

CHAPTER 10 BUSINESS REGULATIONS, LICENSING AND REGISTRATION*

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ARTICLE I. IN GENERAL

**Editor's note: The 2014 ordinance recodification amended the Code revising the Police Chief review standards formerly located in Article I of this Chapter, formerly § 10-001; and transferring the revised review standards to Article III, Division 2 of this Chapter, § 10-074. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources.*

DIVISION 1. PROHIBITED BUSINESSES

Sec. 10-001. Marijuana Establishments Prohibited; Civil infraction

- (a) **Intent and Purpose.** The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., and more specifically Section 6(1) thereof, MCL 333.27956(1), authorizes municipalities to prohibit marijuana establishments within their boundaries by adoption of an ordinance. Adoption of such an ordinance does not preclude a municipality from further studying and revisiting the issue at a future date.

(CHAPTER 10, ARTICLE II, SECTION 10-001 cont.)

(b) **Prohibition of Marijuana Establishments.**

- (1) *Definitions.* Words used in this section shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.
- (2) *Prohibition.* Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq., all marijuana establishments are prohibited within the boundaries of the Township.
- (3) *Violations.* Violation of this Section is a civil infraction punishable and subject to enforcement as provided in Sections 1-010(b), (c), and (d) of this Code. Such sanctions and enforcement shall be in addition to the rights of the Township to request and receive other legal and equitable relief and remedies as may be provided by law against persons alleged to be in violation of this ordinance.

(Ord. No.2019-005; 05-28-2019)

Secs. 10-002--10-025. Reserved.

ARTICLE II. BUSINESS REGISTRATION

**Editor's note: The 2014 ordinance recodification amended the Code revising the investigation of license standards formerly located in Article II, Division 1 of this Chapter, formerly § 10-026; and transferring the revised review standards to Article III, Division 2 of this Chapter, §§ 10-071 – 10-120. Additionally, the Code was amended by, in effect, transferring the guidelines for license revocation formerly located in Article II, Division 2 of this Chapter, formerly §§ 10-036 – 10-065; and transferring the guidelines to Article III, Division 3 of this Chapter, §§ 10-121 – 10-140. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources. Finally, the Code was amended by adopting the Waterford Township Business Registration Ordinance as the new Article II for this Chapter.*

Sec. 10-026. Short title.

This Article shall be known and cited as the “Business Registration Ordinance”.

Sec. 10-027. Purpose.

The purpose of this Ordinance is to promote the general health, safety, and welfare of Waterford citizens by identifying business locations and operations within the Township to enhance the efficient delivery of police and fire protection; ensure compliance with building and fire safety codes; provide better efficiency and economy in furnishing public utility services within the Township; and to promote compliance with all land use ordinances.

Sec. 10-028. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Business means any form of profit or non-profit establishment, as defined in the Waterford Township Zoning Ordinance, owned or operated by any person within the Township.

Hazardous Materials has the same meaning as in the Fire Prevention Code adopted under Chapter 7 of this Code, which are chemicals or substances (*gas, liquid or solid*) which are physical hazards or health hazards as identified by the Fire Chief, and include materials such as solvents, paints, gasoline, adhesives, and lubricants, that are capable of creating harm as a fire hazard, or to people, the environment, or property.

(CHAPTER 10, ARTICLE II, cont.)

Sec. 10-029. Registration requirements.

- (a) No person shall, directly or indirectly, commence, engage in, or continue any business as a proprietor, owner, part owner or manager without registering and continuing to maintain such registration with the Township in the form and manner prescribed in this Article.
- (b) The granting of a business registration shall not exempt such business from the necessity of securing a township license for those businesses requiring a license by the Township.
- (c) The issuance of a business or other license by the state or other governmental agency shall not exempt such business from the necessity of registering the business with the Township in accordance with this Article.
- (d) Registration of a business shall not exempt such business from compliance with all applicable requirements of this Code.
- (e) Registration shall not be transferable from one business to another.

Sec. 10-030. Registration agent.

The Township Clerk, in consultation with the Fire Chief, is hereby appointed to implement and administer the provisions of this Article.

Sec. 10-031. Registration fee.

The fee for registration of a business at a single location shall be established by resolution of the Township Board. The registration fee shall cover the processing of a business's initial registration, annual verification, and any registration changes reported by a business.

Sec. 10-032. Registration application.

Prior to the initiation of business operations, each business shall register by submitting the following information to the Township Clerk in the form and manner prescribed by the Township Clerk and the Fire Chief:

- (a) The legal name and form of the business entity (sole proprietor, partnership, corporation, limited liability company or other) and any assumed name under which business will be conducted.
- (b) The full names, business and residence addresses, business phone numbers, and emergency contact information of the owners, proprietors, officers, partners, managers, or members as applicable to the form of business entity, and other persons involved in the on-site supervision, management, or control of the business.
- (c) The address and phone/email contact of the business being registered;
- (d) The nature and character of the business.
- (e) List by name and quantity all hazardous materials which are expected to be used, stored, or generated on-site.
- (f) Provide a description of the fire-suppression system that will be used to protect the business.

Sec. 10-033. Registration issuance.

No registration shall be issued until the required registration fee is paid and all required information is submitted. Written proof of registration for each business address will be issued by the Township Clerk to and in the legal name of the owner or operator of the business.

Sec. 10-034. Registration changes to be reported by businesses.

It shall be the duty of every registered business to report any changes in the information furnished with the current registration within five (5) business days of such change occurring.

Sec. 10-035. Registration record-keeping and data maintenance.

The Township Clerk shall maintain a database of all registered businesses, keep it current with all updated information provided by businesses, ensure that all required information is readily available for the use of other Township officials, and make the information described in Section 10-032(a) and (c) through (f) available to the public in the form and manner prescribed by the Township Clerk.

(CHAPTER 10, ARTICLE II, cont.)

Sec. 10-036. Violations and sanctions; Civil Infraction.

Violation of a registration, verification, or update requirement, or providing false information in such a submittal to the Township under this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-037--10-050. Reserved.

ARTICLE III. BUSINESS LICENSING

**Editor's note: The 2014 ordinance recodification amended the Code repealing the Waterford Township Abandoned, Junked and Distressed Vehicle Ordinance in Article III of Chapter 10, formerly §§ 10-066 – 10-090, adopting regulations pertaining to distressed and junk vehicles in Article III, Division 4 of Chapter 9, §§ 9-111 – 9-130 and adopting regulations pertaining to abandoned vehicles in Article IX of Chapter 16, §§ 16-321 – 16-330.*

Additionally, the Code was amended by adopting a revised business licensing ordinance. This Article is now structured such that the general licensing requirements are contained in the first three Divisions and the remaining Divisions contain the regulations for each of the business types that the Township has identified as requiring licensing.

Division 1. Generally

Sec. 10-051. Short title.

This Article shall be known and cited as the “Business Licensing Ordinance”.

Sec. 10-052. Purpose.

The purpose of this Ordinance is to promote the general health, safety, and welfare of Waterford citizens by defining and regulating certain businesses through licensing by the Township.

Sec. 10-053. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Good Moral Character means the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

Regulated Business means any business or use identified in a Division of this Article as requiring a license from the Township.

Sec. 10-054. License required.

It is prohibited and a violation of this Article for any person to conduct or maintain a regulated business without being properly licensed under the provisions of this Article.

Sec. 10-055. Annual administrative processing and licensing fees.

A schedule of administrative processing and licensing fees required for all license applications under this Article shall be established by resolution of the Township Board.

Sec. 10-056. Term of license.

The term of a license issued under this Article shall be for one (1) year, unless otherwise stated in this Article. A schedule of licensing application deadlines and license start and end dates for all license applications under this Article shall be established by resolution of the Township Board.

Sec. 10-057. Licenses not transferrable or assignable; Change in license information.

(a) Any license issued under this Article shall not be assigned or transferred by the licensee, nor shall the place of business be changed from the location originally licensed.

(CHAPTER 10, ARTICLE III cont.)

- (b) Within five (5) business days of a change in information upon which a license was issued the licensee shall provide written notice to the Township Clerk of such change.

Sec. 10-058. Township Clerk license decisions report.

The Township Clerk shall submit a quarterly report to the Township Board identifying all regulated businesses and their property locations for which the Township Clerk issued or denied licenses. For denial decisions, the Township Clerk shall identify the reasons for making each denial. The Township Board shall establish by resolution the frequency at which the Township Clerk shall report license decisions to the Township Board.

Sec. 10-059. Violations and sanctions.

- (a) Operation of a regulated business without a valid license is a misdemeanor punishable as provided in Section 1-010(a) of this Code.
- (b) Unless otherwise specified, violation of any term, rule, regulation or condition imposed by the provisions of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-060--10-070. Reserved.

Division 2. License Application and Review

**Editor's note: The 2014 ordinance recodification amended the Code revising the Police Chief review standards formerly located in Article I of this Chapter, formerly § 10-001; and transferring the revised review standards to this Division, § 10-074. Additionally, the Code was amended by, in effect, revising the investigation of license standards formerly located in Article II, Division 1 of this Chapter, formerly § 10-026; and transferring the revised review standards to Article III, Division 2 of this Chapter, §§ 10-071 – 10-120. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources.*

Sec. 10-071. Application requirements.

Application for a license under this Article shall be made in the form and manner prescribed by the Township Clerk and accompanied by such fees as established in accordance with Section 10-055. At minimum, the license application shall provide the following information:

- (a) The legal name and address of the owner of the zoning lot upon which the licensed business is to be conducted, and if an individual, his or her age and residence address;
- (b) The zoning district and legal property description of the zoning lot upon which the regulated business is to be conducted;
- (c) The legal and any assumed name, address, and telephone number of the regulated business entity for which the license is sought.
- (d) The full names, addresses, telephone numbers, dates of birth, copies of motor vehicle operator's licenses, and types of legal interest in the regulated business of:
 - (1) all owners, partners, and stockholders meeting the criteria of Section 10-072, and
 - (2) managers.
- (e) The criminal record, if any, of
 - (1) all owners, partners, and stockholders meeting the criteria of Section 10-072, and
 - (2) managers,giving the date, place and nature of all felonies and misdemeanors, including violations of local ordinances, with the exception of traffic offenses.
- (f) Where licensing is required by the State of Michigan, the date and number of the license issued by the State of Michigan.
- (g) Written verification that all property taxes and assessments are current and not delinquent for all properties upon which the regulated business are proposed to be conducted upon to be covered by the requested license.

(CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-071 cont.)

- (h) All additional information required by the Division applicable to the regulated business to be licensed.
- (i) Any other information deemed necessary by the Township Clerk for the proper enforcement of this Article.
- (j) Authorization for the Township of Waterford, its agents and employees to seek information and conduct an investigation to verify the statements set forth in the application. The Township may request additional information and identification for the reasonable pursuit of such investigation.
- (k) The application shall be subscribed and sworn to by the applicant.

Sec. 10-072. Corporation, partnership, LLC and business information requirements.

- (a) If the applicant is a corporation, the name, residence address and telephone number of each of the officers and directors of said corporation and except for publicly held corporations, of each stockholder owning more than ten percent (10%) of the stock of the corporation that is or will be involved in the regulated business, the address and phone number of the corporation office, the name, address and phone number of the official contact person for the Township in connection with the application and the name and address of the resident agent in Michigan. The applicant shall also provide documentation confirming that the corporation is in good standing and authorized to do business in the State of Michigan.
- (b) If the applicant is a partnership, limited liability company (LLC), or other form of business entity, the names, residence addresses and telephone numbers of: (i) each partner having ten percent (10%) of an ownership interest and that will be involved in the management and/or operation of the regulated business, (ii) each LLC manager and member, (iii) each person with an ownership interest or that will be involved in the management and/or operation of the regulated business and for other business entities, (iv) an official contact person for the Township in connection with the application, and (v) a resident agent in Michigan.

Sec. 10-073. Review of license application information.

- (a) The Township Clerk shall, upon receipt of an application for a license or license renewal required by this Article, forward a copy of the application to the Police Chief and Zoning Official, who shall review the application and submit reports to the Township Clerk within 30 days in accordance with Sections 10-074 and 10-075.
- (b) The Township Clerk shall request status reports from the Township Treasurer and Water and Sewer Department to confirm that the property identified as the regulated business location is current in its property tax, special assessment, water and sewer bill, and other payment obligations to the Township.
- (c) Where the license application involves utilization of a building or structure for the regulated business, the Township Clerk shall also forward a copy of the application to the Fire Chief and Building Official who shall review the application and submit reports to the Township Clerk on the building's or structure's status of compliance with this Code, including all Buildings and Building Regulations and the Fire Prevention Code.

Sec. 10-074. License application review standards – Police Chief.

Upon receipt of an application for a license or license renewal under this Article where criminal investigation history is necessary as part of the license review process, the Police Chief shall order a criminal history for each owner, partner, stockholder, manager, member or employee of the proposed licensee designated in the Township Clerk's transmittal of the application, to determine whether each is of good moral character based upon the following criteria:

- (a) Criminal History. All of the applicant's convictions in the preceding ten (10) years, other than traffic violations, the reasons therefore and the demeanor of the applicant subsequent to his/her release.
- (b) License and Permit History. The license and permit history of the applicant; whether such applicant is operating or has previously operated in this Township or in another municipality under a license or permit, and whether such license or permit has ever been revoked or suspended, the reasons therefore, and the actions and compliance of the applicant subsequent to and related to such action.

(CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-075 cont.)

- (c) Other Information. The Police Chief may consider any other information and documentation that he, in the exercise of professional judgment, considers relevant to making a determination as to whether the applicant is of good moral character.
- (d) Additional verifiable information leading to an articulable question of the applicant's moral character.
State law references: Similar provisions, MCL 338.41 et seq.

Sec. 10-075. License application review standards – Zoning Official.

- (a) Upon receipt of an application for a license under this Article, the Zoning Official shall verify that the subject zoning lot possesses the appropriate zoning for the regulated business and possesses a site plan approved for the regulated business. If there is proper zoning and an approved site plan for the subject zoning lot, the Zoning Official shall complete the analysis and report to the Township Clerk within thirty (30) days of being provided with the application.
- (b) When the subject zoning lot does not possess the appropriate zoning for the regulated business, the Zoning Official shall omit the site plan verification step and transmit the zoning noncompliance information to the Township Clerk along with a recommendation for denial of the license request.
- (c) When the subject zoning lot possesses the appropriate zoning but not a site plan approved for the regulated business, the Zoning Official shall notify the applicant to submit all fees and documentation for the applicable plan review process in accordance with the Waterford Township Zoning Ordinance within 30 days or such later date as may be designated. Upon approval of a plan for the regulated business, the Zoning Official shall report to the Township Clerk that the subject zoning lot possesses the appropriate zoning and an approved site plan for the regulated business. If an applicant fails to timely submit the fees and documents for, or is unable to obtain an approved plan through the applicable plan review process, the Zoning Official shall report to the Township Clerk that the subject zoning lot possesses the appropriate zoning but no approved site plan for the regulated business along with a recommendation for denial of the license request or a tabling of the request until the required site plan receives all necessary approvals.
- (d) The Zoning Official shall identify municipal civil infraction violations incurred by an applicant during the previous calendar year.

Sec. 10-076. License application review standards – license renewals.

- (a) For applications submitted to renew a license, the application shall both verify the information required by Sec. 10-071 that remains unchanged and provide all changes in the required information.
- (b) The Township Clerk shall request compliance status reports from the Police Chief, Zoning Official, Building Official, and Fire Chief to confirm that the licensee complied with the provisions of this Article and all other applicable ordinance requirements during the previous licensing period.
- (c) The Zoning Official shall not require additional plan documents from the applicant when the zoning and the site plan used as the basis for the prior year's license approval are unchanged from the previous license application review. However, when there is a deviation or expansion of the use that reflects a substantial change as determined by the Zoning Official, a new or amended site plan shall be submitted by the applicant and approved by the Township in accordance with the requirements of the Waterford Township Zoning Ordinance prior to approval of a license renewal.
- (d) The Township Clerk shall request status reports from the Township Treasurer and Water and Sewer Department to confirm that the licensee is not delinquent in paying the property taxes, special assessments, water and sewer bills, and other payment obligations to the Township for the subject property.

(CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-079 cont.)

Sec. 10-077. Variance from minimum requirements.

A variance from minimum licensing requirements in any division of this Article may be granted by the Township Board as a condition of a license if it determines that literal enforcement would result in unnecessary hardship to the licensee, and that the granting of the variance would not be injurious to surrounding properties or otherwise detrimental to the public welfare. In granting any variance, the Township Board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Article, and may be the basis of license revocation.

Sec. 10-078. License issuance.

