

# AUSTINTOWN TOWNSHIP

Mahoning County, Ohio

## TRUSTEES

JAMES C. DAVIS

KENNETH A. CARANO

STEVEN KENT



## FISCAL OFFICER

LAURA L. WOLFE

## ADMINISTRATOR

MICHAEL B. DOCKRY

### THE STATE OF OHIO, MAHONING COUNTY

I, Laura L. Wolfe, Fiscal Officer of Austintown Township, do hereby certify that the foregoing is taken from the Record of Proceedings of the Regular Meeting of the Board of Trustees held on February 24, 2020 and that the same has been compared by me with the Resolution # 20-02-24-04 of said Record and that it is a true and correct copy thereof.

This March 9<sup>th</sup>, 2020 .

A handwritten signature in blue ink that reads "Laura L. Wolfe".

**Laura L. Wolfe, Fiscal Officer**

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### BOARD OF TRUSTEES AUSTINTOWN TOWNSHIP MAHONING COUNTY, OHIO

#### RESOLUTION NO. 2020-02-24- \_04\_

#### A RESOLUTION PURSUANT TO R.C. § 505.94 REQUIRING REGISTRATION AND REGULATING TRANSIENT VENDORS

The Board of Trustees of Austintown Township, Mahoning County, Ohio ("Board") met in regular session on January 13, 2020 at 6:00 PM at the Austintown Township Administrative Building, 82 Ohltown Road, Austintown, Ohio, 44515 with the following members present: Steven E. Kent, James C. Davis, and Kenneth A. Carano.

Mr. Kent moved the adoption of the following Resolution:

#### PREAMBLE

**WHEREAS**, R.C. §505.94 authorizes a board of township trustees, by resolution, to require the registration of all transient vendors within the unincorporated territory of the township and regulate the time, place, and manner in which these vendors may sell, offer for sale, or solicit orders for future delivery of goods; and,

**WHEREAS**, R.C. §505.94 also authorizes a board of township trustees, by resolution, to prohibit solicitation at any residence at which the owner or tenant has posted a sign on the property prohibiting solicitation or for which the owner or tenant has filed a no solicitation registration form with the township, on a form prescribed by the board; and,

**WHEREAS**, the Board desires to exercise such authority within the unincorporated territory of Austintown Township ("Township").

#### RESOLUTION

**NOW THEREFORE, BE IT RESOLVED:**

#### SECTION 1. DEFINITIONS

- A. "Board" means the Board of Trustees of Austintown Township, Mahoning County, Ohio.

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- B. "Goods" means goods, wares, services, merchandise, periodicals, and other articles or publications.
- C. "Township" means the unincorporated area of Austintown Township, Mahoning County, Ohio.
- D. "Transient Vendor" means any person who opens a temporary place of business for the sale of Goods or who, on the streets or while traveling about the Township, sells or offers for sale Goods, solicits orders for future delivery of Goods, or attempts to arrange an appointment for a future estimate or sales call. "Transient Vendor" does not include:
  - 1. Any person who represents any entity exempted from taxation under R.C. § 5709.04; and,
  - 2. Any person licensed under Chapter 4707 of the Revised Code.

## **SECTION 2. REGISTRATION**

- A. Subject to the exceptions in Section 5, all Transient Vendors within the unincorporated territory of the Township shall register with the Township at the Austintown Township Zoning Office, located at 90 Westchester Drive, pay a registration fee of \$150.00, and obtain a valid registration certificate from the Township before selling, offering for sale, or soliciting orders for future delivery of Goods or Services.
- B. Application for Transient Vendor registration shall be made on the form prescribed in Section 6(A).
- C. The Township shall issue a registration certificate to Transient Vendors who register and pay the registration fee. A registration certificate issued by the Township shall include the information prescribed in Section 6(D).
- D. Applicants should allow for at least 3 business days for the Township to process their application and issue the registration certificate.
- E. A registration certificate shall be valid for a period of 90 days after the date of registration.
- F. The list of Transient Vendors currently registered with the Township shall be made available to the public.
- G. At the time of registration, every transient vendor who intends to conduct activities in a stationary location on private property zoned Business B-2 District, Industrial I-1 District, or Industrial I-2 Districts shall present written permission from the owner of such property for such activities.
- H. Transient vendors operating in a stationary location must comply with the sign and temporary sign regulations as stipulated in the Austintown Township Zoning Ordinance.

- I. In carrying on activities within Austintown Township, a transient vendor shall not:
  1. Obstruct or interfere with public travel on or public use of any public street, road, sidewalk or way;
  2. Enter any private premises or parts of premises where entry is prohibited by notice or which are manifestly restricted to uses which are incompatible with the vendor's activity;
  3. Remain on premises or parts of premises after notice to depart; and
  4. Possess, sell, offer to sell, or solicit orders for any product or thing in violation of law.

