

**CREDIT RIVER TOWNSHIP  
COUNTY OF SCOTT  
STATE OF MINNESOTA**

**ORDINANCE NO. 2016-01**

**AN ORDINANCE REGULATING PEDDLERS AND SOLICITORS,  
REQUIRING LICENSES PROVIDING A PENALTY FOR  
VIOLATIONS THEREOF**

**CREDIT RIVER TOWNSHIP, SCOTT COUNTY, MINNESOTA HEREBY ORDAINS  
REGARDING PEDDLERS; SOLICITORS AND TRANSIENT MERCHANTS:**

**SECTION 1 PURPOSE.**

This Ordinance is not intended to interfere with the legitimate business activities of peddlers, solicitors, and transient merchants as the same are defined herein, whether same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out all illegitimate or confidence operators and to regulate and control all those who, in person, would use their unique presence on property within Credit River Township, or their unique proximity to its residents, for purposes of harassment, nuisance, theft, or unlawful activities.

**SECTION 2 DEFINITIONS.**

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***APPLICANT.*** A person who files an application with the Town Clerk for a permit pursuant to this Ordinance.

***NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE.*** A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this Ordinance, the term door-to-door advocate shall include door-to-door canvassing, pamphleteering intended for non-commercial purposes, and seeking donations for which no product or service is given in return.

***PEDDLER.*** A person who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares or merchandise, and who receives payment and/or delivers merchandise within 24 hours of time of sale.

***PERMIT ACTIVITIES.*** All activities identified in the definitions of peddler, solicitor and transient merchant.

***PERMIT HOLDER.*** A person to whom a permit has been issued pursuant to this Ordinance.

***SOLICITOR.*** A person whether a resident of Credit River Township or not, who goes from house to house, place to place, street to street for the purpose of obtaining or attempting to obtain orders for goods,

wares, products, merchandise, other personal property or service, of which the person may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which payment, delivery and/or performance shall occur at least 24 hours after time of sale.

**TOWN CLERK.** The person appointed by the Credit River Town Board to act as the Town Clerk pursuant to Minnesota law.

***TRANSIENT MERCHANT.*** A person firm or corporation whether as owner, agent, consignee or employee, whether a resident of Credit River Township or not, who engages in a temporary business of selling and delivering goods ware and merchandise within the Township, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the Township, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided however that such definition does not include any person, firm or corporation who sells such goods, wares, or merchandise from within the confines of a lawfully established and operating permanent retail sales operation.

### **SECTION 3 PERMIT REQUIRED.**

It is unlawful for any person to engage in any permit activities within the Township without first having secured a permit in compliance with this Ordinance. In addition, peddlers, solicitors and transient merchants shall comply with all other applicable local, state and federal laws, rules and regulations. Each peddler, solicitor, or transient merchant engaged in permit activities, whether independently or on behalf of another, must have a separate permit. Each person engaged in permit activities must be permitted as provided herein and may not be accompanied by a person who is not permitted while engaging in such activities.

### **SECTION 4 EXEMPTIONS.**

(A) The permit requirement in this Ordinance does not apply to merchants or their employees delivering goods in the regular course of business; to persons who distribute printed material but who do not make personal contact with the resident thereon; to the daily delivery of newspapers; to the sale at wholesale to a retailer; to the delivery of perishable food or dairy products to customers on an established delivery route; or to activities associated with the exercise of a person's constitutional rights (freedom of press, speech, religion and the like) providing that no merchandise is concurrently offered for sale.

(B) The permit requirement in this Ordinance does not apply to peddlers or solicitors who are 17 years of age or younger, who are engaged in permit activities on behalf of a public school or private school, philanthropic organization, or community organization, which private school, philanthropic organization or community organization or its parent organization is on file with the Minnesota Secretary of State as a Minnesota domestic or a foreign business organization or has filed an assumed name, where the proceeds of the sales are mainly devoted to the benefit of the children engaged in the permit activities.

(C) The permit requirement in this Ordinance does not apply to non-commercial door-to-door advocates. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to a commercial activity.

(D) The permit requirement in this Ordinance does not apply to the following activities: the sale of farm or garden products upon property in which the products were grown; any sale under court order; garage sales, rummage sales, estate sales conducted by the property owner; or any sale conducted by a properly licensed auctioneer. The number of the occasions per property shall be limited to three per year, and the duration of each occasion shall be limited to four days.

#### **SECTION 5 APPLICATION FOR PERMIT; FEE.**

(A) An Application for a permit under this Ordinance shall be made on a form available from the office of the Town Clerk, and shall be accompanied by the permit fee as set by the Town Board by resolution as may be amended from time to time. The application form shall require a current photograph of the applicant at the time of submitting the application. No fees are required of persons taking orders for the shipment of goods through interstate commerce.