Upon confirmation of the Township Clerk that all application fees are paid, any bond required under Section 10-081 has been provided, and the application contents and subsequent Township official review of such contents confirm that the issuance of such license would not be detrimental to the health, safety and welfare of the citizens of the Township and fully comply with this Code, the Township Clerk is hereby authorized to approve and issue the requested license.

Sec. 10-079. License denial; conditional license.

- (a) If the applicant fails to provide all of the information required by Sec. 10-071, is found to have falsified information on the application, has delinquent payment obligations to the Township, or a Township officials' report required by this Article establishes that issuance of a license will result in noncompliance with the requirements and conditions of this Article or unsatisfactory conditions endangering public health, safety and welfare, the Township Clerk shall deny the license request. The Township Clerk shall notify the applicant in writing of the denial decision and the reasons for such denial.
- (b) An applicant may appeal a denial decision by submitting a written request for an appeal. All appeals of license denial decisions shall be heard by the Township Board. The Township Board is vested with the authority to uphold or reverse the decision of the Township Clerk and shall have full authority to attach conditions and/or restrictions to any license granted under this Section where such conditions and/or restrictions bear a rational relationship to the reasons for the Township Clerk's license denial or the preservation of the public health, safety and welfare.

Sec. 10-080. License revocation or suspension.

- (a) At any time during the term of a license that a licensee is documented by a Township official to have been notified of a violation of the terms and conditions of the license, any applicable requirement of this Code, or of state law regulating such regulated business, the documentation shall be forwarded to the Township Clerk. If the violation is correctable, the Township Clerk may issue a written notice to the licensee requiring correction within a specified time. If the Township Clerk does not issue such a correction notice, or such a notice is issued but not complied with, the Township Clerk shall schedule a license revocation/suspension hearing for a regularly scheduled meeting of the Township Board, in accordance with Division 3 of this Article.
- (b) The Township Board is vested with the authority to revoke, suspend or place on probationary status any license granted under this Article at any time during the term of the license in accordance with the guidelines for license revocation or suspension established in Division 3 of this Article.

Sec. 10-081. Bonds.

A compliance status report from a Township Official under Section 10-076 may include a requirement that a bond for a specified purpose in a reasonable amount sufficient for that purpose be provided in connection with issuance of a license. If a bond is required, it shall be in a form, and be subject to the conditions, procedures, and other provisions in Division 2 of Article IV in Chapter 14 of this Code. *(Ord. No.2017-002, §05-22-2017)*

(CHAPTER 10, ARTICLE III, DIVISION 2, cont.)

Secs. 10-082--10-120. Reserved.

Division 3. Guidelines for License Revocation or Suspension

**Editor's note: The 2014 ordinance recodification amended the Code transferring the guidelines for license revocation formerly located in Article II, Division 2 of this Chapter, formerly §§ 10-036 – 10-065, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec.10-121. Purpose and Application.

The purpose of this Division is to establish guidelines and procedures that shall be applicable and be utilized in actions and proceedings to revoke, suspend, or take other actions regarding licenses issued by the Township under this Chapter and other provisions of this Code where a procedure is not provided for.

(Ord. No. 156, § 2.00, 12-10-1990)

Sec. 10-122. Notice of grounds for revocation or suspension.

- (a) If a license issued by the Township shall become subject to revocation, suspension, or other action which would limit the rights of the licensee, the licensee shall be provided with written notice served by personal service, certified mail or other service which provides actual notice of a hearing before the Township Board, with a statement of the reasons and grounds for a revocation, suspension, or other action regarding the license.
- (b) The written statement of the reasons and grounds shall contain a statement of factual allegations with sufficient clarity to apprise the licensee of the full nature of transactions or occurrences relied upon, and shall make reference to all provisions of the license and any statute, ordinance or regulation which are alleged to have been violated.
- (c) This notice shall be served upon the licensee no later than seven (7) days prior to the date set for hearing.
- (d) The notice shall also advise the licensee of the following rights to be afforded the licensee before and at the hearing:
 - (1) To the assistance of their own counsel.
 - (2) To present questions to be asked of witnesses by the Township Supervisor or acting chairperson at the hearing.
 - (3) To request and receive before the hearing, copies of all non-confidential reports, files, and documents upon which the grounds for the license action are based.
 - (4) To produce witnesses and exhibits on their own behalf.

(Ord. No. 156, § 4.00, 12-10-1990)

Sec. 10-123. Hearing on license action; requirements.

- (a) A hearing shall be conducted before the Township Board, shall be open to the public, unless a closed session is requested by the licensee and allowed by a specific provision of the Open Meetings Act, and shall be chaired by the Township Supervisor, or in the Supervisor's absence, by the acting chairperson for that meeting.
- (b) The hearing will not be conducted as a trial and compliance with the rules of evidence applicable in court proceedings is not required. However, a licensee shall have the right to object to documentary evidence or testimony for reasons recognized by the rules of evidence and in general, to scrutinize evidence submitted against the licensee to insure that a fair and impartial hearing is being conducted.
- (c) At the hearing, the licensee shall have the right to the presence of witnesses upon whose testimony the licensee action is based and to submit questions to the Township Supervisor or acting chairperson for those witnesses to answer.

(CHAPTER 10, ARTICLE III, DIVISION 3 CONTINUED.)

- (d) In addition, the licensee shall be afforded the right to produce witnesses offering testimony on the reasons and grounds for the revocation, fitness and character, and other relevant matters.
- (e) The licensee shall be afforded the right to the assistance of their own counsel at the hearing.
- (f) During the hearing the Township shall have the burden of going forward with the evidence, and the burden of proving the reasons and grounds for the license revocation, suspension or other action, the standard of which shall be by a preponderance of the evidence.

(Ord. No. 156, § 5.00, 12-10-1990)

Sec. 10-124. Determination of action against licensee.

After the hearing, which may be adjourned by the Township Board to a later date for further proceedings or submissions, the Township Board shall determine whether the revocation, suspension, or other license action specified in the notice of the hearing or authorized in this Code should be taken, and if so, shall do so by adoption of a Resolution that states the action and reasons for it.

Sec. 10-125. Power to limit use of testimony by licensee.

In the event that there are criminal charges arising out of the same transaction or occurrences which give rise to the statement of grounds for revocation, suspension, or other action against a license, that shall not be grounds for an automatic stay of the license action proceedings. However, at the request of the licensee, the Township Board may, in its discretion, adjourn the license action proceedings, or with the written approval of the prosecuting attorney for the criminal charges, agree that testimony given by the licensee or its employees and agents, may be given with the assurance that it will not be used in the pending criminal proceeding against that witness.

(Ord. No. 156, § 7.00, 12-10-1990)

Sec. 10-126. Minutes and transcript of meeting.

- (a) Unless the Township Board decides otherwise before commencing a hearing, the minutes of the Township Board meeting at which the hearing is held shall serve as the official hearing record and shall summarize the testimony of witnesses, identify the documents presented or considered, summarize objections or positions presented by the licensee, and include all Township Board decisions and reasons for those decisions.
- (b) The licensee may secure a verbatim transcript of a hearing at its expense.

(Ord. No. 156, § 8.00, 12-10-1990)

Secs. 10-127--10-140. Reserved.

Division 4. Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Waterford Township Distressed Vehicle, Junk and Dismantling Yard Ordinance from Article IV of this Chapter, formerly §§ 10-091 – 10-140, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-141. Short title.

This Division shall be known and cited as the "Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing Ordinance."

(Comp. Ords. 1986, § 20.731)

Sec. 10-142. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of junk storage, distressed vehicle storage, salvage, dismantling, and automotive recycler yards in accordance with Public Act 12 of 1929 (MCL 445.451 et seq.) in order to achieve the purpose of this Article. *(Comp. Ords. 1986, § 20.732)*

(CHAPTER 10, ARTICLE III, DIVISION 4, SECTION 10-143 cont.)

Sec. 10-143. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following definitions shall apply to this Division:

- (a) The following terms as used in this Division shall be as defined in the Waterford Township Zoning Ordinance:
 - (1) **“Township Engineering Standards”**
 - (2) Under **“Vehicle Dealer Establishments”**:
 - (i) **“Automotive Recycler Establishment”**
 - (ii) **“Distressed Vehicle Transporter Establishment”**
 - (iii) **“Foreign Salvage Vehicle Dealer Establishment”**
 - (iv) **“Used Vehicle Parts Dealer Establishment”**
 - (v) **“Vehicle Salvage Pool Establishment”**
 - (vi) **“Vehicle Scrap Metal Processor Establishment”**.
- (b) The following terms as used in this Division shall be as defined in Chapter 9 of this Code, Health and Sanitation: **“Distressed Vehicle”**, **“Junk Vehicle”**, **“Salvage Vehicle”**, and **“Scrap Vehicle”**.
- (c) For the purpose of this Division, the following terms shall be defined as follows:

Distressed Vehicle Storage Yard means any zoning lot or parcel of land upon which distressed vehicles are kept or stored.

Junk means used, discarded, old, scrap, or worn-out material that is not being used for the purpose for which it was designed and intended or which individually does not have a fair market value or worth.

Junk Compression Yards means any portion of a junk storage and dismantling yard which is devoted to the compressing, crushing or shredding, by machines designed for that purpose, of junk vehicles and other junk items.

Junk Storage and/or Dismantling Yard means any zoning lot or parcel of land upon which used, discarded or worn-out material is stored or kept outside of an enclosed structure for purpose of resale and/or dismantling. Also included within this definition is any zoning lot or parcel of land upon which one (1) or more junk or distressed vehicles are kept or stored for a cumulative period of fifteen (15) days or more outside of an enclosed structure.

(Comp. Ords. 1986, §§ 20.735--20.742)

Sec. 10-144. License required.

No person shall manage, operate or maintain an automotive recycler establishment, distressed vehicle transporter establishment, distressed vehicle storage yard, foreign salvage vehicle dealer establishment, junk storage and/or dismantling yard, used vehicle parts dealer establishment, vehicle salvage pool establishment, or vehicle scrap metal processor establishment within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-145. Burning prohibited.

It is prohibited and a violation of this Division to burn or incinerate any junk or vehicle, or parts thereof, within the confines of the Township without the authorization and written approval of the Fire Chief.

(Comp. Ords. 1986, § 20.746)

Sec. 10-146. Public safety record-keeping and inspection.

- (a) A licensee under this Division hereby grants to any member of any public safety agency in the state the right to inspect its books, records and manner of operation of the licensed establishment to see that it is being operated in accordance with the terms and conditions of this Division and all applicable statutes.

(CHAPTER 10, ARTICLE III, DIVISION 4, SEC. 10-146 cont.)

- (b) A licensee under this Division shall retain all articles and vehicles purchased or otherwise acquired for a period of at least seven (7) days before disposing of or dismantling any such acquired item.
- (c) A licensee under this Division shall keep a separate set of books as a result of its licensed operation, and shall set forth the vehicle identification number for each vehicle that is purchased or otherwise acquired, including also the make, model, year, body style and serial number of the motor thereof, and the name and address of the person from whom such vehicle is acquired.

(Comp. Ords. 1986, §§ 20.752 and 20-755)

Sec. 10-147. Minimum licensing requirements.

The following conditions are required of all licensees under this Division:

- (a) The zoning lot or parcel of land upon which a regulated business under this Division is requested to be licensed shall be located within a zoning district allowing such regulated business and possess the minimum requirements and applicable approvals in accordance with the Waterford Township Zoning Ordinance before the Township Clerk issues a license in accordance with this Article.
- (b) A licensee under this Division shall completely enclose all storage areas of the licensed regulated business by erecting and maintaining an eight-foot high solid obscuring fence or wall in conformance with the requirements of the Waterford Township Zoning Ordinance. Distressed, disabled and/or junk vehicles and all other materials in the storage area shall not be stacked higher than the height of the required fence or wall.
- (c) When required by the Township Engineer and Public Works Official in accordance with the Wellhead Protection provisions in this Code, all licensees shall install and continuously maintain a stormwater runoff treatment facility that is in conformance with the Township Engineering Standards.
- (d) No regulated business premise licensed under this Division shall be located within two hundred fifty (250) feet of any property zoned residential pursuant to the Waterford Township Zoning Ordinance.

(Comp. Ords. 1986, § 20.755)

Secs. 10-148--10-160. Reserved.

Division 5. Massage Establishment Licensing*

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Massage Regulation Ordinance from Article VII of this Chapter, formerly §§ 10-261 – 10-305, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.,*

**State law references: Regulation of massage establishments, MCL 339.1701 et seq.*

Sec. 10-161. Short title.

This Division shall be known and cited as the "Massage Establishment Licensing Ordinance."

(Ord. No. 151, § 1, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-162. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of massage parlors, massage schools, and similar businesses in order to achieve the purpose of this Article.

Sec. 10-163. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Massage means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to ensure or restore the health

(CHAPTER 10, ARTICLE III, DIVISION 5 cont.)

and well-being of the client and includes complementary methods such as the external application of water, heat, cold, lubrication, salt scrubs, body wraps or other topical preparations, and electromechanical devices that mimic or enhance the actions possible by the hands. Massage does not include medical diagnosis, practice of physical therapy, high-velocity, low-amplitude thrust to a joint, electrical stimulation, application of ultrasound or prescription of medicines.

Massage Establishment means any Turkish bath parlor, steam bath, sauna bath, magnetic healing institute, and any room, building, or place where massage is performed.

Massage School means an accredited or licensed institution of higher education that meets the minimum standards and curriculum for the education and training of massage therapists as established by promulgated rules of the Michigan board of massage therapy.

Massagist or massage therapist means any person who administers massage to another person for any form of consideration.

Student means any person who, under the guidance of an instructor in a massage school, is being trained or instructed in the theory, method or practice of massage.

(Ord. No. 151, § 2(1)-(3), (5), (6), 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-164. License required.

No person shall manage, operate, maintain, or allow on owned property, a massage establishment or massage school within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-165. Massage therapist license requirement.

No person shall perform or practice massage for compensation unless that person has a valid massage therapist license under Part 179A of the Public Health Code, MCL 333.17951 – 333.17969, as amended, and that license has been filed with the Township Clerk

(Ord. No. 151, § 3, 8-28-1989; Ord. of 11-13-1995, § 1, Ord. of 10-29-18)

Sec. 10-166. Owner's, operator's and manager's duty as to employees' licenses.

No licensee or owner, operator, or manager of a massage establishment or massage school shall employ or allow a person to perform or practice massage that does not have a valid massage therapist license under Part 179A of the Public Health Code, MCL 333.17951 – 333.17969, as amended, that has been filed with the Township Clerk.

(Ord. No. 151, § 4, 8-28-1989; Ord. of 11-13-1995, § 1, Ord. of 10-29-18)

Sec. 10-167. Additional application requirements.

In accordance with Sec. 10-072(7), the following items shall be submitted as part of the application:

- (a) The two (2) previous addresses immediately prior to the present address of the applicant and dates of residence, and all addresses for no less than the past five (5) years.
- (b) A description of the service(s) to be provided.
- (c) Individual applicant's height, weight, sex, color of eyes, color of hair, date of birth, location of birth and social security number and any alias used in the past five (5) years.
- (d) One (1) portrait photograph of at least two (2) inches by two (2) inches, a criminal history authorization, and a complete set of the applicant's fingerprints which shall be taken by the Police Chief.
- (e) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application, including the name and the address of the employers.
- (f) A copy of the massage therapist license under Part 179A of the Public Health Code, MCL 333.17951 – 333.17969, as amended, for each massage therapist the applicant expects to be performing or practicing massage at the establishment. *(Ord. No. 151, §§ 5, 6, 8-28-1989; Ord. of 11-13-1995, § 1, Ord 10-29-18)*
- (g) The history of an applicant in the operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another municipality or State under license, has had such license revoked or suspended and whether there have been any criminal convictions or determination of civil responsibility or liability for any code violations

(CHAPTER 10, ARTICLE III, DIVISION 5, cont.)

in connection with such operation, and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

- (h) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.
- (i) In an application for a license to conduct a massage establishment, the number of employees and names and qualifications of all persons who are intended to give massages in the proposed parlor.

(Ord. No. 151, §§ 5, 6, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-168. Investigation fee.

An application to obtain a license under this Division shall be accompanied by an investigation fee in an amount established by resolution of the Township Board, no part of which shall be refundable. This investigation fee shall be in addition to other license fees established by the Township Board for regulated businesses licensed under this Division and shall be in an amount to cover the cost of the Police Chief review and for the Building Official and Fire Chief to conduct a thorough inspection of the premises to ensure compliance with all pertinent provisions of this Division and all Township and state laws, ordinances, codes and regulations.

Sec. 10-169. Facilities pre-requisite to issuance of license.

