

AN ORDINANCE TO AMEND CHAPTER 18 OF THE CODE OR ORDINANCES, CITY OF DURAND, MICHIGAN BY ADDING SECTIONS 18-510 THROUGH 18-518 AND BY REPEALING SECTIONS 18-506, 18-507, 15-532 AND 18-533; SHORT TITLE; PURPOSES; DEFINITIONS; PROHIBITED ACTS; REGULATIONS FOR ICE CREAM VENDORS; DUTY TO ENFORCE; PENALTY; SEPARABILITY

THE CITY OF DURAND ORDAINS:

Section 18-510 Short Title. This ordinance shall be known and may be cited as the “2013 Solicitation, Peddling and Canvassing Ordinance.”

Section 18-511 Purposes. The purposes of this ordinance are to protect the public against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruptions of privacy, and to preserve the public health, safety and welfare by regulating and controlling solicitors, peddlers and canvassers.

Section 18-512 Definitions. For the purposes of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context. The following terms are defined as follows:

- (A) “Canvass” as used in this ordinance means opinion sampling, poll taking, proselytizing, or other similar activity from house to house, door to door, street to street, or from place to place.
- (B) “Canvasser” as used in this ordinance means any person who engages in canvassing in person for himself or herself or any other person.
- (C) “Charitable” as used in this ordinance means any activity represented as carried on from unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical, or religious activities, either actual or implied.
- (D) “City” as used in this chapter means the City of Durand, Michigan.
- (E) “Peddle” as used in this ordinance means to operate from a temporary stand, display or similar facility or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares or merchandise for the purpose of offering and exposing the same for sale.
- (F) “Peddler” as used in this ordinance means a person who peddles for himself or any other person.
- (G) “Person” as used in this ordinance means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (H) “Solicit” and “solicitation” as used in this ordinance mean and include any one or more of the following:

- (1) Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services or any kind, character or description;
- (2) Requesting directly or indirectly contributions of funds on a plea or representation that such contributions will be used for a charitable purpose;
- (3) Canvassing or peddling as defined in this section;
- (4) Advertising or offering of (to include, but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, regardless of whether a doorbell is rung or any physical or verbal contact is made.
- (5) Advertising a business entity whether inside or outside the City by offering advertising, coupons, specials or other encouragement to patronize said business whether verbally or by flyer, handbill or paper.

A “solicitation: as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale.

- (I) “Solicitor” as used in this ordinance means a person who solicits for himself or for any other person.

Section 18-513 Prohibited Acts.

- (A) It shall be unlawful for any canvasser, peddler or solicitor to:
 - (1) Ring the bell or knock on the door or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words *No Solicitors, No Trespassers* or words similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof.
 - (2) Solicit at hours other than the following: nine o'clock (9:00) A.M. to eight o'clock (8:00) P.M. local time of any day.
 - (3) Engage in soliciting upon any premises (including parking lots), business or dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises, business or residence.
 - (4) Make more than one solicitation call at the same residential premises for identical good, services or contributions within any consecutive fourteen (14) day period without receiving a prior invitation thereof from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.
 - (5) Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars (\$5.00) in cash or tangible property, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof,

amount of cash payment, if any, and the balance due and terms of payment; or for any charitable solicitor or organization accepting any contribution exceeding ten dollars (\$10.00) in cash or tangible property to fail to provide, at the request of the donor, a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.

- (6) Fail, at the outset, to disclose to the prospective buyer, prospective donor or canvassee his name and the name of the company, product or organization he represents.
- (7) Make any assertion, representation or statement which misrepresents the purpose of the call or use any plan, scheme or ruse which misrepresents such purpose.
- (8) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction of adequate access to fire, police or sanitation vehicles.
- (9) Advertise or offer (to include but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, if asked to discontinue by the owner/occupant, or if a "No Solicitors" sign is posted on the property, regardless of whether a doorbell is rung or any physical or verbal contact is made.
- (10) To cut across or walk upon any lawn, front yard or courtyard, except upon sidewalks or walkways if such walkways are provided or upon a regularly established path where no sidewalk or walkway has been provided to the house or other building.

B It shall be unlawful for any person to:

- (1) Canvass, peddle or solicit if the person so doing has been convicted of a felony, misdemeanor or ordinance violation involving force, violence, moral turpitude, deceit, fraud, or the violation of any law regulating the act of soliciting as defined in this Ordinance within the past ten (10) years in this City, State or subdivision thereof or any other state or subdivision thereof of the United States.
- (2) Canvass, peddle or solicit or attempt to do so at a place of residence at any entrance other than the main entrance of the residence.
- (3) No person acting under this ordinance shall open any door or window of a building without receiving the permission of the occupant to do so.

Section 18-514 Special Regulations for Ice Cream Vendors. It shall be unlawful for any ice cream vendor to:

- (A) Exceed a speed of twelve miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale;
- (B) Make more than two stops in any one block to make any sale;
- (C) Stop anywhere within twenty-five feet of an intersection when making a sale or attempting to make a sale;
- (D) Double-park, or park in any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale;

- (E) Make a U-turn on any block;
- (F) Drive his vehicle backwards to make or attempt any sale;
- (G) Sell to any person who is standing in the street;
- (H) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants'
- (I) Remain standing or stopped at any place for a period of time exceeding five minutes;
- (J) Sell or attempt to sell along any particular route more than one time during a twenty-four hour period;
- (K) Sell or attempt to sell inside the city parks.

Section 18-515 Duty to Enforce. It shall be the duty of any police officer of the city to enforce the provisions of this ordinance against any person found to be violating the same.

Section 18-516 Penalty. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each offense or shall be imprisoned for a period not to exceed ninety days, or shall be both fined and imprisoned.

Section 18-517 Separability. It is the intention of the city that each separate provision of this ordinance shall be independent of all other provisions herein, and it is further the intention of the city that if any provision of this chapter is declared invalid, all other provisions thereof shall remain valid and enforceable.

Section 18-518 Effective Date. This ordinance shall take effect fifteen (15) days after adoption and publication.

Enacted at a regular meeting of the Durand City Council, held on 1st day of April, A.D. 2013.