec. 16-35. Bond.**

Before any license provided by this chapter shall be issued for a transient merchant or solicitor, but not including a peddler, such applicant shall file a bond running to the city in the amount, executed by the applicant, as principal and one corporate surety licensed to do business in the state as such, or two sureties upon which service of process may be made in the state, said bond to be approved by the city attorney, conditioned that said applicant shall comply fully with all the provisions of the ordinances of the city and statutes of the state regulating the sale of goods, wares and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against the applicant by any person for damage growing out of any misrepresentation or deception practiced or made by the owners, agents or others in privity with the applicant, or by the applicant alone, either at the time of the sale or through any advertisement connected in any way with said sale. The action on the bond shall be brought in the name of the city for the use and benefit of the aggrieved person.

*(Ord. No. 150, § 5, 1-4-1960)*

#### **Sec. 16-36. Service of process.**

Before any license is issued hereunder for a transient merchant or solicitor, such applicant shall file with the city clerk an instrument appointing the city clerk, and his successors in office, the applicant's true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by section 16-35, or for

the performance of the conditions of said bond or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made, shall be taken and held to be as valid as if personally served upon the applicant within this jurisdiction, and waiving all claim of error by reason of such acknowledgment of service of process. Immediately upon service of process upon the city clerk, as herein provided, the city clerk shall send to the licensee at his last known address, by registered mail, return receipt requested, a copy of said process.

*(Ord. No. 150, § 6, 1-4-1960)*

### **Sec. 16-37. Exhibition of license.**

The license issued under this article shall at all times be conspicuously posted in the place of business or upon the vehicle used in connection with the licensed business. Licensees are required to exhibit their licenses at the request of any person.

*(Ord. No. 150, § 7, 1-4-1960)*

### **Sec. 16-38. Fees, computation as to licensees.**

(a)

A fee, as currently established or as hereafter adopted by resolution of the city council from time to time, will be required for each person proposing to operate on foot; hand cart, push cart, wagon, motor vehicle, railroad car, conveyance or location; and the same fee for each helper, except that no helper shall be required to file a bond.

(b)

No person selling products of the farm or orchard actually produced by seller need pay a fee.

(c)

The annual fees shall be on a calendar year basis.

*(Ord. No. 150, § 8, 1-4-1960; Ord. No. 150-A, § 8, 10-4-1965)*

### **Sec. 16-39. License not transferable.**

No person shall exhibit the license of another.

*(Ord. No. 150, § 9, 1-4-1960; Ord. No. 150-A, § 8, 10-4-1965)*

### **Sec. 16-40. Revocation.**

(a)

The license and permit issued under this article may be revoked by the mayor of the city, after notice and hearing, for any of the following causes:

(1)

Fraud, misrepresentation or false statement contained in the application for a license or made in connection with the selling of goods, wares or merchandise or other licensed activity;

(2)

Any violation of this chapter;

(3)

Conviction of the licensee of any felony or misdemeanor involving moral turpitude;  
or

(4)

Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or menace to health, safety or general welfare of the public.

(b)

Notice of hearing for revocation of a license shall be given in writing setting forth the grounds, time and place of the hearing, and mailed, postage prepaid to the applicant's last known address at least five days prior to the date of the hearing.

*(Ord. No. 150, § 13, 1-4-1960)*

**Sec. 16-41. Appeal.**

Any person aggrieved by the decision of the clerk not to grant a license, or of the mayor in revoking the same, may appeal to the city council, by stating their grounds in writing and filing the same with the city clerk or council within ten days from the date of the action complained of. The council shall set the time and place of hearing. The decision of the council shall be final.

*(Ord. No. 150, § 14, 1-4-1960)*