

06/06/2013

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTIONS 78-162, 78-163, 78-166, 78-198 AND 78-199 OF ARTICLE III, OF CHAPTER 78, PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR ITINERANT MERCHANT APPLICANTS; MODIFY THE HOURS DURING WHICH DOOR-TO-DOOR COMMERCIAL SOLICITATION IS PERMITTED; CHANGE LICENSE DURATION; REQUIRE VISIBLE DISPLAY OF SOLICITOR'S LICENSE; REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 78-162 of Article III of Chapter 78 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 78-162. Application.**

Before the issuance of a license required by this division, an itinerant merchant shall apply for a license upon forms prescribed and furnished by the city clerk. The application shall include the following information:

- (1) The name of the individual who will sell or solicit within the city, including resident address, telephone number, driver's license number and a physical description including height, weight, color of hair and eyes.
- (2) The complete name, address and telephone number of the parent organization and where and when the parent organization was established or incorporated and the form of its organization.
- (3) An outline of the method to be used in conducting the sales or solicitations (for example, door to door, street corners, sidewalks, etc.).
- (4) The dates and times when and location where sales or solicitations will be made, giving the proposed dates for the beginning and ending of such sales or solicitations and the hours of the days thereof.
- (5) The types of goods or services to be sold or for which solicitations will be made.
- (6) Whether the parent organization or the itinerant merchant has ever been enjoined from soliciting.

(7) Whether the itinerant merchant or an officer or director of the parent organization has been convicted of a felony or any misdemeanor involving moral turpitude, and if so, a brief description and explanation of the reason therefor.

(8) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(9) Such other information as the Clerk may require relating to the identity and background of the applicant and the proposed solicitation or sales activity.

Section 2. Section 78-163 of Article III of Chapter 78 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 78-163. Basis for issuance.**

The city clerk shall issue a license required under this division whenever the clerk shall find the following facts to exist:

(1) There are no facts to cause a reasonable belief that the activities of the applicant will not become an annoyance or a nuisance to the citizens of the city. Such activities shall inure to the benefit of the citizenry of the city.

(2) The applicant has not been convicted of a felony or a misdemeanor involving moral turpitude.

(3) There has been compliance with this article, including payment of the applicable fee.

(4) There have been no violations of this article in the past, which would form a basis of a reasonable belief of further violations of this article.

(5) Criminal background check has been conducted through the Internet Criminal History Access Tool (ICHAT).

Section 3. Section 78-166 of Article III of Chapter 78 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 78-166. Duration.**

A licenses issued under this division shall be issued for a period of up to one year as determined by the city clerk with consideration of the application, and all licenses shall expire March 31 of each year90 days. If additional time is needed, the applicant may reapply.

Section 4. Section 78-198 of Article III of Chapter 78 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 78-198. Hours.**

Under this article, ~~no~~ door-to-door sales or solicitations or sales or solicitations on private property shall be permitted between the hours of ~~6:00 p.m. or sunset, whichever is later, and 8:00 a.m., except by invitees~~ 9:00 a.m. and 7:00 p.m. while daylight savings time is in effect and between 9:00 a.m. and 5:00 p.m. when daylight savings time is not in effect.

Section 5. Section 78-199 of Article III of Chapter 78 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 78-199. License display ~~on request.~~**

~~While carrying on solicitations under this article, an itinerant merchant shall display the license issued under division 2 of this article so that it shall be visible to any person dealing with the itinerant merchant. Every solicitor registered hereunder shall carry and display his or her City-issued license at all times while engaged in solicitation, upon a lanyard or in a manner such that the photograph and information is readily, continuously and clearly visible and unobstructed.~~

Section 6. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 7. Penalty. All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

Section 8. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on \_\_\_\_\_, 2013, following its publication in the *Oakland Press* on \_\_\_\_\_, 2013.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2013.

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Bryan K. Barnett, Mayor  
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON \_\_\_\_\_, 2013.

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Tina Barton, Clerk  
City of Rochester Hills