No license shall be issued unless the Township's reviews and inspections confirm compliance with each of the following minimum requirements:

- (a) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment or massage school; provided, that all such signs shall comply with the sign requirements of the Township.
- (b) Minimum lighting shall be provided in accordance with the Buildings and Building Regulations in this Code.
- (c) Minimum ventilation shall be provided in accordance with the Buildings and Building Regulations in this Code.
- (d) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
- (e) Hot and cold running water shall be provided at all times.
- (f) Closed cabinets shall be provided, which cabinets shall be utilized for the storage of clean linen.
- (g) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker with lock for each patron to be served, as well as a minimum of one (1) toilet and one (1) wash basin, shall be provided by every massage establishment; provided, however, that, if male and female patrons are to be served simultaneously at the establishment, separate bathing, massage room, or rooms, dressing and toilet facilities shall be provided for male and female patrons.
- (h) All walls, ceiling, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment must be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day of operation. Bathtubs and/or showers shall be thoroughly cleaned and sterilized after each use.
- (i) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.
- (j) A minimum of one (1) separate wash basin shall be provided for use by employees. The basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers.
- (k) No massage shall be performed in a private room which is completely closed to the view of other persons, however, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains, or similar measures.

(Ord. No. 151, § 8, 8-28-1989; Ord. of 11-13-1995, § 1)

(CHAPTER 10, ARTICLE III, DIVISION 5 cont.)

Sec. 10-170. Display of license.

All licensees under this Division shall display the license in a conspicuous place so that it may be readily seen by persons entering the licensed premises.

(Ord. No. 151, § 13, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-171. Inspections.

- (a) Every massage establishment and massage school shall be open for inspection by duly authorized representatives of any Township official concerned with the licensing or regulation of such establishment or school during operating hours for the purpose of enforcing any of the provisions of a license, this Division, or other ordinances or regulations of the Township.
- (b) It shall be unlawful for any person to refuse entry to a Township representative for the purpose of making an inspection provided for in this Section.

(Ord. No. 151, § 9, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-172. Expansion of licensed building.

Any plans or proposals for an extension of the building or other place of business of the massage establishment shall require submittal and review of a new license application and fees in accordance with Division 2 of this Article.

Sec. 10-173. Unlawful activities.

- (a) It shall be unlawful for any person to practice or perform massage, or give or administer any bath, or to give or administer any of the other things mentioned in this Division for illegal purposes, or for monetary gain or profit, to have any contact with a person's breast, genital area or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire. Any violation of this provision at a licensed massage establishment or massage school shall be deemed grounds for revocation of the license.
- (b) It shall be grounds for the revocation of a license for the operation of a massage establishment or massage school if, within any five (5) year period, an aggregate of two (2) or more criminal convictions or civil infraction findings of responsibility, involving activities specified below occurring on the premises are entered against a licensed massage establishment or massage school and/or any of its owners, operators, managers, massagists, students or employees with regard to acts performed on the licensed premises. In such event, a revocation hearing shall be held pursuant to Division 3 of this Article. It shall be presumed from the fact of such two (2) criminal convictions or civil infraction findings of responsibility that the massage establishment or massage school is being operated for an unlawful purpose in violation of this Division and that just cause for the revocation of the license exists. For purposes of this subsection, the terms "criminal conviction" and "civil infraction finding of responsibility" shall include violations of subsection (a), above, or commission of the crimes of soliciting, accosting, prostitution, indecent exposure, indecent or obscene conduct, or gross indecency under either state or local laws, the term "convictions" shall include a plea of guilty or no contest (nolo contendere) or a finding of guilt by a magistrate, judge or jury to any of the aforementioned criminal offenses, and the term "finding of responsibility" shall include pleas of responsible or findings of responsible by a magistrate or judge.
- (c) At a hearing at which a presumption is established pursuant to subsection (b), above, such presumption may be overcome with clear and convincing evidence showing the absence of any of the elements establishing that presumption, or the absence of a reasonable relationship between the facts giving rise to the presumption and the presumed fact.

(Ord. No. 151, § 14, 8-28-1989; Ord. of 11-13-1995, § 1)

(CHAPTER 10, ARTICLE III, DIVISION 5 cont.)

Sec. 10-174. Wearing apparel.

Uniforms or garments covering the torso shall be worn by massagists or employees while attending patrons. Such uniforms or garments shall properly cover the massagists' genital areas, breasts and buttocks, and shall not be tight or revealing of those areas so as to arouse the patrons. Such uniforms or garments shall be washable material and shall be kept in a clean condition. The sleeves of the uniform or garment shall not reach below the elbow.

(Ord. No. 151, § 17, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-175. Patronage of massage business by minors.

No person shall practice or perform massage on a person under the age of seventeen (17) years upon a licensed premises, except upon written order by a licensed medical doctor, doctor of osteopathic medicine, or physical therapist, such order being dated and in the possession of the massagist giving the massage or treatment. If the person under the age of seventeen (17) years is accompanied by a parent or legal guardian during the massage or treatment, this provision shall not apply.

(Ord. No. 151, § 18, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-176. Operation under other than licensed name prohibited.

No person licensed under this Division shall operate under any name or conduct his business under any designation not specified in the license.

(Ord. No. 151, § 19, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-177. Advertising.

No massage establishment, massage school, or massage therapist shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(Ord. No. 151, § 20, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-178. Hours of operation.

No massage establishment or massage school shall be open to the public for business between the hours of 9:00 p.m. and 7:00 a.m.

(Ord. No. 151, § 21, 8-28-1989; Ord. of 11-13-1995, § 1, Ord. of 10-29-18)

Sec. 10-179. Exemptions.

This Article shall not apply to:

- (a) Medical doctors, doctors of osteopathic medicine, doctors of chiropractic medicine, psychologists, clinical social workers, and family counselors, who are licensed to practice their respective professions in the State, or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed in the State.
- (b) Occupational therapists and physical therapists who are licensed as such by the State of Michigan and who perform massages, as defined herein, for specified physical or mental illnesses, ailments or conditions.
- (c) Nurses who are registered under the laws of this State and who administer a massage in the normal course of nursing duties.
- (d) A trainer of any bona-fide organized athletic team who administers a massage in the normal course of training duties.
- (e) Barbers and beauticians who are duly licensed under the laws of this State and who administers a massage in the normal course of their duties.
- (f) Any duly regulated business in which the above-described persons only and exclusively practice their respective professions.
- (g) Lawful businesses that are in compliance with all Township and other applicable laws, specifically including the Township Zoning Ordinance, where massage by a licensed massage therapist is an accessory, ancillary, and subordinate use to the principal use engaged in by that business.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 10 BUSINESS REGULATIONS AND LICENSING

(Ord. No. 151, § 25, 8-28-1989; Ord. of 11-13-1995, § 1; Ord. of 7-8-2002)

Secs. 10-180--10-200. Reserved.

Division 6. Pawnbroker Licensing

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Pawnbrokers Ordinance from Article IX of this Chapter, formerly §§ 10-331 – 10-360, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.,.*

(CHAPTER 10, ARTICLE III, DIVISION 6 cont.)

Sec. 10-201. Short title.

This Division shall be known and may be cited as the "Pawnbroker Licensing Ordinance."
(Comp. Ords. 1986, § 20.871)

Sec. 10-202. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of pawnbrokers in accordance with Public Act 273 of 1917 (CL 446.201 et seq.), as amended in order to achieve the purpose of this Article.
(Comp. Ords. 1986, § 20.872)

Sec. 10-203. State law adopted.

The Township hereby adopts by reference, Act No. 273 of the Public Acts of 1917, as amended, being MCL 446.201 through 446.219 referred to in this Division as the "Act".
(Comp. Ords. 1986, § 20.873)

Sec. 10-204. License required.

No person shall manage, operate or maintain a pawnbroker within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-205. License issuance and compliance.

As provided in MCL 446.202, pawnbroker licenses are issued by the Township Supervisor for a term of one (1) year from date of issuance, are not transferable, and require payment of an annual license fee and the posting of a \$3,000.00 bond before issuance. Conditions of every license are full and complete compliance with all provisions of the Act, and unless the licensee does not have an email address or access to email, that the reporting of transactions to the Police Chief also be by electronic record within 48 hours of the transaction.

Sec. 10-206. Violations and license revocation.

Violation of a license provision corresponding to a provision of the Act by the licensee, or a clerk, agent, servant, or employee of the licensee is a misdemeanor, with sanctions as set forth in Section 1-010(a) of this Code except that the maximum fine is \$100.00, and if imprisonment is imposed, it shall be for not less than 10 days. Violation of a license provision not corresponding to a provision of the Act by the licensee or a clerk, agent, servant, or employee of the licensee is a civil infraction, punishable as provided in Section 1-010(b) of this Code. Upon a misdemeanor conviction described in this Section, the Township Supervisor shall revoke the license. Upon a finding of responsibility for a civil infraction under this Section, the Township may revoke the license as provided in Division 3 of this Article.

Secs. 10-207--10-210. Reserved.

Division 7. Carnival Licensing*

**Editor's note: The 2014 ordinance recodification amended the Code transferring the carnival licensing requirements from Article VI, Division 2 of this Chapter, formerly §§ 10-186 – 10-205, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-211. Short title.

This Division shall be known and cited as the "Carnival Licensing Ordinance."
(Comp. Ords. 1986, § 20.661)

Sec. 10-212. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of carnivals and amusement parks in order to achieve the purpose of this Article.
(Comp. Ords. 1986, §§ 20.662--20.664)

Sec. 10-213. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Division:

Amusement Park means any zoning lot or parcel of land used in whole or in part for a period of two (2) weeks or more as a site for one (1) or more concessions.

Carnival means any zoning lot or parcel of land used in whole or in part for a period of less than two (2) weeks as a site for one (1) or more concessions.

Concession means:

- (a) A mechanical device designed to give an amusement ride;
- (b) A game of skill in which a reward for ability is offered;
- (c) A game of chance in which a prize or reward is offered;
- (d) A theatrical exhibition or public show; or
- (e) A place where any specialized type of service is offered to the public for a fee.

Plot Plan is as defined under "Plan" in the Waterford Township Zoning Ordinance.
(Comp. Ords. 1986, § 20.601(A)-(C))

Sec. 10-214. License required.

No person shall manage, operate or maintain an amusement park or carnival within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

(Comp. Ords. 1986, § 20.602)

Sec. 10-215. Additional application requirements.

In accordance with Sec. 10-072(7), the following items shall be submitted as part of the application:

- (a) A written statement, signed by the owner of the zoning lot or parcel of land, granting permission to the applicant to conduct the regulated business.
- (b) A plot plan containing the following information:
 - (1) a description, number, and location of each concession,
 - (2) the type and location of available sanitary facilities that will be provided for use by customers,
 - (3) the location of all buildings and structures within five hundred (500) feet of the perimeter of the zoning lot or parcel of land to be used by the regulated business, and
 - (4) plans and specifications for all electrical sources, installations and uses, if any.
- (c) Copies of safety inspection certificates for the current year, issued by the State, for each mechanical device designed to give an amusement ride which is proposed to be utilized.

Secs. 10-216--10-220. Reserved.

Division 8. Teen Club Establishment Licensing

**Editor's note: The 2014 ordinance recodification amended the Code transferring the pool and dance hall requirements from Article VI, Division 4 of this Chapter, formerly §§ 10-231 – 10-260, revising the requirements to apply specifically to teen dance club establishments, and locating these revised requirements, derived from the same historical ordinance sources, to this Division.*

Sec. 10-221. Short title.

This Division shall be known as the "Teen Club Establishment Licensing Ordinance."

Sec. 10-222. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of teen clubs in order to achieve the purpose of this Article.

Sec. 10-223. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following definitions shall apply to this Division:

Teen Club is a place, premises or establishment where entertainment, music and/or dancing are available to persons between the ages of 16 and 20 years of age, inclusive.

Sec. 10-224. License required.

No person shall manage, operate or maintain a Teen Club within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-225. Premises security.

All licensees under this Division shall be responsible for assuring that all activities on the licensed premises, including outdoor and parking areas, are in compliance with all Township ordinances, and consistent with that responsibility, shall disclose in the license application, and upon license issuance comply with, a plan that describes the number, type (uniformed or plainclothes), hours, and duties of security personnel that will be provided for that purpose and for notifying and requesting assistance from the Township police department. Licensees shall be responsible for reimbursing the Township for the cost of such police department assistance.

(Comp. Ords. 1986, § 20.638)

Sec. 10-226. Exempt organizations.

Nothing in this Division as to the making of application for a license and the payment of a license fee shall be construed to apply to any public school, fraternal lodge, or religious or non-profit organization that lawfully exists exclusively for fraternal, religious or charitable purposes, in conducting a special event possessing the characteristics of a teen club in a room or auditorium occupied by and under the control of such organization.

(Comp. Ords. 1986, § 20.642)

Secs. 10-227--10-230. Reserved.

Division 9. Transient Merchant Licensing*

**Editor's note: A The 2014 ordinance recodification amended the Code transferring the Transient Merchants Regulatory Ordinance from Article XI of this Chapter, formerly §§ 10-386 – 10-399, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-231. Short title.

This Division shall be known and cited as the "Transient Merchant Licensing Ordinance."
(Ord. of 2-8-1999)

Sec. 10-232. Purpose.

The purpose of this article is declared to be:

- (a) To define and regulate persons doing business in the Township as transient merchants.
- (b) To ensure that citizens of the Township are protected by Public Act No. 51 of 1925 (MCL 445.371, et seq.), requiring transient merchants to be licensed and bonded through the County Treasurer.
- (c) To establish a Township permit procedure for transient merchants.
- (d) To promote and encourage stable, responsible businesses who will enrich the Township's ambiance and be assets to public security.
- (e) To ensure that persons engaged in transient merchant sales shall not conduct a commercial, for profit business for which a permanent premises, approved following submission and approval of a site plan, would normally be required in the Township.
- (f) To provide an information record with regard to the persons and entities who will be engaged in transient merchant sales activities in the interest of avoiding irresponsible and/or fraudulent sales activities in the Township.
- (g) To serve and protect the health, safety and welfare of the general public.
- (h) To provide penalties for violations hereof.

(Ord. of 2-8-99)

Sec. 10-233. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Charitable Group and Non-profit Group means a group, entity, association, organization or individual which is, or is part of, a bona fide religious, charitable, benevolent, educational, philanthropic, humane, patriotic, veterans support, youth, fraternal, social, civic, conservation, recreational, or other non-profit entity engaging in activity of a type that is not required by applicable Michigan law to pay real property taxes on property due to its non-profit status. Persons do not qualify as a charitable or non-profit group under this Division unless all proceeds from sales in the Township are received by the bona fide charitable or non-profit group.

Goods, Services, Wares or Merchandise means, without limitation, fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, seafood, plants, flowers, appliances, wearing apparel, jewelry, ornaments, artwork, cosmetics and beauty aids, health products, medicines, household needs or furnishings, toys, games, food of any kind, whether or not for immediate consumption, confections or drinks, or any other goods, wares or merchandise of any kind or services of any kind.

Plot Plan is as defined in the Waterford Township Zoning Ordinance.

Sales or Retail Sales means one (1) or more retail transactions in which goods, services, wares or merchandise are offered, sold, and/or delivered to the public, in person, in exchange for the payment or delivery or promise to pay or deliver money, other property, or consideration of any kind.

(CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-233 cont.)

Transient Merchant means any person who has or is engaged temporarily in the retail sale of goods, services, wares or merchandise to the general public in the Township, or any person who, by the nature of their business operation, does not demonstrate that their business operation is intended to, or likely will, be permanent and definite. Any of the following shall constitute prima facie evidence that a person is a transient merchant:

- (a) Sales in a location, or from a building or structure, for which a certificate of occupancy has not been issued;
- (b) Sales for a period of less than six (6) consecutive months;
- (c) Hiring, leasing, renting, using, or occupying any building, structure, stationary motor vehicle, tent, lot or other zoning lot or parcel of land for a period of less than six (6) consecutive months for the purpose of engaging in sales; or
- (d) Engaging in sales from, or out of, a tent or stationary motor vehicle.
- (e) Sales from an exterior area of a business premises where such goods, services, wares, or merchandise are not related to the general operation of the business premises.

(Ord. of 2-8-1999)

Sec. 10-234. License required.

No person shall act as a transient merchant within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business. A separate license shall be obtained for each sales location of a transient merchant.

Sec. 10-235. Term of license.

The term of a license issued for a regulated business under this Division shall be for a period of up to ninety (90) calendar days from the date of issuance. The Township Clerk may grant an extension of the license period for up to an additional ninety (90) calendar days for licensees that the Township Clerk has determined are historically licensees in good standing through compliance in the current and prior years of licensing.

Sec. 10-236. Additional application requirements.

