

# CHAPTER 112: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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## **GENERAL PROVISIONS**

### **§ 112.01 PURPOSE.**

The purpose of this chapter is not to interfere with the legitimate business interests of peddlers, solicitors or transient merchants, as those terms are defined herein, but, for the protection of the interests and safety of residents, including privacy interests and interests against crime, to regulate all illegitimate operators and to regulate and control those who would use their property presence within the city, or their proximity to its residents, for purposes of harassment, nuisance, theft or other unlawful activities which compromise the safety and/or privacy rights of the residents of the city.

(Ord. 2011-03, passed 3-22-2011)

### **§ 112.02 DEFINITIONS.**

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

**PEDDLER.** Any person or entity, including officers, directors, employees or agents thereof, whether or not a city resident, who goes from dwelling to dwelling, business to business, place to place or

street to street carrying or transporting goods, wares, services or merchandise and offering or exposing them for sale. This definition shall not include vendors of milk, bakery products, groceries or other such items regularly distributed on established routes, those selling products of the farm or garden that they themselves occupy or cultivate, or those selling newspapers.

**SOLICITOR.** Any person or entity, including officers, directors, employees or agents thereof, whether or not a city resident, who goes from dwelling to dwelling, business to business, place to place or street to street soliciting donations or attempting to take orders for any goods, wares, services or merchandise for future delivery.

**TRANSIENT MERCHANT.** Any person or entity, including officers, directors, employees or agents thereof, whether or not a city resident, who engages temporarily in the business of selling and delivering goods, wares, services or merchandise within the city and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, parking lot, motor vehicle or trailer, or is located in a public place or private place. This shall not include any person or entity who sells such items from within the confines of a lawfully established and operating permanent retail sales operation.

(Ord. 2011-03, passed 3-22-2011; Ord. 2011-08, passed 5-24-2011)

### **§ 112.03 EXEMPTIONS.**

This section does not apply to the following:

(A) Acts of merchants or employees in delivering goods or services, where the city resident authorized the contact via contract, invitation or request;

(B) Children, age 18 years or younger, soliciting for school-sponsored activities or for such organizations as the scouts or little league, where the children are members of the organization and where the proceeds of the sale are mainly devoted to the benefit of children;

(C) Solicitations for donations, money or financial assistance for an organization that is philanthropic, religious, political, non-profit or educational in nature, or selling or distributing literature or merchandise for which a fee is charged or solicited on behalf of such an organization; or

(D) City-approved festivals, community celebrations, farmers markets or fairs.

(Ord. 2011-03, passed 3-22-2011)

### **§ 112.04 DESIGNATION OF BUILDING AS “NO SOLICITATION” AREA.**

(A) (1) For purposes of this section, a building owner or manager, firm or a corporation has the right to designate the building and premises as a “no solicitation” area.

(2) This designation would include the entire premises and curtilage of the building including individual apartments and individual business tenants, whether the building is residential or commercial in nature, including whatever other areas the building includes.

(B) The city finds that the interest in keeping people from grounds and common areas to avoid crime, traffic and to protect privacy of residents requires that the designation would control the entire building and premises.

(Ord. 2011-03, passed 3-22-2011)

### **§ 112.05 PRACTICES PROHIBITED.**

(A) (1) No peddler or solicitor shall enter, or attempt to enter, into or upon any premises wherein a sign or placard bearing a notice stating “No Solicitors” or “Peddlers or Solicitors Prohibited”, or any

similar words prohibiting entry, is located, notwithstanding that said peddler or solicitor has a valid permit issued by the city.

(2) In addition, no peddler or solicitor shall enter, or attempt to enter, into or upon any premises where said peddler or solicitor has previously been informed by the resident that his or her presence is not welcome or permitted in the future.

(2) Any sign prohibiting peddlers or solicitors shall serve to prohibit all such actions.

(B) No peddler, solicitor or transient merchant shall call attention to his or her business or merchandise by crying out, blowing a horn, ringing a bell or any loud or unusual noise; nor shall any person engage in business after the hour of 8:00 p.m. or before 9:00 a.m. unless a previous appointment has been made; nor shall any person furnish false information on the application required in this section; nor shall any such person sell merchandise or services by means of statements which the person making them knows or should know are false or misleading.

(C) (1) *Placard.* Any resident of the city who wishes to exclude peddlers from the resident's premises may place near the usual entrance to the premises a printed placard or sign bearing the following notice: "Peddlers prohibited". The placard will be at least three and three-fourths inches long and three and three-fourths inches wide and the printing will not be smaller than 48-point type.

(2) *Exclusion list.* Any resident of the city who wishes to exclude peddlers from the resident's premises may request to be placed on a list maintained by the city that would prohibit peddlers from entering onto the resident's premises.

(3) *Peddler prohibited.* No peddler may enter upon any premises where such a placard or sign is placed or enter upon any premises of any resident whose name and address is listed on the exclusion list.

(4) *Placard removal.* No person other than the person occupying the premises may remove, injure or deface such a placard or sign.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

### **§ 112.06 HIGH TRAFFIC, DANGER ZONE.**

(A) No transient merchant shall engage in business in a zone designated by the City Council as "high traffic, danger".