### **SECTION 3. NO SOLICITATION REGISTRY AND PROHIBITION**

- A. A "No Solicitation" registry shall be maintained by the Township. An owner or tenant of a residence may voluntarily file a no solicitation registration form with the Township. Upon filing such form the registered address of the owner or tenant's residence shall be listed in the registry. The registry shall be a cumulative listing of all registered addresses. Registration shall not expire.
- B. Subject to the exceptions in Section 5, solicitation is prohibited at any residence at which the owner or tenant has posted a sign on the property prohibiting solicitation and/or at those addresses listed in the no solicitation registry maintained by the Township.
- C. Registration for the Township no solicitation registry shall be made on the form prescribed in Section 6(B) or by notice containing substantially the same information. Upon receipt of such form by the Township, the registered address shall be added to the registry within 3 business days.
- D. An owner or tenant may only register or remove from registration the address of the residence where the owner or tenant currently resides.
- E. The no solicitation registry shall either be physically provided to or made electronically accessible to all Transient Vendors registered with the Township. The registry shall also be available to the public.
- F. No fee shall be charged to register on the Township no solicitation registration.
- G. Upon sale or vacation of a property the address of which is listed in the Township no solicitation registry, the seller or vacating tenant shall inform, as applicable, the purchaser or landlord that the property address appears in the registry. A landlord shall inform any new tenant if the address of the rental unit appears in the registry.
- H. An owner or tenant may request his or her address be removed from the no solicitation registry. Requests shall be made on the form prescribed in Section 6(C) or by notice containing substantially the same information. Upon receipt of such form by the

Township, the owner or tenant's address shall be removed from the no solicitation registry within 3 business days.

#### **SECTION 4. BUSINESS HOURS RESTRICTED**

Transient vendor activities which are permitted hereunder shall be conducted only from 9:00A.M. until sunset.

Within the unincorporated territory of the Township, Transient Vendors are prohibited from selling, offering for sale, or soliciting orders for future delivery of Goods or Services on legal holidays. "Legal holiday" shall have the same meaning as defined in R.C. § 1.14.

#### **SECTION 5. EXCEPTIONS**

Registration of Transient Vendors required by Section 2 shall not apply to any of the following:

1. Any person invited by an owner or tenant to visit the owner's or tenant's premises to sell, offer for sale, or solicit orders for future delivery of goods;
2. The delivery of newspapers (free or subscription) and solicitation of subscriptions for the same;
3. The sale and delivery of products sponsored by public, parochial, or private schools or school systems or various associations of the same and solicited by students of such school or schools;
4. The dissemination of ideas, thoughts, communications, or messages regarding any cause, issue, religion, or political candidate;
5. Any individual who, without compensation, acts on behalf of and for any religious or charitable not for profit organization;
6. Any person who seeks to disseminate any lawful message by means of traveling from place to place without soliciting funds or donations; and,

#### **SECTION 6. FORMS AND REGISTRATION CERTIFICATE**

A. The registration form to be completed by an applicant registering with the Township as a Transient Vendor pursuant to Section 2 of this Resolution shall include at least all of the following:

1. The name of the applicant;
2. The name, address, telephone number, and email address of the person or entity by whom the applicant is employed or for whom the applicant is soliciting, if any, or, if none, the name, address, telephone number, and email address of the applicant;
3. The name, address, telephone number, and email address of the applicant's immediate supervisor, if any;
4. The federal tax identification number of the applicant's entity or organization if the applicant is acting on behalf of an entity or organization;
5. The nature and character of the Goods or products to be sold or services to be furnished by the applicant;

6. If the applicant is soliciting on behalf of a recognized religious or charitable not for profit organization, proof of tax-exempt status; and
  7. The applicant shall furnish a copy of a valid government issued identification which includes a photograph of the registering Transient Vendor.
- B. The no solicitation registry form to be completed by an owner or tenant pursuant to Section 3(C) shall include at least all of the following:
1. The name of the owner or tenant;
  2. The address to be added to the Township no solicitation registry; and,
  3. A statement that the owner or tenant desires the listed address to be added to the Township no solicitation registry.
- C. The form to be completed by an owner or tenant pursuant to Section 3(H) to remove an address from the Township no solicitation registry shall include at least all of the following:
1. The name of the owner or tenant;
  2. The address to be removed from the Township no solicitation registry; and,
  3. A statement that the owner or tenant desires the listed address to be removed from the Township no solicitation registry.
- D. A registration certificate issued by the Township to a Transient Vendor pursuant to Section 2 shall include at least all of the following:
1. The name of the Township;
  2. Contact information for the Township;
  3. The name of the Transient Vendor;
  4. A photograph of the Transient Vendor;
  5. The name, address, telephone number, and email address of the person or entity by whom the applicant is employed or for whom the applicant is soliciting, if any, or, if none, the name, address, telephone number, and email address of the applicant;
  6. The name, address, telephone number, and email address of the applicant's immediate supervisor, if any;
  7. The issue date of the registration certificate; and,
  8. The expiration date of the registration certificate.

