

ORDINANCE NO. 2010-05

AN ORDINANCE TO AMEND CHAPTER 14 ENTITLED PEDDLERS, TRANSIENT AND ITINERANT MERCHANTS AND ITINERANT VENDORS BY DELETING SECTIONS 14.16 THROUGH 14.32 IN THEIR ENTIRETY AND REPLACING THEM WITH NEW SECTION 14.16 THROUGH 14.32

THE PEOPLE OF THE CITY OF MILAN ORDAIN:

Section 1. That Chapter 14 of the Codified Ordinances of the City of Milan be hereby amended to update the licensing requirements of, rules and regulations pertaining to, and exemptions to obtaining a peddler, itinerant vendor or transient or itinerant merchant permit.

ARTICLE 11. PEDDLERS, TRANSIENT AND ITINERANT MERCHANTS AND ITINERANT VENDORS

Sec. 14-16. Permit and license required

It shall be unlawful for any person to engage in the business of peddler, itinerant vendor or transient or itinerant merchant as hereafter defined, within the corporate limits of the City of Milan without first obtaining a permit and license therefore as provided herein.

Sec. 14-17. Definitions.

- (a) Person as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership or society, or any other organization
- (b) Peddler, as used herein shall include any person, whether a resident of the City of Milan 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, 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 purchasers as a part of a scheme or design to evade the provisions of this article, shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker, solicitor," "street" or "foot vender" and "huckster."
- (c) Itinerant vendor, transient or itinerant merchant mean all persons, both principals and agents, who engage or conduct in the city, a temporary business of selling goods, wares, or merchandise, in any place in this city, and who, for the purpose of conducting business, temporarily occupies any lot,

building, room or structure of any kind. Does not include any persons that are conducting business activities within a physical building of an existing established business, subject to the ad valorem tax rolls of the City of Milan, at the invitation of the business owner. Transaction of business by any person in one place for a period of less than 6 months consecutively shall be prima facie evidence that such person was a transient or itinerant merchant within the intent and meaning of this ordinance.

Sec. 14-18. Application for permit and license; application fee

Each applicant for a permit and license under this article must file with the city clerk/treasurer a sworn application in writing (in duplicate), on a form to be furnished by the city clerk/treasurer, which shall give the following information:

- (a) Name and description of the applicant;
- (b) Address (legal and local);
- (c) A brief description of the nature of the business and the goods to be sold.
- (d) A list of all participating employees or individuals, including an address, phone number, driver's license number and date of birth;
- (e) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (f) The length of time for which the right to do business is desired;
- (g) If a vehicle is to be used, a description of the same, together with license number or other means of identification.
- (h) A photograph, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall show the head and shoulders of the applicant in a clear and distinguishing manner,
- (i) If food is to be sold, a health card or its equivalent, if applicable, issued by either the County Health Department or other state regulatory agency;
- (j) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore;
- (k) If itinerant vendor, or transient or itinerant merchant and proposing to conduct business on property not owned by the applicant, a letter from property owner granting permission to use property.

The city shall approve an application for a permit and/or license hereunder within a reasonable period of time no later than (5) days from submittal of all information required by said application.

Sec. 14-19. Investigation of applicant; issuance, denial of permit and license; content, record of permit, license.

- (a) Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and criminal history for the protection of public good.
- (b) If as a result of such investigation, the applicant's business responsibility or drivers license history for the prior twenty-four (24) months is found to be unsatisfactory, and/or the criminal history determines a criminal conviction over the past five (5) years, the chief of police and/or the city administrator shall endorse on such application disapproval and reason(s) for the same, and return the said application to the city clerk/treasurer, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- (c) If as a result of such investigation, the business responsibility, drivers license or criminal background check are found to be satisfactory, the chief of police and the city administrator shall endorse on such application approval, and return the said application to the city clerk/treasurer who shall, upon payment of the prescribed license fee, issue to the applicant his license for the carrying on of the business applied for.
- (d) Such license shall contain the signature and seal of the issuing officer and shall show the name, address, and photograph of said licensee, the class of the license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of the 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 in such peddling.
- (e) The city clerk/treasurer shall keep a permanent record of all licenses issued.

14.20. Fees for permits and licenses.

- (a) The fees for annual licenses under this article shall be those specified for same in the official fee schedule adopted by resolution of the city council.
- (b) Annual license fees shall be assessed on a calendar year basis, and on and after July first, the license fee for the remainder of the same calendar year shall be one half of the annual license fee specified in the official fee schedule adopted by resolution of the city council.

14-21. Identification card.

The city clerk shall issue to each licensee at the time of the approval of the licensee's application, an identification card bearing the name of the licensee, the period for which the license is issued and the number of the license. This identification card shall be worn by the licensee on an outer garment in such a way as to be conspicuous during such times as said licensee is engaged in peddling.

14-22. Unauthorized use of approved identification.

No license or badge or other approved identification issued under the provisions of this article shall be used or worn at any time by any person other than the one to whom it was issued.

14-23. Loud noises and speaking devices.

No peddler, nor any person in his behalf, shall make any noise in the use of his or her licensed activity which is in violation of section 13-84 of the Milan City Code.

14-24. Use of streets and public property.