(B) The City Council shall determine annually those areas within the city deemed to be high traffic and dangerous and a map of all such zones shall be made available to the public.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

### **§ 112.07 FALSE ENDORSEMENT PROHIBITED.**

A permit holder may not make statements to the people contacted implying or indicating that the city identification or permit constitutes an endorsement of his or her activities or products by the city.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

### **§ 112.08 CONDUCT OF ACTIVITY.**

Any permit holder must do the following:

- (A) Conduct the regulated activities in a reasonably courteous manner at all times;
- (B) Immediately leave private property when requested to do so by the occupant or owner;
- (C) Refrain from engaging in offensive, obscene or abusive language;

(D) Refrain from making untrue statements to the people contacted regarding the purpose of the contact or the goods and services offered; and

(E) Abide by all applicable federal, state and local laws.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

## **PERMITS AND REGISTRATION**

### **§ 112.20 PERMIT AND REGISTRATION.**

(A) It is unlawful for any peddler, solicitor or transient merchant to engage in any business within the city without first registering with the City Clerk and obtaining a permit in compliance with the provisions of this section.

(1) Persons registering for a permit under this section shall first file an application with the city available on a form to be furnished by the city stating the following, without limitation:

(a) Name and driver's license number or other acceptable identification of the person registering;

(b) Name and addresses of all persons working for or assisting the registrant, as well as authorization for background checks of the registrant and all persons assisting the registrant;

(c) Permanent home address of the applicant and the address of the place of business of the firm or corporation that the applicant represents;

(d) Description of the nature of the business and goods to be sold;

(e) Length of time for which right to do business is requested;

(f) Dates and hours when the activity will be conducted;

(g) Make, model, year, color and state license number of each motor vehicle to be used in connection with the proposed activity;

(h) A list of the three previous municipalities through which the applicant has obtained a permit, license or registration for the proposed activity; and

(i) In cases of transient merchant sales, the applicant must also provide:

1. Proof of appropriate permission to operate on proposed site; and

2. Copy of the firm or individual's sales tax permit that must be posted at the site.

(2) Persons registering shall also be required to pay a registration fee to cover the administrative costs of processing and investigation as determined by the City Council by resolution. The fee shall be for each individual who is registered under the permit.

(3) All registered solicitors, peddlers and transient merchants shall display a registration permit issued by the city.

(4) All registrations shall be valid for the calendar year expiring on December 31 after their issue. No proration of permit fees shall be allowed.

(5) Investigation. Upon receipt of each application for registration with the required information and fee, the Chief of Police or his or her designee shall immediately institute an investigation of the applicant including criminal history and wanted persons check for the protection of the public.

(6) Except as provided in M.S. § 364.05, as it may be amended from time to time, any applicant may be found to be unsatisfactory, and the application rejected, for reasons in the city's determination,

including:

- (a) Fraud, misrepresentation, omission or incorrect statement in the application form;
- (b) Past fraud, misrepresentation or incorrect statement in the course of business as a solicitor, peddler or transient merchant;
- (c) Past conviction of any crime including fraud, theft or moral turpitude, or any crime of violence deemed qualified by the Chief of Police given the age of offense, nature of offense and explanation of any mitigating circumstances;
- (d) Conducting the business in an unlawful manner so as to constitute breach of peace or menace to health, safety or general welfare; or
- (e) Any other circumstances indicating that the intended recipient may not honestly, lawfully and safely conduct the proposed activity.

(B) The reasons for rejection shall be noted and the applicant notified of the disapproval of the permit. The applicant shall be informed of approval of any application for registration and the Police Department shall promptly communicate said decision to the applicant.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

#### **§ 112.21 PERMIT TRANSFER PROHIBITED.**

A permit may not be transferred. Each peddler, solicitor or transient merchant must separately register and submit an application under the provisions described in this section. An application to register an additional person to assist, under a previously granted permit, must be made to and approved by the city before any additional person may conduct business in the city.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

#### **§ 112.22 REVOCATION OF PERMIT.**

The City Administrator or his or her designee may revoke permits issued under this section upon grounds of a violation of this section or any same or similar ordinance of another city or on grounds identical to those for which the initial registration may be disapproved. Written notice of the revocation shall describe the factual basis for and grounds to support the revocation; shall be mailed to the address shown on the permit applicant; and shall become effective seven business days from the date of mailing, unless the party requests a hearing on the proposed revocation within those seven days. If the applicant requests a hearing within the seven days, a date shall be set for the hearing and the aggrieved party shall have the right to be heard before the City Administrator or his or her designee. The City Administrator or his or her designee shall render a decision and issue written findings which shall be personally delivered or mailed to the address shown on the permit application. The applicant may appeal to the City Council within five business days of the date of delivery or mailing of the decision and findings. Failure to request either a hearing before the City Administrator or his or her designee or appeal from the City Administrator's or his or her designee's decision shall constitute waiver of all appeal rights.

(Ord. 2011-03, passed 3-22-2011)

#### **§ 112.23 APPEAL.**

Any person aggrieved by the action of the City Clerk or Chief of Police in denial of a permit or the action of the City Administrator or his or her designee in proposed or actual revocation of a permit may appeal to the City Council by filing within seven days of notice of the action complained of a written statement stating the grounds for the appeal. The City Council shall set a date and time for the hearing on the appeal and notify the aggrieved person as provided in § 112.22 of this chapter for

notice of revocation and right to set hearing. No individual may conduct any business regulated hereunder while an appeal is pending.

(Ord. 2011-03, passed 3-22-2011) Penalty, see § 112.99

**§ 112.99 PENALTY.**

Any person violating any provision of this section shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Ord. 2011-03, passed 3-22-2011)