#### **SECTION 6 PERMIT ISSUANCE PROCEDURES.**

(A) *Applications.* Applications shall be submitted to the Town Clerk and shall be accompanied by the application fee. The Town Clerk shall be provided a current photograph of the applicant for inclusion on the permit. The Town Clerk shall determine whether an application is complete within two (2) regular business days. An application shall be considered complete if all required information is provided, the fee is paid and the applicant provides a current photograph to the Town Clerk. The Town Clerk shall then review the application and conduct all investigation he/she deems necessary including, but not limited to, a criminal history and wanted persons check with the Bureau of Criminal Apprehension, and shall approve or deny the application in the manner prescribed in this section within a reasonable period of time.

(B) If grounds exist under this section for denying the permit the Town Clerk shall deny the permit, otherwise the Town Clerk shall immediately issue the permit to the applicant. In the case of a denial the Town Clerk shall notify the applicant in writing that his/her application is denied, the reason for denial, and that the applicant has the right to appeal the denial as set forth below. Notice shall be delivered in person or by mail to the permanent residential address listed on the permit application, or if no residential address is listed, to the business address provided on the permit application.

(C) The following shall be grounds for denying a permit:

(1) The applicant has failed to truthfully provide any of the information requested by the Township as part of the application or failed to pay the permit fee.

(2) Conviction of any crime or crimes directly related to carrying on business as a peddler, solicitor or transient merchant as provided in Minn. Stat. § 364.03, Subd. 2, as it may be amended from time to time; where the applicant has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities as provided in Minn. Stat. § 364.03, Subd. 3, as it may be amended from time to time. Crimes that are considered to be directly related to the business of peddlers, solicitors and transient merchants include but are not limited to crimes involving assault, criminal sexual conduct, burglary, robbery, fraud, theft murder, manslaughter, rape, child abuse, incest, kidnapping, arson, blackmail, embezzlement, extortion, forgery or larceny.

(3) The revocation of any permit issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant within the past five years.

(4) The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of substantiated complaints against the applicant with the Better Business Bureau, the Attorney General's office, or other similar business or consumer rights office or agency, within the preceding 12 months; a rating of C or less with the Better Business Bureau or other similar business or consumer rights office or agency; or the existence of substantiated complaints against the applicant with the Township or with any other jurisdiction where the applicant performed permit activities within the preceding 3 years.

(5) Failure to follow all Federal, State and Local laws, rules and regulations related to permit activities.

(6) If the permit activities are to be performed on another person's behalf, the person on whose behalf the permit activities are to be performed would be disqualified under any of the above.

(D) *Appeal.* An applicant may appeal the denial of a permit under this Ordinance by filing a request for a hearing with the Town Clerk, within ten (10) days of the date of mailing of the notice of denial of the permit. The request for a hearing shall be accompanied by an appeal deposit in the amount of \$1,000, in the form of cash or certified check. If no request for a hearing is received in the time proscribed, the permit shall be deemed denied. If a hearing is requested within the time proscribed, a hearing shall be scheduled before an impartial hearing officer within 20 calendar days of the date of the request. Within 10 calendar days of the hearing the hearing officer shall notify the Township and the applicant in writing of his or her decision and the reasons therefore. In the event the denial of the permit is upheld, the actual expenses of the hearing shall be withdrawn from the deposit by the Town Clerk for reimbursement to the Township for said expenses and the amount remaining in the deposit, if any, shall be returned to the applicant. In the event the denial is overturned the deposit shall be returned to the applicant.

(E) *Permit.* Each person engaged in permit activities shall carry the Township issued permit on his or her person and shall display the permit between the waist and the neck on the front of his or her outer garment while engaged in permit activities. In addition, each person engaged in permit activities shall make the permit available for inspection by Township elected officials and employees or law enforcement upon request. The Township issued permit shall be invalidated upon suspension or revocation and shall immediately be surrendered to the Township.

(F) *Duration.* All permits granted under this Ordinance shall expire on December 31 at 9:00 p.m.

(G) *Transferability.* No permit issued under this Ordinance shall be transferred to any other person.

## **SECTION 7 SUSPENSION OF PERMIT.**

A permit issued under and pursuant to this Ordinance may be immediately suspended by the Town Clerk by oral or written notice if the permit holder:

(A) Uses fraud, misrepresentation or false statements during the course of permitted activity;

(B) Has been convicted of any offense, or takes any other action, for which a permit could have been denied under this Ordinance;

(C) Conducts permit activities in an unlawful manner or a manner as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public; or

(D) Violates any part of this Ordinance.