In accordance with Sec. 10-071(8), the following items shall be submitted as part of the application:

- (a) A valid sales tax license for the applicant's business issued by the State.
- (b) A notarized authorization signed by all owners of the subject zoning lot or parcel of land allowing for transient merchant sales activity on their property for the time frame requested by the applicant.
- (c) A list of all zoning lots and places of business in the last twelve (12) months, whether or not licensed as a transient merchant, at which the applicant engaged in any retail sale of goods, services, wares or merchandise, including the location and duration of such business, whether as an employee or owner thereof.
- (d) A statement describing all of the following: the nature, character and quality of the goods, services, wares and merchandise to be sold or offered for sale by the applicant, the hours of operation, and the number of consecutive days the applicant will remain at the fixed location conducting transient merchant sales.
- (e) A description of the method (i.e. use of waste disposal company, daily removal by the applicant) the applicant will provide for keeping the site clear of litter, debris, and waste materials and for proper and legitimate disposal of such waste.
- (f) A description of the means that the applicant will provide for sanitary restroom facilities for customers, either on-site or within a business establishment on an adjoining zoning lot. An applicant identifying use of restroom facilities within a business establishment on an adjoining zoning lot shall attach a notarized statement signed by the owner(s) of such business establishment authorizing use of their restroom facilities by customers of a transient merchant.
- (g) For new transient merchant license requests and for license renewals that propose changes to a plot plan approved for the previous year's license approval, a plot plan graphically depicting the location of all merchandise, structures, buildings, temporary office, temporary sign, customer parking, and number of parking spaces in compliance with and all applicable requirements of the Waterford Township Zoning Ordinance. For license renewals proposing to operate the regulated business in accordance with the plot plan approved in accordance with the Waterford Township Zoning Ordinance as the basis for a previously issued license, the previously approved plot plan may be used.

(CHAPTER 10, ARTICLE III, DIVISION, SEC. 10-236 cont.)

- (h) A copy of the license from the County Treasurer required by MCL 445.373.

Sec. 10-237. Regulations and prohibitions.

- (a) No transient merchant or anyone on his or her behalf, shall shout, make any outcry, engage in any disturbing antics, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public place of the Township or upon any private premises in the Township where sound of sufficient volume is emitted or produced there from capable of being plainly heard upon the streets, avenues, alleys or parks or other public places, for the purpose of attracting attention to any goods, services, wares or merchandise which the subject transient merchant or proposes to sell.
- (b) Transient merchant sales activities shall not be conducted outside of the areas identified on the plan approved for such activities in accordance with the requirements for transient merchant license reviews in the Waterford Township Zoning Ordinance.
- (c) Use of structures, vehicles, and signs for a transient merchant operation shall conform to the requirements of the Waterford Township Zoning Ordinance.
- (d) Transient merchant sales shall only be conducted between the hours of 8:00 a.m. and 9:00 p.m., or during more restrictive hours identified in a transient merchant license.
- (e) Following the issuance of a transient merchant license, during the term of the license there shall be no alterations in the scope, location, or timeframe of the licensed activity.
- (f) Licensees shall at all times display the valid township license obtained under this Division and their valid state sales tax license in a place open and visible to the general public, and shall produce them on demand of any police officer.
- (g) Each person engaged in transient merchant sales shall have valid state picture identification on his or her person, and shall display such identification upon request of a police officer.
- (h) Licensees shall at all times keep the premises and adjacent zoning lots clean and free of litter and waste materials generated from the operation of their business.
- (i) At the cessation of transient merchant sales, the licensee shall remove from the property and properly dispose of all materials, structures, displays, and waste materials used in connection with or resulting from the transient merchant's activities at that location. The cessation of transient merchant sales for a period of forty-eight (48) hours or more is presumed to constitute a termination of transient merchant sales for purposes of this subsection.
(Ord. of 2-8-1999)

Sec. 10-238. Exemptions.

- (a) License fees for licenses issued under this Division to charitable or non-profit groups may be waived provided that the licensed activity lasts not longer than four (4) days.
- (b) A transient merchant who is an honorably discharged member of the armed forces of the United States and who served at least one hundred eighty (180) days of active duty service in the armed forces or has a service connected disability as a result of that service shall be partially exempt from this Article to the limited extent that such person shall not be required to apply for, obtain, or pay a fee for a license, if such person meets all of the following standards, provided, however, such person shall in all other respects comply with all other requirements and regulations set forth in this section and Section 10-237:
 - (1) All of the proceeds from the sales are to be used for the direct personal benefit or gain of that former member of the armed forces;
 - (2) That former member of the armed forces possesses at the time of engaging in sales a valid veteran's license in his or her name, issued by a County Clerk in the State of Michigan pursuant to Public Act No. 359 of 1921 (MCL 35.441, et seq.);
 - (3) That former member of the armed forces, while engaged in the sale of his or her goods, conspicuously displays a sign at the place of sale stating the name of the veteran to which the County veteran's license has been issued, the peddler's license number, and the statement "The

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(CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-238 cont.)

- profit from the sale of this product is for my personal benefit," all in not less than 18-point bold-faced type;
- (4) At the time of sale of the goods by that former member of the Armed Forces, a written statement of not less than 12-point bold-faced type shall be printed on or attached to the goods, in substantially the following form: "The profit from the sale of this product is for my personal benefit";
 - (5) The goods being sold are goods owned by that former member of the armed forces; and
 - (6) That former member of the armed forces is personally present at and personally engaged in each sale.
- (c) If a person is validly and legally engaged in one or more of the following activities and such activities are in full compliance with all applicable Chapters and provisions of this Code, the term "transient merchant" shall not be construed to include:
- (1) Any person conducting a garage sale or yard sale in the customary manner on private residential property which is owned or occupied by the person conducting the garage or yard sale;
 - (2) Any individual under the age of twelve (12) years old operating a refreshment stand on or adjacent to property owned or occupied by his or her parents or guardian;
 - (3) Any person operating a roadside stand for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the same property, which stand is in all other respects in compliance with the zoning ordinance;
 - (4) A proprietor of a permanent retail sales business conducting a sidewalk sale in the customary manner on the same property as the proprietor's conforming permanent retail sales business, at which the proprietor displays and offers for sale the goods, wares and/or merchandise of such permanent retail sales business on the property;
 - (5) A person lawfully permitted to sell goods, wares or merchandise on the premises of any established Township or County market;
 - (6) A person operating a stand at any carnival that has been properly licensed under this Code, during the carnival's permitted hours of operation;
 - (7) A person selling at and during an art fair or festival or similar event at the invitation of the event's sponsor, if all of the following conditions are met: (a) The sponsor of the event is a governmental entity, charitable group or non-profit group; (b) The person provides the sponsor with a copy of the person's valid sales tax license; (c) The sponsor provides a list of the events vendors to the Township Clerk; and (d) The event is lawful and has received all required state, County and local permits, licenses and approvals; or
 - (8) Any person lawfully engaging in the indoor sale of goods, services, wares or merchandise inside a shopping center or mall with the permission of the owner of the premises.

(Ord. of 2-8-1999)

Sec. 10-239. Enforcing agency entry; impoundment and sale of goods.

- (a) The Police Chief may enter any premises for which a license is issued pursuant to this Article, or any premises at which transient merchant sales activities occur, at any time during business hours for the purpose of ascertaining the manner in which such business is conducted and to investigate complaints.
- (b) If the Police Chief has probable cause to believe that a person is engaging in business as a transient merchant without having first obtained a license in the manner provided for in this Article, upon charging the unlicensed transient merchant with a misdemeanor violation as provided in Section 10-240, the Police Chief may impound and take into custody all of the unlicensed transient merchant's goods, wares and merchandise until the violation has been adjudicated by a court of proper jurisdiction. The Township shall be entitled to receive payment from an unlicensed transient merchant convicted of that violation of an impoundment fee and storage charges in amounts established by resolution of the Township Board.
- (c) The unlicensed transient merchant may obtain his or her impounded goods, wares, and merchandise at any time prior to adjudication of the violation by paying, either in cash or by security bond, one thousand dollars (\$1,000.00) or an amount equal to the total value of the impounded property determined as of the time such items are impounded, whichever amount

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(CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-239 cont.)

- is greater. Any such cash or bond security shall be held by the court or Township and be available to be applied to fines, court assessed costs, and any Township impoundment fee and storage charges not included in the court assessed costs.
- (d) If the unlicensed transient merchant is convicted for the misdemeanor violation described in this Section and does not pay the fines and costs assessed by the court within seven (7) days of the date of conviction, the impounded goods, wares, and merchandise shall be sold by or on behalf of the Police Chief at a public sale to the highest bidder, notice of which shall be published in a newspaper of general circulation in the County at least five (5) days before the sale. The notice shall describe the property and shall state the time and place of public sale at which the impounded property may be purchased by the highest bidder.
 - (e) If the unlicensed transient merchant is convicted for the misdemeanor violation described in this Section and pays the fines and costs assessed by the court within seven (7) days of the date of conviction or prior to the public sale described in subsection (d), any impounded goods, wares, or merchandise that remain in the custody of the Police Chief shall be released to the unlicensed transient merchant upon payment to the Township of any impoundment fee and storage charges that were not included in the costs assessed by the court.
 - (f) If an unlicensed transient merchant described in subsection (e) fails to pay any outstanding impoundment fee and storage charges to the Township within thirty (30) days of the date of conviction, the impounded goods, wares, and merchandise shall be sold by or on behalf of the Police Chief in the same manner as described in subsection (d).
 - (g) A public sale by or on behalf of the Police Chief under this Section shall be conducted in accordance with any procedures or requirements established in this Code or by Township Board or Supervisor directives, resolutions, approvals, or other actions. The proceeds of a public sale shall be distributed or paid in the following order of priority:
 - (a) Unpaid court fines and costs which shall be deposited with the court.
 - (b) The costs incurred in providing notice of and conducting the sale.
 - (c) Any outstanding Township impoundment fee and storage charges.
 - (d) To the unlicensed transient merchant of any remaining amounts.
 - (h) To the extent any goods impounded under this Section consist of perishable items (for example and without limitation, food items or plant materials), such items may be returned to the merchant without the cash or security bond described in subsection (c) if the misdemeanor violation is not expected to be adjudicated before the goods spoil, die, or will no longer be usable or fit for human consumption. However, any such perishable goods that do spoil, die, or become unusable or unfit for human consumption before such return, shall not be returned and shall be immediately disposed of by the Police Chief, who shall have no liability or responsibility for the value or return of such items. In all events, the Police Chief shall have no liability or obligation whatsoever to preserve, or take any measures to preserve, perishable items lawfully impounded under this Section.

(Ord. of 2-8-1999)

Sec. 10-240. Violations; Civil Infraction and Misdemeanor.

- (a) Except as provided in subsection (b), violation of any section in this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.
- (b) Engaging in business as a transient merchant without having first obtained a license in the manner provided for in this Article is a misdemeanor violation, punishable as provided in Section 1-010(a) of this Code, with court costs to include Township impoundment fees and storage charges.
- (c) In addition to, but separate from, the penalties under subsections (a) and (b) and an impoundment and sale provided for in Section 10-239, any violation of this Division is presumed and hereby declared to be a nuisance per se, and the Township may commence an

(CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-240 cont.)

appropriate civil action in any court of competent jurisdiction for an injunctive order abating or enjoining the violation, and for any other appropriate relief.

(Ord. of 2-8-1999; Ord. of 7-8-2002)

Secs. 10-241--10-250. Reserved.

Division 10. Secondhand Dealers and Junk Dealers Licensing

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Secondhand Dealers and Junk Dealers Ordinance from Article XIV of this Chapter, formerly §§ 10-437 – 10-446, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

(CHAPTER 10, ARTICLE III, DIVISION 10 cont.)

Sec. 10-251. Title.

This Division shall be known and cited as the “Secondhand Dealers and Junk Dealers Licensing Ordinance.”

(Ord. of 6-28-10)

Sec. 10-252. Authority.

This Ordinance is enacted under Sec. 17 of the Charter Township Act, MCL 42.17, authorizing charter townships to regulate the conduct of business within the Township with like powers granted by the legislature to cities.

(Ord. of 6-28-10)

Sec. 10-253. Purpose.

There exist a growing retail-style of businesses in the Township for the purchase, and sale, of secondhand goods and miscellaneous electronics, computers, appliances and household or junk items. The purpose of this Ordinance is to require the licensing, regulation and reporting to the Police Chief, of the buying and selling activity of such items in order to deter and prevent the sale or transfer of stolen property or contraband.

This Ordinance is similar in provision and scope to the state law “Secondhand Dealers and Junk Dealers” found at Act 350 of the Public Acts of 1917.

(Ord. of 6-28-10)

Sec. 10-254. Definitions.

Secondhand Dealer or **Junk Dealer** means any person that conducts or engages in a principal business of purchasing, selling, exchanging, storing, or receiving, for consideration, secondhand articles of any kind, including but not limited to radios, televisions, computers and monitors, cameras, e-readers, DVD players/recorders, stereos, speakers, telephones, tablets, electrical appliances, game systems, and electronic devices of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Secondhand dealer or junk dealer does not include a scrap processor or an automotive recycler as those terms are defined in MCL 445.403, or a junkyard that deals principally in industrial scrap and is licensed by the Township. A secondhand dealer or junk dealer may be referred to in this Division as a dealer.

Internet drop-off store means an internet drop-off store as defined in MCL 445.403,ion that meets the conditions for exemption from licensing under Act 350 of 1917, as amended, as set forth in MCL 445.401(3), as amended.

(Ord. of 6-28-10)

(CHAPTER 10, ARTICLE III, DIVISION 10 cont.)

Sec. 10-255. Secondhand or junk dealer; license required; internet drop-off store exempt from licensure; articles of nonferrous metals; compliance required.

- (a) No person shall act as a secondhand dealer or junk dealer within the Township unless a license is issued by the Township in accordance with this Article permitting the operation of such a regulated business. The selling of similar new products at retail does not exempt such business from licensing if the operation falls within the definition of a “secondhand dealer” or “junk dealer” in Section 10-254.
- (b) This Section does not require licensure of an internet drop-off store as defined in Section 10-254.
- (c) This Section shall not apply to organizations and non-profit entities which meet the following criteria:
 - (1) the organization is tax-exempt and donations to the organization are tax-deductible under an IRS ruling or determination.
 - (2) All the goods and secondhand items donated to the organization are without payment to the donor by the organization.
- (d) This Section shall not apply to consignment shops, thrift shops and used book shops resale establishments, as defined by the Waterford Township Zoning Ordinance, as amended, unless such establishments otherwise become a “secondhand dealer” as defined herein.
- (e) This Section shall not apply to yard sales, garage sales and the like occurring intermittently within residential zone districts.
- (f) This Section shall not be construed to conflict with, or diminish the effect of the regulation of the sale of nonferrous metals by state law or other Township Ordinance.

(Ord. of 6-28-10)

Sec. 10-256. Secondhand or junk dealer; license, issuance; terms; transferability; fee; inspection.

- (a) No person shall manage, operate or maintain a secondhand dealer or junk dealer business within the Township unless a license has been issued by the Township in accordance with this Article permitting operation of such a regulated business.
- (b) The license shall designate the location of the regulated business, which shall only be conducted at that location. Licenses are not transferable to another location or person.

(Ord. of 6-28-10)

Sec. 10-257. Secondhand or junk dealer; sign; prerequisites; record; inspection.

- (a) A dealer shall post in a conspicuous place in or upon its place of business a sign having its name and occupation.
- (b) A dealer shall report all transactions to the Police Chief by electronic record within 48 hours and shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of the Waterford Police Department and other police agencies with jurisdiction over the operation, in which shall be written or entered in the English language at the time of the purchase or exchange of any article, a description of the article, and all of the following:
 - (1) The name, description, fingerprint, operator’s or chauffeur’s license or state identification number, registration plate number, and address of the person from whom the article was purchased and received. The secondhand dealer or junk dealer shall make a copy of the operator’s license, chauffeur’s license, or state identification card as part of the book or record.
 - (2) The day and hour the purchase or exchange was made.
 - (3) The location from which the item was obtained.
 - (4) Payment for an item shall be made only by check or by an electronic payment system. The record shall indicate the method of payment.

(Ord. of 6-28-10)

(CHAPTER 10, ARTICLE III, DIVISION 10 cont.)

Sec. 10-258. Secondhand or junk dealer; articles purchased or exchanged; retention; tagging; record; requirements; exceptions.

- (a) The articles purchased or exchanged shall be retained by the dealer for at least 15 days before disposing of them, in an accessible place in the building where the articles are purchased and received. A tag shall be attached to the articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in the book or other record.
- (b) In addition to reporting transactions as required by Section 10-257(b), the dealer shall prepare and deliver on Monday of each week to the Police Chief, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, the description of the person from whom it was purchased, and a copy of the documentation required under section 10-257 regarding the person from whom it was purchased. The statement shall be verified in a manner acceptable to the Police Chief.
- (c) This section does not apply to old rags, waste paper, and household goods not listed in the definition of Secondhand Dealer or Junk Dealer in Section 10-254, and does not require the purchaser to retain articles purchased from individuals, firms, or corporations having a fixed place of business after those articles shall have been reported to the Police Chief.