No peddler shall have any exclusive right to any location in the public streets, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

No itinerant vendor or transient or itinerant merchant shall be allowed to conduct business from a stationary stand or temporary structure on public property or within public right-of-way without the express written consent of the City Council.

Exemption: Itinerant vendors and transient or itinerant vendors who are participating in a City Council approved special event located on public property or within a public right-of-way may conduct business from a stationary stand or temporary structure within the perimeter of the special event location.

14-25 Exhibition of license

Peddlers, itinerant vendors, and transient or itinerant merchants are required to exhibit their licenses at the request of any citizen.

14-26. Enforcement of provisions by police.

It shall be the duty of any police officer of the City of Milan to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his peddler license, and to enforce the provisions of this article against any person found to be violating the same.

14-27. Records of licenses issued, violations.

The chief of police shall report to the city clerk all convictions for violation of this article, and the city clerk shall maintain a record for each license issued and record the reports of violation therein.

14-28. Revocation of permits and licenses; grounds specified, notice and hearing required.

- (a) Permits and licenses issued under the provisions of this article may be revoked by the city clerk and police chief of the City of Milan after notice and hearing, or any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for license;

- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;
 - (3) Any violation of this article;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude;
 - (5) Conducting the business of 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.
- (b) Notice of the hearing for 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 his last known address at least five (5) days prior to the date set for hearing.

14-29. Appeal from denial or revocation of permit and license.

Any person aggrieved by the action of the chief of police or the city clerk in the denial of an application for permit or license as provided in section 14-19 of this article, or in the decision with reference to the revocation of a license as provided in section 14-28 of this article, shall have the right of appeal to the council of the City of Milan. Such appeal shall be taken by filing with the council, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 14-28 of this article for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive.

14-30. Expiration of licenses.

All annual licenses issued under the provisions of this article shall expire on the 31st of December in the year when issued.

14-31. Penalties for Violations.

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days or both such fine and imprisonment.

14-32. Exemptions.

The following persons are exempt from the requirements of section 14-20, but shall be required to comply with every other provision of this article regulating such activity.

- (a) Any person engaged in the retail sale of goods, wares or merchandise at a permanent location in the city and subject to the city's ad valorem real or personal property taxes conducting business as a transient merchant at any other location within the city.
- (b) Any person exempt from the licensing requirements of this article by virtue of state or federal law.

(c) Any person selling at a fair, festival or similar event at the invitation of the event's sponsor, if all of the following conditions are met:

- (1) The sponsor has applied for, and received, a peddlers permit as required by this ordinance
- (2) The sponsor is a government entity or nonprofit organization as defined by the IRS.
- (3) The sponsor provides a list of the event's vendors' business addresses and sales tax license numbers to the city clerk/treasurer.

Section 2. Health, Safety and Welfare. This ordinance is declared necessary for the preservation of the public peace, health, safety, and welfare of the people of the City of Milan.

Section 3. Severability. Should any provision or part of this article be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision or part, which shall remain in full force and effect.

Section 4. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 5. Effective Date. The effective date of this ordinance shall be ten (10) days after its adoption and publication of a summary thereof as provided by Section 7.4(b) of the Milan City Charter, which summary shall read as follows:

The Milan City Council has approved Ordinance 2010-05 which ordinance amends Chapter 14-Sections 14.16 through 14.32 of the Milan City Code to revise the Peddlers, Transient and Itinerant Merchants and Itinerant Vendors by Deleting Sections 14.16 through 14.32 in their entirety and replacing them with new Sections 14.16 through 14.32. Printed copies of the full text of Ordinance No. 2010-05 are available for inspection and purchase by the public at the office of the City Clerk/Treasurer during regular business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday. Ordinance No. 2010-05 is effective ten (10) days after adoption and publication of this summary notice.

Motion by Councilperson Dotson, seconded by Councilperson Gilson, to approve at First Reading the adoption of Ordinance No. 2010-05.

ROLL CALL VOTE:

AYES: Armitage, Chapin, Churchill, Dotson, Gilson, Hamden, Muckler

NAYS: None

ABSENT: None ABSTAIN:

None

Motion by Councilperson Gilson, seconded by Councilperson Hamden, to approve at Second Reading the adoption of Ordinance No. 2010-05.

ROLL CALL VOTE:

AYES: Armitage, Chapin, Churchill, Dotson, Gilson, Hamden, Muckler

NAYS: None ABSENT:

None

ABSTAIN: None

Kimberly A. Muckler

Kimberly Anne Muckler, Mayor

I, Shen-y L. Steinwedel, Clerk/Treasurer of the City of Milan, a Michigan Municipal Corporation, do hereby certify that the above-captioned Ordinance No. 2010-05 was adopted by the City Council of the City of Milan at a regular meeting thereof on the 8th day of November, 2010. I further certify that Kym Muck-ler is the duly elected Mayor and Sherry L. Steinwedel is the duly appointed Clerk/Treasurer of Milan.

Sherry L. Steinwedel

Sherry L. Steinwedel, Clerk/Treasurer

First Reading: October 25, 2010

Publication date: November 18,

2010 Second Reading: November
8, 2010

Effective date: November 28, 2010