The suspension shall remain in effect until the permit is revoked or the suspension is lifted subject to the procedure set forth below in Section 7.

## **SECTION 8 REVOCATION OF PERMIT.**

(A) *Notification.* After the suspension of any permit issued under this Ordinance, the Township shall notify the permit holder in writing of the alleged violation(s) and the permit holder's right to appeal the suspension as set forth below. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application. A permit holder may appeal the suspension of a permit under this Ordinance by filing a request for a hearing with the Town Clerk, within ten (10) days of the date of mailing of the notice of suspension. The request shall be accompanied by an appeal deposit in the amount of \$1,000, in the form of cash or certified check.

(B) *Hearing.* If the Town Clerk receives no request for a hearing within the time proscribed, the permit shall be deemed revoked. If a hearing is requested within the time proscribed, a hearing shall be scheduled before an impartial hearing officer within 20 calendar days of the date of the request. Within 10 calendar days of the hearing the hearing officer shall notify the Township and the permit holder in writing of his or her decision and the reasons therefore. In the event the permit is suspended or revoked, the actual expenses of the hearing shall be withdrawn from the deposit by the Town Clerk for reimbursement to the Township for said expenses and the amount remaining in the deposit, if any, shall be returned to the permit holder. In the event the permit is not suspended or revoked the deposit shall be returned to the applicant.

## **SECTION 9 PRACTICES PROHIBITED.**

No peddler, solicitor, transient merchant or non-commercial door-to-door advocate, any person acting on his or her behalf, or other person engaged in permit activities shall:

(A) Shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the Township or upon private property where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places.

(B) Enter in or upon the property of another or attempt to enter in or upon the property of another if a placard or sign has been posted excluding peddlers and solicitors. The printed placard or sign must bear the notice: "Peddlers and Solicitors Prohibited"; "No Soliciting"; or similar language clearly prohibiting permit activities. Such placard shall be at least 3-3/4 inches tall and 3-3/4 inches wide and the letters shall be at least 1 inch tall. . No person other than the person occupying such property shall remove, injure or deface such placard or sign.

(C) Enter in or upon the property of another or attempt to enter in or upon the property of another to engage in permit activities or similar activities before 9:00 a.m. or after 9:00 p.m. local time.

(D) Obstruct the free flow of traffic, either vehicular or pedestrian in any public or private road, street or right of way.

(E) Make false or misleading statements about the permit activities or the products or services being sold.

(F) State or imply that the Township, by issuance of a permit, has endorsed his/her activities or products.

(G) Harass, intimidate, abuse or threaten a person.

(H) Engage in offensive, obscene, or abusive language, push open a door not opened by an occupant, place any portion of the person's body through an opened doorway without the invitation of an occupant, or physically attempt to stop an occupant from closing a door.

(I) Enter onto the property of another through any side or rear yard or attempt to make contact with a person at any point other than the main point of entrance of the building or property being approached.

(J) Remain on the property of another and/or engage or continue to engage in permit activities after instructed to leave.

(K) Conduct permit activities in a manner that threatens the health, safety, or welfare of any person or the general public.

#### **SECTION 10 SEVERABILITY.**

Should a court of competent jurisdiction find any section, clause or portion of this article invalid, unenforceable or unconstitutional, the finding shall not apply to any other section, clause or portion of this Ordinance, unless the court's finding specifically provides otherwise.

#### **SECTION 11 PENALTIES.**

(A) Failure to perform, meet or comply with any condition or obligation imposed upon any person by this Ordinance shall constitute a sufficient ground to deny, suspend, or revoke a permit.

(B) A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Ordinance, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of Ordinance is guilty of a misdemeanor.

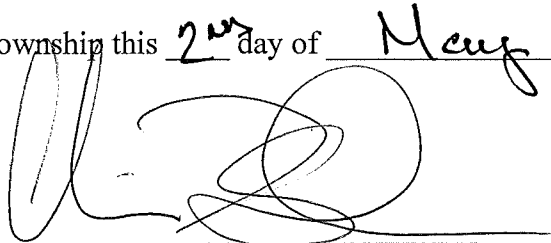
#### **SECTION 12 REPEALER.**

All regulatory provisions contained in other Township ordinances including, but not limited to Ordinance No. 2005-01, which conflict with the provisions of this Ordinance, are hereby repealed.

**SECTION 13 EFFECTIVE DATE.**

This ordinance shall take effect and be in full force from and after its passage and publication in summary form.

Passed by the Town Board of Credit River Township this 2<sup>nd</sup> day of May 2016.



Chris Kostik, Chairman



Karen Donovan, Town Clerk