(Ord. of 6-28-10)

Sec. 10-259. Secondhand or junk dealer; unlawful purchases.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this Division from any person between the hours of 9 p.m. and 7 a.m., nor from any person who is at the time under the age of 18 years, or is visibly intoxicated or under the influence of controlled substances, or combination thereof, or any person who, upon interrogation, appears to have come into possession and/or ownership illegally or unlawfully.

(Ord. of 6-28-10)

Sec. 10-260. Violations; Misdemeanor; Remedies.

- (a) Violation of this Division is a misdemeanor punishable as provided in Section 1-010(a) of this Code.
- (b) The license of a person that is found guilty of violating this Division shall be considered to be revoked upon entry of the conviction by the court and without the need for any notice, hearing, or Township Board decision under Division 3 of this Chapter, and such person shall not be entitled to apply for or receive issuance of a new license for, or be permitted to carry on the business of being a secondhand dealer or junk dealer within the Township for a period of one (1) year after the date of the conviction.
- (c) The remedies under this Division are independent and cumulative. The use of one remedy by the Township does not bar the use of other lawful remedies for a violation of this Division.

(Ord. of 6-28-10)

Secs. 10-261--10-400. Reserved.

ARTICLE IV. LIQUOR CONTROL

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Waterford Township Distressed Vehicle, Junk and Dismantling Yard Ordinance from this Article, formerly §§ 10-091 – 10-140, to Article III, Division 4 of this Chapter, §§ 10-141 – 10-160; further, transferring the Waterford Township Liquor Control Ordinance from Article XIII of this Chapter, formerly §§ 10-421 – 10-436, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-401. Title.

This Article shall be known and cited as the "Waterford Township Liquor Control Ordinance."
(Ord. of 1-26-2004)

Sec. 10-402. Purpose.

The purpose of this Article is to allow the Township to establish and administer a policy for:

- (a) The issuance or retention of available new licenses; transfers of existing licenses into the Township; renewals of existing licenses; relocations or expansions of existing licensed establishments; and revocations of licenses to sell beer, wine or spirits.
- (b) The general intent of this Article is to provide an orderly procedure and standards to protect and promote the public health, safety and welfare of the Township.
- (c) It is the further intent of this Article to coordinate the public health, safety and welfare standards of this Article with other public policies and objectives of the Township Board.

(Ord. of 1-26-2004)

Sec. 10-403. Licensing policy.

Applications for licenses or permits, transfers of ownership of existing licenses, transfers into the Township of new licenses, and relocations or expansions of existing licensed establishments for the consumption of alcohol on the premises shall be acted upon in the sole discretion of the Township Board, subject to and in accordance with this Article and applicable law. Unless required by the Michigan Liquor Control Code of 1998, Public Act No. 58 of 1998, as amended, MCL 436.1101 – MCL 436.2303, or otherwise directed by Township Board resolution, applications and notices regarding licenses and transfers of licenses for the sale of alcohol for consumption off the premises (SDM – beer/wine; SDD – liquor) do not require Township Board approval but shall be administratively reviewed by the Police Chief, Fire Chief, Township Treasurer, Building Official, and Zoning Official as provided in Section 10-405(b), under the following procedure. Any Township Official that receives a written notice regarding an application for issuance or transfer of an off-premises license shall immediately forward it to the Township Officials identified in this Section, who within 30 days of receiving the notice, shall each perform and provide the results or status of their reviews in writing to the Township Clerk, who shall promptly notify the state Liquor Control Commission and licensee or proposed licensee of any objections to the license request that are identified in the reviews and of any reviews that are pending.

(Ord. of 1-26-2004)

Sec. 10-404. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, 10-028, and 10-053, the following definitions shall apply to this Division:

Applicant shall mean and include all persons and entities proposed to be owners of the license and/or of the licensed premises and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. In the case of a partnership, "applicant" shall include all partners in the partnership. In the case of a corporation other than a corporation with publicly traded stock, "applicant" shall include all shareholders. In the case of a limited liability company, "applicant" shall include all members.

Preliminary Plan shall be as defined in the Waterford Township Zoning Ordinance.

(CHAPTER 10, ARTICLE IV, SEC. 10-404 cont.)

Similar Establishments shall include licensed establishments with, among other reasonable variables, one (1) or more of the following common characteristics: square footage; type of food service, if any; type and frequency of entertainment, if any; target clientele (for a substantial, rather than mere occasional chance portion of business), e.g., local clientele, County-wide clientele, broader than County-wide, business persons, families, conventioners; connection with other establishment, e.g., hotel, banquet facility, recreational facility, convention center, and the like.

Site Plan of Record shall mean the Final Site Plan, as defined by the Waterford Township Zoning Ordinance, for the property which is the subject matter of the application approved by the Township and on file with the Zoning Official.

(Ord. of 1-26-2004)

Sec. 10-405. Application for on-premises consumption new licenses and license transfers.

- (a) Application. An applicant for a new license, or the transfer of an existing license for the sale of beer, wine, and/or spirits for consumption on the premises must submit an application to the Township Clerk, which shall include at least the information described in subsection (1). Before submitting an application for a new license, the potential applicant shall notify the Township Clerk of the intended application to determine and comply with any pre-application requirements established by resolution of the Township Board for the Township Clerk to be authorized to accept and process a new license application.
- (1) Identification of the applicant(s); if the applicant is a(n):
 - (i) Individual: name, age, and addresses of applicant for the last two (2) years.
 - (ii) Partnership: The names and addresses of the partnership and each general partner.
 - (iii) Corporation: The name and address of the corporation, the object for which the corporation was organized, and names and addresses of the officers, directors and resident agent. If a majority interest in stock of the corporation is owned by one (1) entity, person or a nominee of such person, the name and address of such entity or person must be provided.
 - (iv) Limited liability company (LLC): The name and address of the LLC, object for which the company was organized, and names and addresses of managers, members and resident agent.
 - (v) For other business entities, its name, address, and form of organization, and the names, titles and addresses of each person with an ownership interest or who will be involved in the management or operation of the premises proposed for licensing.
 - (2) The citizenship of the applicant, his or her place of birth and, if a naturalized citizen, the time and place of his or her naturalization.
 - (3) The location of the establishment, zoning classification, legal description and preliminary plan which show the relationship of the proposed or existing building to the surrounding property and uses and which shows proposed parking facilities and lighting. A photograph or architect's drawing must be submitted with the preliminary plan.
 - (4) The type of business to be operated under the license, including the seating capacity.
 - (5) The length of time the applicant has been in the business of that character, or, in the case of a corporation, the date when its charter was issued.
 - (6) A statement as to the applicant's experience in owning, managing, operating and/or financing the type of business or other related business, including, without limitation, previous business references.
 - (7) A statement whether the applicant has made application for a similar or other license on the premises other than that described in this application, and the date and disposition of such application.
 - (8) A statement whether the applicant has ever been convicted of any felony, and/or convicted of operating a vehicle under the influence of liquor, operating a vehicle with an unlawful blood alcohol level, operating a vehicle while visibly impaired, or selling or furnishing alcoholic liquor to a person under twenty-one (21) years of age, under any state statute or any local ordinance, and/or has ever been disqualified to receive a license because of any item contained in this Article

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(CHAPTER 10, ARTICLE IV, SECTION 10-405 cont.)

- or the laws of the State. For purposes of this response, the applicant must provide personal references, and, if any of the responses requires an affirmative response, the applicant must describe each affirmative response, including dates, descriptions and jurisdictions/locations.
- (9) A statement under oath that the applicant will not violate any of the laws of the State, or of the United States or any ordinances of the Township in the conduct of its business if the license is granted.
 - (10) A statement providing evidence that the applicant is financially able to meet the obligations and business undertakings for which the license is to be issued.
 - (11) In the case of an application for a transfer of a class C liquor license within three (3) years of its original issue date, the proposed license transferor and proposed license transferee shall submit along with the application, a copy of the executed and binding contract for the buy/sell of the license and/or business for review.
 - (12) The application shall be accompanied by building plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plan shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.
- (b) Review of application by Township departments. Each applicant for a new license, a transfer of ownership or location of a license, or an applicant seeking to relocate or alter the size of the building or service location of an existing licensed premises, shall make the request in accordance with the following procedures:
- (1) Upon receipt of a fully completed application, as specified above, proof of payment of fees, and other information as may be requested by the Township, the Township Clerk shall forward the application to the following, who within thirty (30) days of receiving the application, shall each perform and provide the results of their reviews in writing to the Township Clerk:
 - (i) Police Chief;
 - (ii) Fire Chief;
 - (iii) Township Treasurer;
 - (iv) Building Official;
 - (v) Zoning Official; and
 - (vi) Other departments designated by the Township Supervisor.
 - (2) The Police Chief shall examine the application and provide a written recommendation to the Township Clerk for its approval or disapproval with respect to the character of the applicant or principals and with respect to ingress and egress of the premises as they pertain to vehicular and pedestrian safety.
 - (3) The Fire Chief shall examine the application and provide a written recommendation to the Township Clerk with respect to the use of the building involved as it relates to compliance with the applicable fire safety ordinances, regulations and statutes.
 - (4) The Township Treasurer shall check on and disclose the tax status of the property which is the subject of the proposed license.
 - (5) The Building Official shall examine the application and provide a written recommendation to the Township Clerk with respect to the use of the building involved as it relates to compliance with all existing building code requirements.
 - (6) The Zoning Official shall review the preliminary plan or site plan of record presented with the application for compliance with all applicable ordinance requirements, and shall make a recommendation to the Township Clerk regarding zoning and planning considerations.
 - (7) The Zoning Official shall review each application and determine if the following minimal location requirements have been met:
 - (i) The zoning district in which the use is proposed shall be only a local business district, a community business district, a general business district, or office district;
 - (ii) Ingress and egress to the parking lot of the building housing the place of business shall be from a major thoroughfare having a planned right of way of one hundred twenty (120) feet or greater;
 - (8) The Zoning Official shall prepare a memorandum to be forwarded to the Township Clerk that contains one of the following conclusions:
 - (i) The above location requirements are met.
 - (ii) One (1) or more of the above location requirements have not been met.

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- (c) Reservation of authority, standards, and procedure. No applicant for a new license has the right to its issuance and the Township Board has no obligation to accept, review, and consider any application for approval of any population based license that may be available for issuance in the Township. The Township Board reserves the right to exercise its reasonable discretion to determine the appropriate licensee for each new license, taking into consideration the standards of this Article and the policies of the Township. The Township Board's discretion includes the right to determine the timing of the processing of the application for a new license and/or the right to take any reasonable action regarding the application, including the right to not process the application for a new license and the right to not act upon the application. The Township Board may maintain a list of all applicants for new licenses for subsequent review at such time as it determines that issuance of a new license is in the best interests of the Township and the protection and promotion of the public health, safety and welfare of its citizens. The Township Board may use the following standards in the determination of an application for a new liquor license:
- (1) The applicant's experience and reputation, including general business experience, general business reputation, management experience in the alcohol liquor business, and the applicant's good moral character.
 - (2) Financial responsibility of the applicant, including the applicant's ability to build and operate the proposed facility on which the license is to be located, and the applicant's ability to pay public and private debts.
 - (3) The recommendations of the Police Chief, Fire Chief, Township Treasurer, Building Official, and Zoning Official.
 - (4) Compliance of the facility with applicable building, plumbing, electrical, mechanical and fire prevention codes, state laws, and this and other Township ordinances.
 - (5) The public need for the issuance of the liquor license for the establishment at the location proposed, which shall include the following factors:
 - (i) The total number of licenses for similar establishments and/or operations in the Township;
 - (ii) The proximity of the establishment to other licensed liquor establishments, and the type of such establishments (including whether they are similar establishments);
 - (iii) The total square footage of similarly situated licensed liquor establishments within the area;
 - (iv) The concentration and capacity of similar establishments;
 - (v) The number of on-premises establishments located within the area;
 - (vi) Whether the proposed location is in an area characterized as: developed, redeveloping or undeveloped;
 - (vii) The impact of the establishment on policing requirements;
 - (viii) Overall benefits of the proposed establishment to the Township;
 - (ix) Overall detriments of the proposed establishment to the Township; and
 - (x) Any other factors that may affect the health, safety, and welfare or the best interests of the community.
 - (6) The effects that the establishment would have upon the surrounding neighborhood and other business establishments.
 - (7) The expenditure of public funds that would be required or in the public interest for public improvements and services to accommodate the establishment.
 - (8) The effect of the establishment on vehicular movement, parking availability and pedestrian movement.
 - (9) The business experience of the applicant.
 - (10) The business history, if applicable.
 - (11) Past history of violations determined by the Liquor Control Commission.
 - (12) The truthfulness of the information supplied by the applicant.
 - (13) The amount of proposed investment in the establishment.
 - (14) The character of the establishment to be licensed. In conjunction with other ordinances, policies and actions of the Township with the view of promoting the character of the community, the following attributes associated with an application for a new class C license shall be deemed to be favorable in terms of the impact upon the welfare, service, land development and stability of the Township:

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- (i) Hotels or motels with one hundred fifty (150) or more rooms and a full service restaurant;
 - (ii) Assembly or convention centers;
 - (iii) Food service facilities to be part of or immediately proximate to, an office, service and/or commercial center complex under the guidelines established for each zoning district;
 - (iv) In an effort to maximize service to people throughout the community, facilities of eight thousand (8,000) square feet or larger in size that will accommodate large groups of people with seating for more than six hundred (600) and banquet rooms and that serve, as exhibition halls for convention purposes, all with the view of maximizing service to the people throughout the Township;
 - (v) Hotels or lodging facilities, which also have restaurants, meeting rooms and banquet facilities;
 - (vi) A "supper club" type of operation in which high quality food service is the main source of income with the ability to provide open public dining and serve small groups in separate meeting rooms;
 - (vii) Food service operations that have capacities exceeding two hundred (200) in any arrangement (meeting rooms, open dining, etc.) with a menu offering entrees that are prepared on the premises;
 - (viii) The percentage of floor area of the establishment devoted to dining versus the bar area;
 - (ix) The consistency with the goals and terms of the Township's master plan, as amended;
 - (x) The Township Board may deem any other criteria as necessary in the best interest of the Township.
- (d) Multiple applicants for a new license. If the Township Board decides to issue a new available license for which there is more than one (1) applicant, it has the reasonable discretion to determine which applicant best meets the factors and criteria set forth above.
- (e) Restrictions on licenses. There shall be a rebuttable presumption that a license shall not be issued to:
- (1) A person whose license has previously been revoked for cause.
 - (2) A person, who, at the time of application or renewal of any license issued, would not be eligible for such license upon a first application.
 - (3) A co-partnership, unless all the members of the co-partnership shall qualify to obtain a license.
 - (4) A corporation, if any officer, manager or director, or a stock owner or stockholder's owning in the aggregate more than five (5) percent of the stock of the corporation, would not be eligible to receive a license for any reason.
 - (5) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
 - (6) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
 - (7) Any law enforcing public official or any member of the Township Board, and any person who is interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.
 - (8) A person who does not own or lease the premises for the full period for which the license is issued, or to a person, corporation, or co-partnership that does not have sufficient financial assets to carry on or maintain the business.
 - (9) For a premises where there is a violation of applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable Township ordinance.
 - (10) An applicant who has not demonstrated a public need for the issuance of the liquor license for the establishment at the proposed location.
 - (11) A premises the Township Board determines does not or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control or where a nuisance does or will exist.
 - (12) A premises where the Township Board, in its discretion, determines that the location is inappropriate considering the desirability of establishing a location in a developed commercial area, in preference to an isolated, undeveloped area; the objections of adjacent residents and property owners; traffic safety, accessibility to the premises from abutting streets; capability of abutting streets to accommodate the commercial activity; distance from public or private schools

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for minors; proximity to inconsistent zoning classifications and/or land uses; and accessibility from major and minor arterial streets.

(f) **Recommendation by Township Board.**

- (1) The Township Board shall review the application and the recommendations of the Township officials within a reasonable time of receipt of such recommendation(s) using the criteria set forth above. The Township Board shall do one (1) of the following:
 - (i) Recommend to the state Liquor Control Commission approval of the applicant for the issuance of a liquor license.
 - (ii) Recommend to the state Liquor Control Commission denial of the applicant for the issuance of a liquor license. If this action is taken, the Township Board shall provide the reasons for the recommendation of denial to the applicant.
 - (iii) Postpone action on the application pending receipt of further information as required by the Township Board to make an informed decision.
- (2) The decision of the Township Board to recommend approval of the applicant for the issuance of a liquor license does not relieve the applicant from completing all land development review requirements in accordance with Township ordinances, paying all required fees, and receiving all necessary planning, building and engineering approvals prior to receiving permits and a certificate of occupancy.