## **SECTION 7. NOTICE PROHIBITING TRANSIENT VENDORS**

The owner or tenant of any residence may evidence a determination to refuse to receive any uninvited Transient Vendors by displaying a weatherproof card, decal or sign not less than 3 inches by 4 inches in size nor more than 1 square foot in total surface area upon or near the main entrance door to the residence, containing substantially the following: "No Solicitation" in letters at least 1/3 inch in height. Alternatively, an owner or tenant may post in a similar location any sign issued for such purpose by the Township in connection with the Township no solicitation registry.

**SECTION 8. CARRYING AND EXHIBITING REGISTRATION CERTIFICATE**

A valid registration certificate issued by the Township pursuant to this Resolution shall at all times be carried or conspicuously exhibited on the outer clothing of the Transient Vendor.

**SECTION 9. NONTRANSFERABILITY.**

Registration certificates issued pursuant to this Resolution are non-transferable and shall not be used by any person other than the person identified as the Transient Vendor on the registration certificate.

**SECTION 10. APPEALS**

Any person who has applied for a registration certificate in accordance with this Resolution and who has been denied a registration certificate may appeal the decision to the Board of Trustees. Such appeal shall be considered by the Board at the next regular meeting of the Board held at least 3 days after the notice of appeal is filed.

**SECTION 11. PENALTIES**

Pursuant to R.C. § 505.94(A), no Transient Vendor shall fail to register or to comply with these regulations. Violations shall be punishable as provided in R.C. § 505.99. Penalties shall be imposed in accordance with applicable section(s) of the Ohio Revised Code.

**SECTION 12. NO WARRANTY/NO ENDORSEMENT**

No warranty, guarantee, or assurance of any type, express or implied, of, concerning, or related to any Transient Vendor, any ideas, thoughts, communications, or messages expressed, stated, and/or conveyed by any Transient Vendor, or any Goods, products, or services sold, offered for sale, or offered for future delivery by any Transient Vendor is given or bestowed by the Board, Township, or any employee, representative, agent, or volunteer of the Board or Township by this Resolution or the registration and regulatory requirements contained herein and this Resolution should not be construed to provide any such warranty, guarantee, or assurance. Any warranty, guarantee, or assurance of any type is expressly disclaimed.

This Resolution and the registration and regulatory requirements contained herein are not and should not be construed as any type of endorsement, express or implied, by the Board, Township, or any employee, representative, agent, or volunteer of the Board or Township of any Transient Vendor or any entity by which any Transient Vendor may be employed or represent, any ideas, thoughts, communications, or messages expressed, stated, and/or conveyed by any Transient Vendor, or any Goods, products, or services sold, offered for sale, or offered for future delivery by any Transient Vendor, whether registered or not registered in accordance with this Resolution. Any endorsement is expressly disclaimed.

**SECTION 13. SEVERABILITY**

The provisions of this Resolution are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.

**SECTION 14. NOTIFICATION**

- A. Pursuant to R.C. § 505.94, the Austintown Township Administrator is directed to notify the Mahoning County Prosecuting Attorney (“Prosecutor”) of these registration and regulatory requirements by providing the Prosecutor with a copy of this Resolution.

**SECTION 15. ADOPTION**

All formal actions of this Board concerning and relating to the passage of this Resolution were adopted in an open meeting of the Board, and all deliberations of this Board and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. § 121.22.

**SECTION 16. PRIOR RESOLUTIONS**

This Resolution supersedes any Transient Vendor ban, registration, and regulatory requirements adopted by the Board prior to the effective date of this Resolution.

**SECTION 17. EFFECTIVE DATE**

This Resolution shall be in full force and effect immediately upon adoption.

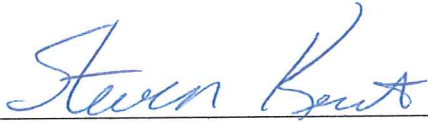
Mr. Carano seconded the motion.

Roll Call Vote: Mr. Davis, yes; Mr. Kent, yes; and Mr. Carano, yes.

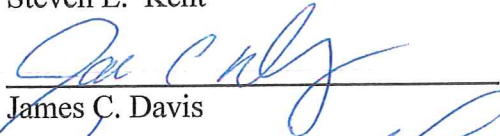
**(SIGNATURES CONTINUED ON FOLLOWING PAGE)**

Voted on and approved this February 24, 2020 in Austintown Township, Mahoning County, Ohio.

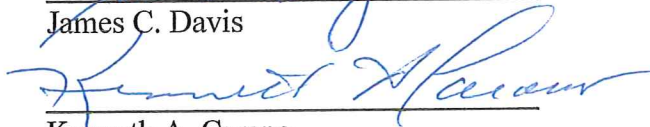
**BOARD OF TRUSTEES  
AUSTINTOWN TOWNSHIP,  
MAHONING COUNTY, OHIO**



Steven E. Kent



James C. Davis



Kenneth A. Carano.

Attest:



Laura Wolfe, Fiscal Officer