(Ord. of 1-26-2004)

Sec. 10-406. Existing licenses.

The criteria set forth in Section 10-405 shall not apply to licenses previously issued and in force within the Township, but shall be applicable to any applications for the transfer of an existing license from one (1) location to another within the Township, or for a transfer of ownership of an existing license.

(Ord. of 1-26-2004)

Sec. 10-407. Transfer of licenses and relocation or expansion of existing licensed establishments.

- (a) **Transfer of ownership of license.**
 - (1) As a condition to approving a transfer, the Township Board shall take into consideration the criteria stated above for the issuance of new licenses.
 - (2) No transfer of ownership of an existing license shall be approved unless the applicant has demonstrated financial responsibility including proof that all outstanding bills or debts owing to the Township are paid. This proof shall be submitted to the Township Clerk prior to the application being placed on the Township Board agenda.
- (b) **Ordinance or code violations.** For all ownership and locations transfers, all ordinance or code violations must be corrected or a cash escrow deposit established by the licensee with the Building Official in an amount established by resolution of the Township Board to guarantee that the violations are corrected within a time set by the Building Official or Zoning Official, and incorporated into an agreement to be completed by the applicant, in a form approved by the Township Attorney in order to ensure that the deposit may be used by the Township in a timely manner in the event of a default by the applicant, including an authorization and hold harmless for the Township and its agents to enter upon the premises to cure the violations and/or to take other actions specified in the agreement. In all events, construction code violations shall be cured prior to occupancy.

(Ord. of 1-26-2004)

Sec. 10-408. Profiteering by class C liquor license holders.

- (a) The Township Board has determined that profiteering by class C liquor license holders is contrary to the best interests of the Township. Accordingly, in order to prevent profiteering, to the full extent authorized by law the Township Board shall not approve the transfer of a class C liquor license within three (3) years of the date of the original issuance of the license. An agreement between the applicant and the Township, following recommendation by the

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Township Attorney shall be prepared and agreed upon to give effect to this provision prior to final action being taken by the Township Board on an application. The Township Board may, but is not required to, excuse the above anti-profiteering limitation for any of the following reasons:

- (1) If the license holder is a natural person, he or she dies or becomes incapacitated.
 - (2) If the license holder is a corporation, the majority shareholder dies or becomes incapacitated, or the corporation dissolves for reasons other than to transfer the license.
 - (3) If the license holder is a business entity and not a natural person, the entity dissolves for reasons other than to transfer the license.
 - (4) The license holder and the proposed license transferee establish that the transfer of the class C liquor license shall not result in profiteering.
 - (5) The application of this anti-profiteering limitation will subject the applicant to financial hardship due to no fault of the applicant, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the applicant's control.
- (b) The agreement shall provide that, unless excused by the Board as provided above, in the event a license is placed into escrow with the Liquor Control Commission within three (3) years from the date of issuance, the Township Board may approve the issuance of the license to a new applicant without payment to the licensee from whom the license had been placed into escrow, and that the licensee waives any property interest in such license upon placement of the license into escrow within such three (3) year period; provided, however, prior to the approval of such issuance to a new applicant, the person or entity from whom the license had been placed into escrow shall be afforded written notice and an opportunity to be heard, and all objections raised at the hearing shall be resolved (at the commission or in the circuit court if necessary) prior to issuance to a new applicant.

(Ord. of 1-26-2004)

Sec. 10-409. Objections to renewal and requests for revocation.

- (a) Procedure. Before filing an objection to renewal or filing a request for revocation of a license with the state Liquor Control Commission, the Township Board shall serve the license holder with notice of a public hearing, by certified mail, not less than ten (10) days prior to the hearing, which shall contain the following information:
- (1) Notice of the proposed action;
 - (2) Reasons for the proposed action;
 - (3) Date, time and place of hearing;
 - (4) A statement that the licensee may present evidence and testimony and confront adverse witnesses at the hearing.
- (b) Recommendation of renewal or revocation. The Township Board may recommend non-renewal or revocation of a license upon its determination by a preponderance of the evidence presented at the public hearing that either of the following exists:
- (1) Violation of any of the criteria or restrictions on the license set forth in this Article.
 - (2) Maintenance of a nuisance upon the premises. A "nuisance" is defined as follows:
 - (i) Selling or furnishing alcoholic liquor, on at least three (3) separate occasions in a single calendar year, to a person who is less than twenty-one (21) years of age, provided that the sale and furnishing does not involve the use of falsified or fraudulent identification by the person who is less than twenty-one (21) years of age;
 - (ii) If the premises is used for the unlawful manufacturing, bartering, using or furnishing of any controlled substance as defined by the laws of the State (there shall be a rebuttable presumption that the licensee had knowledge of such activity);
 - (iii) If the premises is used for the purpose of lewdness, prostitution or illegal gambling (there shall be a rebuttable presumption that the licensee had knowledge of such activity);
 - (iv) Acts or conduct which, by competent, material or substantial evidence, the Township Board declares to be a nuisance, provided that such nuisance is subject to injunction and/or abatement as provided by state law;

(CHAPTER 10, ARTICLE IV, SECTION 10-409 cont.)

- (v) Material violations of building, electrical, mechanical, plumbing, zoning, health, fire, or other regulatory codes;
- (vi) Material violations of the site plan of record;
- (vii) Material failures to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties;
- (viii) Patron conduct that violates the law and/or disturbs the peace, order and tranquility of the neighborhood on three (3) occasions;
- (ix) Entertainment on the premises or activity in connection with the premises, which, following notice to cease and desist, by its nature causes, creates or contributes to disorder, disobedience to rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises;
- (x) Failure by the licensee to permit the reasonable inspection of the licensed premises by the Township's agents or employees in connection with the enforcement of this Article.

(Ord. of 1-26-2004)

Sec. 10-410. Annual license and permit review.

- (a) Township Board review. Each year the Township Board may undertake a review of any license or permit for the purpose of making a recommendation to the state Liquor Control Commission regarding the renewal of the license or permit; provided, the Township may make a recommendation or take action relative to renewal and/or revocation at any time, in accordance with the procedure and for the reasons specified in this Article.
- (b) Investigation of licensed establishments. Each year, the Township Supervisor, or the Township Supervisor's designee(s), may investigate any existing on-premises licensed establishment. The investigation may include, but not be limited to the following:
 - (1) An inspection of the premises to determine whether the licensee complies with all applicable Township and/or state codes.
 - (2) An inspection of the premises to determine whether the licensee complies with the license itself, its site plan of record and business plan, as well as any conditions imposed by the Township or the state Liquor Control Commission or representations made by the licensee at the time of issuance or transfer of the license.
 - (3) An inspection to determine the general condition of the premises, both interior and exterior.
 - (4) An inspection of Township records to determine whether all taxes and other monies due the Township are timely paid.
 - (5) An inspection of police files or other sources of information to determine total calls for service at the premises and whether any activity in connection with the premises is in violation of the law, disturbs the public peace and tranquility, constitutes a nuisance, or contributes to the disruption of the normal activities of those persons living in the neighborhood of the licensed premises.
 - (6) A review of the operation of the licensed establishment to determine whether it is being operated in compliance with any and all representations made by the licensee to the Township Board, the Township Clerk and/or the Township liquor license review committee (if appointed).
 - (7) Other review and/or inspection found to be relevant under the circumstances.

(Ord. of 1-26-2004)

Sec. 10-411. Fees.

Each applicant requesting the approval of a new license, the transfer of ownership or location of an existing license or the approval of any permits related to the license shall pay to the Township Treasurer a nonrefundable application fee in the amount prescribed by resolution of the Township Board at the time the request or application is made.

(Ord. of 1-26-2004)

Sec. 10-412. License approval conditions.

Approval of a license shall not restrict or limit the Township Board's authority to object to renewal or request revocation of the approved license as provided in Section 10-409. Approval of a license shall be made with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the Township Board action on the license,

(CHAPTER 10, ARTICLE IV, SECTION 10-412 cont.)

or prior to the state Liquor Control Commission approving the license, whichever occurs first unless otherwise specified by the Township Board. Any inordinate delay in the completion of the remodeling or construction may result in the Township objecting to renewal or requesting revocation of the license.

(Ord. of 1-26-2004)

Sec. 10-413. Schedule for action or issuance; discretion of Township Board.

Nothing in this Article requires the Township Board to act upon or issue any license or in any way limits the discretion of the Township Board. The Township Board may by resolution establish a schedule for taking action upon or for the issuance of any licenses. The schedule shall be applied in a consistent and nondiscriminatory manner.

(Ord. of 1-26-2004)

Sec. 10-414. Agreements with regard to use and/or dancing and entertainment.

As part of the review and action on a license application, the Township Board may require the preparation and execution of an agreement, following recommendation by the Township Attorney in order to confirm the type of use and/or dancing and entertainment permitted to be undertaken on the premises.

(Ord. of 1-26-2004)

Sec. 10-415. Sale of alcohol prohibited without license.

No person shall sell beer, wine, or spirits (liquor), or other alcoholic beverage for consumption on or off the premises where the sale occurs without a license issued by the state liquor control commission.

Sec. 10-416. Violations; Misdemeanor and Civil Infraction.

(a) Except as provided in subsection (b), a violation of this Article is a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(b) In addition to any remedies provided for in an agreement provided for in this Article, a violation of a provision of such an agreement is a civil infraction, punishable as provided in Section 1-010(b) of this Code.

(Ord. of 1-26-2004)

Secs. 10-417--10-430. Reserved.

ARTICLE V. PRECIOUS METALS AND GEM DEALERS

**Editor's note: The 2014 ordinance recodification amended the Code transferring the Motor Carrier Safety Rules Ordinance from this Article, formerly §§ 10-306 – 10-330, to Article V of this Chapter and pertaining to similar subject matter and derived from the same historical ordinance sources. Further, the Code was amended by transferring the Precious Metals and Gem Dealers Ordinance from Article X of this Chapter, formerly §§ 10-361 – 10-385, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-431. Short title.

This Article shall be known and may be cited as the "Precious Metal and Gem Dealer Ordinance."

(Comp. Ords. 1986, § 20.901)

Sec. 10-432. Purpose.

This Article shall regulate all precious metal and gem dealers located within the Township.

(Comp. Ords. 1986, § 20.902)

(CHAPTER 10, ARTICLE V cont.)

Sec. 10-433. State law adopted.

The Township hereby adopts by reference Act 95, Public Acts of 1981, as amended, being MCL 445.481 through 445.492, and referred to in this Article as the Act.

(Comp. Ords. 1986, § 20.903)

Sec. 10-434. Registration.

A dealer shall not conduct the business of buying or receiving precious items from the public within the Township without obtaining a valid certificate of registration from the Police Chief as provided in the Act.

Sec. 10-435. Fingerprints and thumbprints required.

All fingerprints and thumbprints required by this Article shall be taken by the police department, with the applicant responsible for payment of the administrative fee for that service as established by resolution of the Township Board.

(Comp. Ords. 1986, § 20.904)

Sec. 10-436. Applicants to inform police of locations of business.

A dealer shall disclose to the Township police department all locations within the Township within which such dealer intends to conduct business regulated by this Article.

(Comp. Ords. 1986, § 20.905)

Sec. 10-437. Compliance with Act.

A dealer and all agents and employees of the dealer shall comply with all requirements of the Act at all times.

Sec. 10-438. Violations; Misdemeanor.

Violation of this Article is a misdemeanor, punishable as provided in Section 1-010(a) of this Code, or as provided under and as a violation of the Act.

Secs. 10-439 - 10-450. Reserved.

ARTICLE VI. ALARM SYSTEMS*

**Editor's note: The 2014 ordinance recodification amended the Code repealing Division 1 of this Article, formerly §§ 10-176 – 10-185, and Division 3 of this Article, the Waterford Township Coin-Operated Amusement Center Ordinance, formerly §§ 10-206 – 10-230; transferring the carnival licensing requirements from Division 2 of this Article, formerly §§ 10-186 – 10-205, to Article III, Division 7 of this Chapter and pertaining to similar subject matter and derived from the same historical ordinance sources; and transferring the pool and dance hall requirements from Division 4 of this Article, formerly §§ 10-231 – 10-260, revising the requirements to apply specifically to teen dance club establishments, locating these revised requirements, derived from the same historical ordinance sources, to Article III, Division 8 of this Chapter.*

Finally, the Code was amended by transferring the Waterford Township Alarm System Control Ordinance from Article V of this Chapter, formerly §§ 10-141 – 10-175 to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.

(CHAPTER 10, ARTICLE VI, SECTION 10-452 cont.)

Sec. 10-451. Short title.

This Article shall be known and cited as the "Alarm System Control Ordinance."
(Comp. Ords. 1986, § 21.155)

Sec. 10-452. Purpose.

The purpose of this Article is declared as follows:

- (a) To license and regulate alarm systems.
- (b) To establish fees payable to the Township for responding to certain false alarms.
- (c) To require certain permit holders to furnish the police department locating information.
- (d) To establish a time limit on external alarm signals.
- (e) To regulate the use of automatic dialers.
- (f) To require separate alarm systems in certain multiple occupancy housing units.
- (g) To provide for fines and penalties for the violations hereof.
- (h) To designate certain alarm users with repeated defective alarm systems as reduced priority users for purposes of police response.

(Comp. Ords. 1986, § 21.160)

Sec. 10-453. Definitions.

In addition to the rules of construction and definitions contained in Sections 1-002 and 10-028, the following definitions shall apply to this Article:

Alarm System means an assembly of equipment and devices, or a single device arranged to signal the presence of a hazard, or situation requiring urgent attention and to which public safety officers are expected to respond.

Alarm User means any person on whose premises an alarm system is maintained within the Township except for alarm systems on motor vehicles. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user. Also excluded from this definition and from the coverage of this Section are persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or other illegal act. If such a system, however, employs an audible signal emitting outside the premises, such system shall be within the definition of an alarm system and shall be subject to this Section.

Automatic Telephone Alarm System means a device, or combination thereof, that will, upon activation, either mechanically, electronically, or by other means initiate the automatic calling, dialing or connection to any telephone number assigned to any subscriber by a public phone company for the purpose of delivering a recorded message.

False Alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, negligence, or the intentional activation of the alarm system without reasonable and legitimate need by the owner or lessee of an alarm system or his employee or agent. "False alarm" shall not include an alarm caused by a hurricane, tornado, earthquake, downed telephone lines or other violent conditions beyond the control of the owner or lessee of an alarm system or of their employee or agent.

Subscriber means and includes, but is not limited to, any public service utility, fire department or police agency.

(Comp. Ords. 1986, § 21.165)

Sec. 10-454. Permits required; fees.

Notwithstanding the provisions herein, all persons owning and/or leasing or occupying premises upon which an alarm system has been installed and maintained shall obtain a permit from the Township Police Chief. Permit fees shall be established by resolution of the Township Board.

(Comp. Ords. 1986, § 21.170)

(CHAPTER 10, ARTICLE VI cont.)

Sec. 10-455. Sale or installation of system; state license required.

- (a) No person shall engage in the business of providing for the sale, installation, operation, and/or maintenance of a burglar or fire alarm system unless properly licensed by the State.
- (b) All alarm systems installed after July 17, 1986, shall be required to have as a feature a battery to provide emergency power in the event electrical service to the alarm system is suspended or terminated for any reason.

(Comp. Ords. 1986, § 21.175)

Sec. 10-456. Automatic telephone alarm systems prohibited.

It is prohibited and a violation of this Code for any person to sell, install, operate, adjust, arrange for or contract to furnish an automatic telephone alarm system.

(Comp. Ords. 1986, § 21.180)

Sec. 10-457. Audible alarms--Locating information required.

No person shall maintain an alarm system which, when activated, causes an audible and/or visible signal, which signal can be heard or seen outside the premises protected by such alarm system, and which signal is disturbing to the peace and quiet of the surrounding area, unless that person has first furnished the following to the Police Chief: the name, telephone number and address of the premises where the alarm system is located, and also the names and telephone numbers of at least three (3) other persons who can be reached at any time day or night and who, within a thirty-minute response time, can open the premises in which the alarm system is installed and deactivate the audible and/or visual signal.

(Comp. Ords. 1986, § 21.185)

Sec. 10-458. Same--Duration limited.

No person shall use, install, or direct to be installed any audio alarm system which emits a sound and/or visual signal for a period longer than fifteen (15) minutes from the time of the initial signaling of the device.

(Comp. Ords. 1986, § 21.186)

Sec. 10-459. Multiple units of occupancy within building; separate alarm system requirement.

Separate systems are required whenever a single building contains more than one (1) unit of occupancy and each unit has a separate entrance. If such occupant elects to install an alarm system, such person shall be required to have a separate alarm system for each such business located in such building. Whenever a multiple housing residential structure shall have separate entrances for each occupancy unit, and such occupant elects to have an alarm system, each separate entrance to the occupancy unit shall contain separate alarm systems.

(Comp. Ords. 1986, § 21.190)

Sec. 10-460. False alarms; fees; permit revocation procedure.

- (a) Any person operating an alarm system experiencing more than two (2) false alarms within one (1) calendar year shall pay to the township false alarm fees in accordance with the fee schedule established by resolution of the Township Board to recover such costs associated with responding to a series of false alarms.
- (b) Failure to comply with the provisions of this Article or failure to eliminate the occurrence of more than five (5) false alarms within one (1) calendar year may result in revocation of a permit.
- (c) To revoke a permit, a written notice of revocation, stating the cause or causes there for, shall be delivered to the permittee personally, or sent by registered mail. Unless a written request for a waiver due to extenuating circumstances is filed with the Police Chief, or the Fire Chief in case of false fire alarms, within ten (10) days from the receipt of notice of the revocation,

(CHAPTER 10, ARTICLE VI, SECTION 10-460 cont.)

the permit shall be revoked and permittee shall immediately discontinue operation of the alarm system. The request for waiver shall include:

- (1) Payment of all delinquent alarm fees, which may be waived and refunded in whole or in part, at the discretion of the Police Chief or the Fire Chief.
- (2) Documentation of extenuating circumstances involved.
- (3) Documentation of any repair service having been performed to remedy any malfunction.

Within ten (10) working days of the receipt of the waiver request, the Police Chief or the Fire Chief shall make a determination on the waiver request and shall notify the alarm user of the decision. In the event the alarm user is not satisfied with the decision rendered by the Police Chief or the Fire Chief, the identical written request for waiver may be filed within ten (10) working days with the office of the Township Supervisor. Within ten (10) working days of the receipt of the waiver request and documentation of extenuating circumstances, the Township Supervisor shall review the request, make a determination on the waiver, and shall notify the alarm user of the decision.

- (d) The Police Chief and Fire Chief shall prepare guidelines for the handling of excessive false alarms and, upon approval by the Township Board, implement such procedures. Such guidelines shall include a provision that an alarm system experiencing more than nine (9) false alarms within a twelve-month period shall be deemed defective and unless further action that corrects the defective system is taken by the owner or lessee of the alarm service, the Police Chief and Fire Chief may respond to further alarms from that alarm system on reduced priority basis, or require corroborative evidence, to respond to any subsequent alarm generated.
- (e) Any billing to an alarm user for a false alarm fee which remains unpaid for a period in excess of twenty (20) days shall be assessed a late charge of ten (10) percent and shall bear interest at the rate of one (1) percent per month until paid.
- (f) All fees received under the provisions of this article shall be retained by the Police Chief or Fire Chief to be used in the administration and enforcement of this article.

(Comp. Ords. 1986, § 21.195; Ord. of 11-28-1994)

Sec. 10-461. Alarm use terminated upon permit revocation; reinstatement upon payment of fees.

A permittee whose permit has been revoked may reapply for reinstatement of such permit. Such reapplication shall be in the same form and manner as for an original permit application, except that such permittee must pay any false alarm fees due and owing plus any interest charge, plus a fifty-dollar reinstatement fee.

(Comp. Ords. 1986, § 21.196)

Sec. 10-462. Exceptions to false alarm provisions.

Alarm conditions caused by the following extenuating circumstances shall not constitute a false alarm and no false alarm fee shall be charged by the Township:

- (a) Alarm conditions being activated by persons working on the alarm system with prior notification to the Police Chief or Fire Chief.
- (b) Alarms which can be substantiated as being activated by disruption or disturbance by telephone utility company facilities or motor vehicle-utility pole accidents or by storm conditions.

(Comp. Ords. 1986, § 21.200)

Sec. 10-463. False alarm warning notice.

The Police Chief, or the Fire Chief in the case of fire alarms, shall mail a "false alarm" notice to the alarm user after two (2) false alarms have been experienced within one (1) calendar year, which notice shall indicate the fees, penalties and revocation procedures prescribed by this Article.

(Comp. Ords. 1986, § 21.205; Ord. of 11-28-1994)

Sec. 10-464. Violations and sanctions.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 21.220; Ord. of 7-8-2002)

Secs. 10-465 --10-480. Reserved.

ARTICLE VII. PEDDLERS, SOLICITORS AND CANVASSERS

Division 1. General

Sec. 10-481. Purpose.

The purpose of this Article is to provide for and public health, safety and welfare through regulations that provide for public safety and help protect Township residents, businesses, and the general public from crime, fraud, and the undue annoyance and interference with privacy rights that can be caused by peddlers and solicitors, in a manner that does not unlawfully interfere with or burden the exercise of First Amendment and other constitutional rights. To those ends, this Article defines and provides different procedural requirements for soliciting and peddling, and general regulations applicable to all canvassers, solicitors, and peddlers, with the solicitor registration and peddler licensing regulations intended to (i) deter persons with criminal or fraudulent intent from posing as legitimate solicitors or peddlers, (ii) provide a minimal amount of basic information necessary to the Township's efficient and effective performance of governmental, law enforcement, and crime prevention functions, and (iii) provide Township residents with a right to know if persons coming upon their property are in compliance with those regulations and a basis for reporting persons that are not in compliance to the Township Police Department.

Sec. 10-482. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Canvass and canvassing means to enter upon private property, without any prior specific invitation or appointment, to inform, educate, advocate, petition, secure petition signatures, request or enlist support or opposition, or to convey any other message regarding religion, philosophy, ideology, politics, including parties, candidates, initiatives and issues, charitable organizations, or other cause or issue, by verbal, written, or other forms of communication, including the distribution of handbills, flyers, or other materials.

Canvasser means a person that engaged in canvassing in the Township without requesting or accepting the payment, delivery, donation, pledge, or commitment of money, credit, financial assistance, membership, property, goods, services, or other thing of value, and without selling or attempting to sell any property, ticket, emblem, publication, advertisement, subscription, membership, or other thing, whether of value or not.

Charitable purpose means a charitable, benevolent, educational, philanthropic, humane, patriotic, veterans support, religious, youth, fraternal, social, civic, conservation, recreational, or other non-profit objective of a charitable or religious organization, or political organization. Charitable purpose does not include political campaign fundraising or non-profit objectives of an individual.

Charitable, religious or political organization means a charitable, religious, political, benevolent, educational, philanthropic, humane, patriotic, fraternal, social, or civic organization that is recognized as non-profit and/or tax exempt under applicable State or Federal laws.

Fixed Stand shall mean any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by state law, and is used for canvassing, soliciting or peddling.

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(Chapter 10, Article VII, Division 1 , Section 10-482 cont.)

Handbill means any flyer, leaflet, pamphlet, booklet, circular, literature, brochure, document, sample, device, or material that in writing and/or by symbols, drawings, figures, or other form of communication, advertises, promotes, identifies, directs attention to, requests support or opposition of, or provides information regarding or for, any goods, wares, merchandise, product, commodity, offer, business, service, establishment, organization, issue, cause, program, purpose, or other message.

Individual means a natural person.

Parent organization means a person, including a candidate for public office, or organization that a canvasser, solicitor, or peddler is employed by, contracts with, represents, volunteers for, or is otherwise acting on behalf of with respect to canvassing, soliciting, or peddling activities in the Township, which with respect to peddling, is the principal manufacturer or distributor of goods or principal provider of services being peddled.

Peddle and peddling means: (1) carrying, conveying or transporting goods, wares, merchandise, food, beverages, or other personal property or materials of any nature, that are offered for sale, sold, or delivered to one or more purchasers; and/or (2) taking or attempting to take orders for the sale of such items for future delivery, or for services to be furnished or performed in the future, regardless of whether advance payments on such orders are collected.

Peddler means any person engaged in peddling for profit in the Township by traveling by foot, motor vehicle or other conveyance from place to place, from house to house, or from street to street, or who does so from or at a stand, motor vehicle, or trailer. Any person who offers to take orders or tentative orders and, as a separate transaction, confirms the order or makes deliveries to purchasers as part of a transient merchant scheme or design to evade the provisions of this Article shall be deemed a peddler. The term "peddler" shall not include a person who conducts such activities at a social gathering within a home at the invitation of the owner or an occupant of the home.

Solicit and soliciting means a direct or indirect request by or on behalf of a charitable, religious, or *political* organization to any person in the Township for the payment, delivery, donation, pledge, or commitment of money, credit, financial assistance, membership, property, goods, services, or other thing of value, on the plea or representation what is requested will be used for charitable purposes of the charitable, religious or political organization, and includes sales and sales offers of any property, ticket, emblem, publication, advertisement, subscription, membership, or other thing, whether of value or not, on the pleas or representation that the proceeds of the sale will be used for charitable purposes of the charitable, religious, or political organization.

Solicitor means a person engaged in soliciting in the Township.

Street soliciting, which is only allowed for a qualified charitable purpose by an eligible organization, means soliciting where solicitors are allowed to be within the travelled portion of a street having no more than two (2) travel lanes and areas of the street abutting the traveled portion.

Qualified charitable purpose means a charitable purpose to raise funds for a specific cause or program that has nationwide, statewide, regional, or Township Board recognition, where all or some of the funds raised will benefit residents of the Township and none of the funds raised are intended or will be used for the benefit of the organization conducting the street soliciting.

Eligible organization means a charitable, religious or political organization with a building primarily used for its charitable purposes or a registered office address and occupied building located in the Township.

(CHAPTER 10, ARTICLE VII, SEC. 10-483 Cont.)

Sec. 10-483. Canvasser, solicitor and peddler requirements.

- (a) A person shall not engage in soliciting without being registered or covered by a required registration and complying with the regulations as provided in Division 3.
- (b) A person shall not engage in peddling without being licensed or covered by a license and complying with the regulations in Division 4.
- (c) All canvassers, solicitors and peddlers shall comply with the general regulations in Division 2.

Sec. 10-484. Waivers, modifications and variances.

A person claiming that application of one or more provisions of this Article to canvassing, soliciting, or peddling activities that person desires to engage in violates a constitutional right, may request that the Township Board waive, modify or vary such provision by filing a written request and statement of that position and basis for it with the Township Clerk who shall place the request on the next Township Board Agenda that is at least five (5) days after receipt of the request.

Sec. 10-485. Violations and sanctions; Civil Infraction.

Unless otherwise specified, a violation of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-486 - 10-489. Reserved.

Division 2. General Regulations for Canvassers, Solicitors and Peddlers

Sec. 10-490. Hours for Canvassing, Soliciting or Peddling.

No canvassing, soliciting, or peddling shall take place in the Township after 8:00 p.m. or the official time of sunset, whichever is earlier, or before 9:00 a.m., prevailing time.

Sec. 10-491. Posted Property; Access to Premises Restricted.

- (a) No canvasser, peddler or solicitor shall enter into or upon any private property that has posted a "no peddling," "no canvassing," "no soliciting" or "no trespassing" sign, or similar notice, in accordance with subsection (c), below.
- (b) No canvasser, peddler or solicitor shall engage in canvassing, peddling or soliciting in any residential subdivision, condominium, or other residential neighborhood or development that has a privately posted "no peddling," "no canvassing," "no soliciting" or "no trespassing" sign, or similar notice at each entrance to the subdivision, condominium or other neighborhood, in accordance with subsection (c), below.
- (c) A sign posted under subsection (a), above, must be a weatherproof sign measuring a minimum of three (3) inches by four (4) inches, the letters must be at least one-third (1/3) inch in height, and the sign must be exhibited upon or near a main entrance door to the main structure, building or residence on the property. A sign posted under subsection (b), above, must be a weatherproof sign measuring a minimum of two (2) square feet, the letters must be at least two (2) inches in height, and the sign must be exhibited in a location visible to the drivers of vehicles at each entrance to the subdivision, condominium or other neighborhood. A sign posted under subsection (b), above, must comply with all otherwise applicable requirements of this code and Township standards, including, without limitation, the requirement to obtain a permit if the sign is to be located within a public right-of-way.

(CHAPTER 10, ARTICLE VII, DIV. 2 cont.)

Sec. 10-492. Request to Leave.

No canvasser, peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises.

Sec. 10-493. General Conduct.

Canvassers, peddlers, and solicitors shall not engage in any conduct or activity prohibited in this Code, specifically including but not limited to the activity prohibited in Section 11-003(c).

Sec. 10-494. Inferred Endorsement by the Township.

A peddler license or solicitor registration certificate issued under this Article shall not be used or represented in any manner as an endorsement by the Township or any of its departments, officials or employees.

Sec. 10-495. False or Material Change to Notice or Application Information.

- (a) During the period covered by a peddler license or solicitor registration certificate under this Article, material changes in information previously provided shall be reported in writing to the Township official that the information was filed with, by the earlier of any time specified in the applicable Division or within seven (7) days of the change.
- (b) It shall be a violation of this Article for any person to knowingly file or cause to be filed false information in an application for a peddler license or solicitor registration certificate.

Sec. 10-496. Handbills.

Handbills shall not be distributed by a canvasser, solicitor, peddler, or other person in violation of a restriction in this section. In addition, persons or organizations whose name or message is included on a handbill distributed in violation of a restriction in this section are presumed to be responsible for that violation. Such presumption may be rebutted by written proof from such person or organization of the name and address of the person who distributed the handbill and that such person was provided with written notice of, and instructions to comply with, the restrictions in this section.

- (a) Handbills that do not bear proper postage shall not be placed in or on, attached to, or hung from mailboxes and other mail receptacles used, designed, or intended for use by the United States Postal Service.
- (b) Handbills shall not be distributed, placed, or left on private property or in a residential subdivision, condominium, or other residential neighborhood or development that has posted a “no handbills”, or similar notice in accordance with the posting requirements in Section 10-491(c).
- (c) Handbills shall not be left on public or private property if the intended/desired recipient refuses or declines to accept the handbill.
- (d) When not delivered to a person, distribution of handbills shall be by placement on a structure or object in a location and manner that does not damage, deface, or interfere with use of that structure or object and that is sufficiently secure so as to avoid being dislodged from that location by wind and becoming litter on public or private property contrary to Section 9-074.
- (e) Placement of handbills on private property that is not posted against such placement as provided in subsection (b) shall only be at the front entrance door to the main building on the property and shall not be allowed if access to that door is restricted by a fence, wall, or other physical barrier.

(CHAPTER 10, ARTICLE VII cont.)

- (f) Handbills shall not be placed on utility poles in a public right-of-way and are subject to immediate removal without notice as provided in the Section 2-501 of the Township Zoning Ordinance.

Secs. 10-497 - 10-509. Reserved.

Division 3. Solicitor Regulations

Sec. 10-510. Registration certificate requirement.

Soliciting shall not occur until after the Township Clerk has issued any certificate of registration required by this Division for that soliciting.

Sec. 10-511. Registration certificate time and location limitations.

Soliciting shall not occur at times or at locations that have not been approved by a certificate of registration required by this Division.

Sec. 10-512. Carrying and display of registration certificate and identification.

A solicitor shall carry a copy of a required registration certificate that covers the soliciting and photo identification, which shall be displayed upon the request of any police officer or person the solicitor has approached or contacted.

Sec. 10-513. Public place location and activity prohibitions.

All soliciting in public places shall be conducted in compliance with the location restrictions and activity prohibitions in Section 11-003 of this Code.

Sec. 10-514. Fraudulent and misleading representations.

No fraudulent or misleading representations to any person shall be made in connection with any soliciting, including, but not limited to, any misleading representation concerning the purposes for which contributions solicited will be used, the name of the solicitor, or the name, nature, or purpose of any parent organization.

Sec. 10-515. General Registration Requirements and Restrictions.

- (a) Individual solicitors in public places for non-charitable purposes are not required to be registered under this Division.
- (b) Individual solicitors on private property for non-charitable purposes, which include solicitors for political campaign contributions, are required to be registered under this Division.
- (c) Individual solicitors for charitable purposes in public places or on private property shall be registered or covered by a registration under this Division.
- (d) Solicitation in public places or on private property by more than one individual solicitor for or on behalf of a parent organization, including charitable, religious or political organizations, requires the parent organization and its individual solicitors to be registered under this Division.
- (e) Certificates of registration for street soliciting or the use of fixed stands for soliciting in public places will only be issued to an eligible organization for a qualified charitable purpose.

Sec. 10-516. Registration statement.

In order to register and obtain a solicitor registration certificate as required by this Article, a solicitor or a solicitor's parent organization shall register with the Township upon application forms provided by the Township Clerk. For street solicitation or the use of fixed stands for soliciting in public places, the application shall be submitted at least 30

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(CHAPTER 10, ARTICLE VII, DIVISION 3, SECTION 10-516 cont.)

days before the first proposed solicitation date. To obtain a registration certificate, the registrant shall provide the following information:

- (a) The name of the individual or parent organization that is registering.
- (b) For individual registrations, the registrant's business or residence addresses, telephone numbers, and email address if any.
- (c) If the person registering is a parent organization intending to register multiple solicitors:
 - (1) The legal and any assumed names of the parent organization, its business address, website address (if any), telephone number and form of business organization (corporation, partnership, limited liability company, or other entity);
 - (2) The names of the parent organization's resident agent and officers, directors, general partners, members, and managers, as applicable;
 - (3) The identity, title and contact phone numbers and email address for the person who will be in direct charge or control of the soliciting and responsible for the supervision and conduct of the solicitors;
 - (4) The names of the individual solicitors who will participate in the soliciting;
 - (5) Where and when the parent organization was established; and
 - (6) The federal tax identification number, and verification of its tax exempt classification and status under the Internal Revenue Code, if any.
- (d) Proof of licensing by the state attorney general as a charitable organization as defined in and if required by the Charitable Organizations and Solicitations Act, Public Act No 169 of 1975, as amended, MCL 400.271 – MCL 400.294.
- (e) A statement as to whether the person registering, or if the registrant is a parent organization whether any officer, partner, member, manager, director, or proposed solicitor of the parent organization has been convicted of a felony or any misdemeanor involving moral turpitude, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct, and if so, a brief description of the crime, including its location and date, and final disposition.
- (f) A brief description of the purpose of the solicitation and explanation of the intended use of the funds towards that purpose.
- (g) If the solicitation is for a charitable purpose, a description of that purpose, identification of the charitable, religious, or political organization it is for, and if the registrant is an individual, a written statement of authorization for the solicitation from that organization.
- (h) A daily schedule of the location, dates and times where and when the solicitation will occur, giving the dates the solicitation will begin and end.
- (i) A description of the methods and means to be used in the solicitation.
- (j) A statement to the effect that if a certificate of registration is issued, it will not be used, relied on, or represented to be an endorsement by the Township or any of its officials or employees.
- (k) For street soliciting or the use of fixed stands for soliciting in public places, proof of the ability to satisfy the insurance requirements in Section 10-519, and documentation demonstrating the purpose of the solicitation is a qualified charitable purpose and that the registrant is an eligible organization as defined for street soliciting in Section 10-482.

Documentation of a qualified charitable purpose shall include:

- (1) A description of the specific cause or program;
- (2) Written proof that the cause or program is recognized by a national, state, or regional organization, or the Township Board;
- (3) A description of how some or all of the funds raised will benefit residents of the Township; and
- (4) A signed commitment to use the funds raised for the benefit of Township residents in the manner described and that none of the funds raised are intended or will be used for the benefit of the registrant organization.

Documentation of an eligible organization shall include:

- (1) A deed, lease, or other agreement, and signed statement that identifies a building located in the Township that is used by the registrant for its charitable purposes; and

(CHAPTER 10, ARTICLE VII, DIVISION 3, SECTION 10-516 cont.)

- (2) Written proof or signed statement that the identified building is the one primarily used by the registrant for its charitable purposes, or if it is not, written proof that the registrant's registered office address is in the Township.
- (l) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.
- (m) The registration statement must be signed by an individual applicant, by a partner of a partnership, by an officer of a corporation, by a manager or member of a limited liability company, and for other entities, by a person with the authority to do so. The signature on the registration statement shall be under oath and attest that all of the information in the registration statement is true and correct.

Sec. 10-517. Registration fee.

Every registration statement shall be accompanied by a registration fee in an amount established by resolution of the Township Board, which shall not be refundable if a certificate of registration is not issued.

Sec. 10-518. Issuance of certificate of registration.

- (a) Except for street soliciting or the use of fixed stands for soliciting in public places, within ten (10) business days of receiving a registration statement, the Township Clerk shall either issue a certificate of registration or notify the registrant in writing that the registration statement does not comply with the requirements of Section 10-516, identifying the information that has not been furnished that is required before a certificate of registration can be issued.
- (b) Within ten (10) business days of that information being provided, the Township Clerk shall issue the certificate of registration.
- (c) Except for street soliciting or the use of fixed stands for soliciting in public places, a certificate of registration issued by the Township Clerk shall be valid for a period of up to 120 days or through the last date of soliciting activity disclosed in the registration statement, whichever is earlier.

Sec. 10-519. Street soliciting and fixed stand soliciting and certificates of registration.

- (a) Applications for street soliciting or the use of fixed stands for soliciting in public places shall be reviewed, processed, and acted on by the Township Clerk as provided in Section 10-518., with notice of the dates, times, locations, qualified charitable purpose, and eligible organization for which a registration certificate is issued to be provided as an announcement at the next regular Township Board meeting.
- (b) Prior to issuance of a certificate of registration for street soliciting or the use of fixed stands for soliciting in public places, the registrant shall provide the Township Clerk with a certificate of insurance for the solicitation, confirming the existence of commercial general liability insurance policy in an amount established by resolution of the Township Board, that names the Township as an insured in addition to the registrant and each person that will be engaged in the soliciting on the policy.
- (c) A certificate of registration for street soliciting or the use of fixed stands for soliciting in public places shall designate no more than three (3) days (twelve-hour periods), by date and hours, within the calendar year during which that charitable, religious, or political organization may engage in such solicitation.
- (d) Solicitors involved in street soliciting shall not make physical contact with a vehicle or interfere with the passage of any vehicle on the street.
- (e) Such solicitors located within the traveled portion of the street shall wear the type of high visibility garment that emergency responders operating in or near a roadway are required to wear pursuant to the Federal Highway Administration regulations and

(CHAPTER 10, ARTICLE VII, DIVISION 3, SECTION 10-519 cont.)

National Fire Protection Association standards, and while soliciting, their position shall not extend more than 100 feet from the stop bar on the leg of the intersection at which they are street and curb soliciting. In addition, solicitors involved in street soliciting shall wear clothing or a readily visible and readable badge or similar attachment to the solicitor's clothing containing the name of the eligible organization they are soliciting for.

- (f) Such solicitors shall not solicit in any manner that requires the person wishing to respond to the solicitor to exit a vehicle or walk or stand within the travel portion of the street.
- (g) No more than two (2) solicitors may be positioned at any leg of an intersection at any time and they shall not cross from lane to lane while soliciting;
- (h) Persons under the age of eighteen (18) shall not engage in street soliciting.
- (i) Solicitors shall not harass occupants of vehicles or pedestrians in the area, and shall not make any attempt to communicate with the occupants of a vehicle unless the vehicle occupants ask a question or offer to make a donation.

Sec. 10-520. Form of certificate of registration.

The Township Clerk shall prescribe the form of the certificate of registration, which shall include on the form or by attachments, the registrant name, a registration number corresponding to the file containing the registration statement, the dates and locations for which it is valid, and on the form or by attachment to it, a list of the names of solicitors covered by the certificate. Each certificate of registration shall have the following prominently printed on it. "The issuance of this Certificate of Registration is not an endorsement by the Township of Waterford or any of its officials or employees."

Sec. 10-521. Public disclosure.

All certificates of registration and registration statements and information filed with the Township Clerk, whether or not a certificate of registration has been issued, shall be a public record subject to disclosure under the Freedom of Information Act and shall be available for inspection by members of the public during regular business hours, with copies obtainable upon payment of costs as allowed by law.

Sec. 10-522. Exemptions.

The following persons shall be exempt from the registration requirements in this Division but shall be subject to and comply with all other requirements unrelated to registration:

- (a) A public safety organization as defined in and registered with the state attorney general under the Public Safety Solicitation Act, Public Act No 298 of 1992, as amended, MCL 14.301 – MCL 14.327.
- (b) Any honorably discharged veteran who is a resident of this state and who has obtained a veteran's license from a County clerk within the state of Michigan.
- (c) Persons under 18 years of age engaged in soliciting within three (3) miles of their residence for a charitable purpose.

Secs. 10-523 - 10-529. Reserved.

Division 4. Peddler Regulations.

Sec. 10-530. Peddler licensing.

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(CHAPTER 10, ARTICLE VII, DIVISION 4, SEC. 10-530 cont.)

- (a) No person shall be a peddler or engage in peddling in the Township without first obtaining a peddler license from the Township Clerk, unless such person is specifically exempt from this licensing requirement under Section 10-060.
- (b) In order to obtain a peddler license required by this Division, a peddler shall apply for said license upon forms prescribed and furnished by the Township Clerk. The information provided by the applicant shall include all of the following:
 - (1) The name of the applicant who proposes to peddle within the Township, including his or her business street address, website address (if any) and telephone number, home address and telephone number, driver's license number and physical description including height, weight, and color of hair and eyes.
 - (2) The complete name, street address, website address (if any) and telephone number of the peddler's parent organization and where and when the parent organization was established or incorporated and the form of its organization.
 - (3) A detailed description of the type of peddling to be undertaken and the method to be used in conducting the peddling.
 - (4) The dates and times when, and locations where, peddling will occur, giving the proposed dates for the beginning and ending of such peddling and the hours of the days thereof.
 - (5) The types of goods, wares, merchandise and services to be sold, offered, or for which orders will be taken.
 - (6) Whether the applicant or parent organization has ever been denied a license for peddling, had a license for peddling suspended or revoked, or been prohibited from peddling in the Township or any other community.
 - (7) Whether the applicant, or any officer, partner, member, manager, or director of the parent organization has been convicted of a felony or any misdemeanor for a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct, and if so, a brief description of the crime or violation, including its location and date, and an explanation of the reason therefore.
 - (8) Two (2) color photographs of the applicant, one (1) being a photograph taken within sixty (60) days prior to the date of filing of the application and the other photograph being from the applicant's driver's license or other governmentally issued identification, with a copy of such driver's license to be attached to the application. The photograph that is not from the applicant's driver's license shall be at least two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner. In the event that the applicant has not been issued a driver's license or it has been revoked, then the applicant shall submit a second separate photograph with the application, such photograph being at least two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner.
 - (9) The applicant's and parent organization's state of Michigan sales tax license number.
 - (10) A criminal background report of the applicant's criminal history. Such reports shall be obtained by the applicant through the Internet Criminal History Access Tool (ICHAT) for applicants residing in Michigan and/or through another state-sponsored or authorized criminal history access source for applicants who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report or other criminal history report and the report must be dated within thirty (30) days of the date of the application.
 - (11) If under eighteen (18) years of age, the applicant must provide a copy of a valid work permit issued by the applicant's school, school district offices or other authorized issuing agency to the applicant for purposes of the peddling activity proposed to be undertaken in the Township.
 - (12) If the applicant will be engaging in peddling using, from, or out of a motor vehicle on the streets of the Township, the applicant must provide information to verify that the applicant has a valid driver's license, has not been convicted of a misdemeanor or felony moving violation within the

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(CHAPTER 10, ARTICLE VII, DIVISION 4, SECTION 10-530 cont.)

last three (3) years, and has not been found responsible for three (3) or more motor vehicle moving violations under the Michigan Motor Vehicle Code or local ordinances within the last three (3) years. Any such motor vehicle shall comply with all requirements of the Michigan Motor Vehicle Code. The applicant must show valid registration and proof of insurance at the time of application.

- (13) If the applicant will be engaging in the sale of food or beverages, a health license issued by the Oakland County Health Department. Such peddler's equipment shall be subject to inspections by the Oakland County Health Department at the time of application, as required by the state public health code.
- (c)
- (1) An administrative processing and license fee for a peddler license application shall be established by resolution of the Township Board and be paid when the application is filed with the Township.
 - (2) An applicant engaged in interstate commerce that believes the fee constitutes an unreasonable burden on such commerce, may apply in writing to the Township Clerk for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at the time of, or within six (6) months after payment of the required license fee. An application for adjustment of the fee shall present the facts and laws the applicant relies on it support of its position and shall indicate the extent to which the fee unreasonably burdens interstate commerce. The Township Clerk shall then schedule the application for review and consideration by the Township Board and provide notice to the applicant of the day and time of that meeting and the opportunity to be heard. After its hearing and conducting any investigation it determines appropriate, the Township Board shall determine if, and by how much the fee should be adjusted and the applicant shall be notified in writing of that determination. If the Township Board adjusts a fee that has already been paid, the Township Clerk shall order a refund of the amount over and above the adjusted fee.
- (d) The Township Clerk and Police Chief shall examine all peddler license applications and shall make or cause to be made such further investigation of the application or applicant as the Township Clerk and/or Police Chief shall deem necessary. If the Township Clerk and Police Chief both find the application to be complete and satisfactory in consideration of the purpose, intent and applicable provisions of this Division, the Township Clerk shall approve and issue the license. The Township Clerk may deny issuance of a license upon finding any of the following:
- (1) The applicant failed to truthfully provide information required in this Division.
 - (2) The applicant has engaged in a fraudulent transaction or enterprise.
 - (3) The applicant has been convicted within the past ten (10) years of a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct.
 - (4) The applicant is listed on any criminal sex offender registry or has any outstanding warrants for any misdemeanor or felony.
 - (5) If the applicant will be engaging in peddling using, from, or out of a motor vehicle in the streets and roads of the Township, the applicant does not have a valid driver's license, has been convicted of a misdemeanor or felony moving violation within the last three (3) years, or has been found responsible for three (3) or more motor vehicle moving violations under the Michigan Motor Vehicle Code or local ordinances within the last three (3) years.
 - (6) The applicant has had a license to conduct peddling or soliciting suspended or revoked within the past ten (10) years.
- (e) A peddler license shall bear the name, address and photograph of the peddler; the date issued; the dates within which the license holder may peddle; the expiration date of the license; and a statement that the license does not constitute an endorsement by the Township of the purpose or products or services involved or of the persons or parent organization conducting the peddling. All peddler licenses shall be signed by the Township Clerk.

(CHAPTER 10, ARTICLE VII, DIVISION 4, SECTION 10-530 cont.)

- (f) A peddler license shall be valid for a period of up to one hundred and twenty (120) days or the last date of peddling disclosed in the application, whichever is earlier, and is nontransferable.

Sec 10-531. Peddler License Renewals.

Peddler licenses may be renewed provided an application for renewal and renewal license fee are received by the Township Clerk no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. If the Township Clerk's review of an application for renewal confirms that the applicant is in full compliance with the provisions of this Division, the license may be renewed.

Sec. 10-532. Peddler License denials, suspensions and revocations.

Peddler licenses may be denied, suspended or revoked as provided in Sections 10-079, 10-080 and in Division 3 of Article III of this Chapter.

Sec. 10-533. Display of license.

A peddler shall visibly display on the exterior of his or her clothes at all times a valid peddler license issued under this Article and shall tender such license upon the request of any police officer or person the peddler has approached or contacted.

Sec. 10-534. Peddling on Public Property.

- (a) Except as allowed in subsections (b) and (c), peddling is prohibited within, on, or at any public property, including streets and street rights-of-way, corners and intersections, easements, lanes, sidewalks, driveways, alleys, parking lots, and any other publicly owned, possessed or controlled property.
- (b) For special events conducted by or with the approval of the Township, a peddler may apply for a peddler's license at least thirty (30) days prior to the scheduled special event by providing the information required in Section 10-530. If the peddler license is approved by the Township Clerk, the term and property covered by the license shall be limited to the period and location of the special event.
- (c) Peddlers of food or beverages from a vehicle approved by the police department may engage in peddling on residential public streets and rights-of-way only, and may not peddle on streets considered major thoroughfares or public parking lots, provided such peddlers comply with all otherwise applicable requirements of this Code, including provisions relating to noise and hours of operation, and otherwise applicable laws and regulations.

Sec. 10-535. Misrepresentation in Peddling.

No fraudulent or misleading representations shall be made by a peddler to any person concerning the product or service being sold or offered, name of the peddler, the name and nature of the parent organization, the purposes for which the parent organization was organized, or any other material fact.

Sec. 10-536. Exemptions.

The following persons shall be exempt from the licensing, registration and fee requirements of this Division, but shall be subject to the other sections of this Division:

- (1) Persons engaged in the distribution of newspapers.
- (2) Township merchants and representatives engaging in year-round business with a permanent location in the Township.

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(CHAPTER 10, ARTICLE VII, DIVISION 4 cont.)

- (3) Any honorably discharged veteran who is a resident of this state and who has obtained a veteran's license from a County clerk within the state of Michigan.
- (4) Persons selling produce from the site where it was grown by them.

The following persons shall be exempt from this Division:

- (1) Persons peddling to fellow members of the peddler's parent organization.
- (2) Persons peddling on private property owned or possessed by the parent organization, or with the permission of the owner or person in lawful possession of other property.