

11.04 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

11.04.010 Peddlers And Solicitors

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

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 fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivery immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term hawker.

PERSON. Any natural individual, group, organization, corporation, partnership, or similar association.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term canvasser.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

2. *Exceptions to Definitions.* For the purpose of this chapter, the terms peddler, solicitor, and transient merchant shall not apply to the following; however, exemption from these definitions does not excuse compliance with any other applicable statutory provision or city ordinance:
 1. ~~For the purpose of the requirements of this chapter, the terms peddler, solicitor and transient merchant, shall not apply to a~~Non-commercial door-to-door advocates.. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-

door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Paragraph H.

2. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. ~~The terms also shall not apply to~~
3. ~~a~~Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, ~~nor shall they apply to~~
4. ~~a~~Any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
5. ~~In addition, Any persons~~ conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, ~~as well as those~~
6. Any persons participating in an organized multi-person bazaar or flea market, ~~shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be~~
7. ~~a~~Anyone person conducting an auction as a properly licensed auctioneer, ~~or~~
8. ~~a~~Any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.
9. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
10. ~~Nothing in this chapter shall be interpreted to prohibit or restrict door to door advocacy. Persons engaging in door to door advocacy shall not be required to be licensed or to register under this chapter.~~

3. *Licensing And Exemptions.*

1. *County license required.* No person shall conduct business as a transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329 as it may be amended from time to time, if the county issues a license for the activity.
2. *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as a ~~solicitor,~~ peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed but are required to register with the city pursuant to 11.04.010.B.
3. *License exemptions:*
 1. ~~No license shall be required of any person going from house to house, door to door, business to business, street to street, or other type of place to place business when the activity is for the purpose of exercising that person's state or federal constitutional rights such as freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.~~
 2. ~~Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.~~
 3. ~~Members of organizations for charitable, religious, patriotic or philanthropic purposes shall be exempt from Paragraph C,2 provided that they comply with Paragraph H.~~
4. *Duration.* ~~An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses under this chapter shall be valid only during the time period indicated on the license.~~

4. *Application.*

1. ~~Application.~~ ~~An A~~ application for a city license to conduct business as a ~~solicitor,~~ peddler or transient merchant shall be made ~~at least~~ fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the ~~Administrator, Clerk/Treasurer~~ City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:
 1. Applicant's full legal name (each person that will be conducting business within the city).
 2. Any and All other names under which the applicant conducts business or to which applicant officially answers.
 3. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks and features, and the like).
 4. Full address of applicant's permanent residence.
 5. ~~Local address or address of local contact.~~
 6. Telephone number of applicant's permanent residence and local contact.
 7. Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
 8. Full address of applicant's regular place of business (if any).
 9. Any and all business related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
 10. The type of business for which the applicant is applying for a license.
 11. Whether the applicant is applying for an annual or daily license.
 12. The dates during which the applicant intends to conduct business, ~~and if~~ the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum of 14 consecutive days).
 13. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
 14. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than minor traffic offenses.
 15. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or a transient merchant.
 16. Proof of any required county license.
 17. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
 18. A general description of the items to be sold or services to be provided.
 19. Any and All additional information deemed necessary by the City Council.
 20. The applicants drivers license or other acceptable form of identification.
 21. The license plate number, registration information and vehicle identification number (VIN) for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
2. *Fee.* The application fee for a peddler or transient merchant shall be as set forth in the city's fee schedule as it may be amended from time to time. ~~The application fee shall not be refunded whether or not the license sought is granted. The application fee is subject to change annually in accordance with the fee resolution adopted by the city. There shall be no license fee charged for a solicitor application.~~
3. *Procedure.* Upon receipt of the completed application and payment of the license fee, the ~~Administrator, Clerk/Treasurer~~ City Clerk will, within three (3) regular business days, ~~must~~ determine if the application is complete. An application is determined to be complete only if all required information is provided. If the ~~Administrator, Clerk/Treasurer~~ City Clerk

determines that the application is incomplete, the ~~Administrator, Clerk/Treasurer~~City Clerk must inform the applicant of the required necessary information that is missing. If the application is determined by the Administrator, Clerk/Treasurer to be incomplete, the Administrator, Clerk/Treasurer must inform the applicant of the required, necessary information that is missing. If the application is complete, the ~~Administrator, Clerk/Treasurer~~City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application, the ~~Administrator, Clerk/Treasurer~~City Clerk must issue the license unless ~~there exist~~ grounds exist for denying the license under Paragraph E, in which case the ~~Administrator, Clerk/Treasurer~~City Clerk must deny the license. If the ~~Administrator, Clerk/Treasurer~~City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within twenty(20) days of receiving the notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for writ of certiorari.

4. Duration. An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this ordinance shall be valid only during the time period indicated on the license.
5. License exemptions.
 1. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 2. No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.
5. *License Ineligibility.* The following shall be grounds for denying a license under this chapter.
 1. The failure of the applicant to obtain and show proof of having obtained any required county license.
 2. The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, ~~or~~
 3. ~~†~~The failure to sign the application, ~~or~~
 4. ~~†~~The failure to pay the required fee at the time of the application.
 5. ~~The A~~ conviction of the applicant within the past five (5) years from the date of the application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an professional, honest and legal manner. ThoseSuch violations shall include, but are not be-limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
 6. The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
 7. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but is not be-limited to, the existence of more than three (3) complaints against the applicant with the Better Business Bureau, the Office of the

Minnesota Attorney General's Office or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed against the applicant within the preceding five (5) years.

6. *License Suspension And Revocation.*

1. *Generally.* Any license issued under this paragraph may be suspended or revoked at the discretion of the City Council for violation of any of the following.
 1. Subsequent knowledge by the city of Ffraud, misrepresentation or incorrect statements provided by an applicant on the application form.
 2. Fraud, misrepresentation or false statements made during the course of the licensed activity.
 3. Conviction of any offense for which granting of a license could have been denied under Paragraph E.
 4. Engaging in any prohibited activity as provided under Paragraph J of this ordinance.
 5. Violations of any other provisions of this ordinance~~chapter~~.
2. *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
3. *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the licensee application, or if no residential address is listed, to the business address provided on the license application.
4. *Public hearing.* Upon receiving the notice provided in Paragraph F,3, the licensee shall have the right to request a public hearing. If no request for hearing is received by the Administrator, Clerk/Treasurer~~City Clerk~~ within ten (10) regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notice, service shall be considered completed as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.
5. *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ~~chapter~~ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Paragraph F,3.
6. *Appeals.* Any person whose license is suspended or revoked under this paragraph shall have the right to appeal that decision in court.
7. *License Transferability.* No license issued under this chapter shall be transferred to any person other than the person to whom the licensed was issued.
8. *Registration.*
 1. All solicitors and Any person exempt from the licensing requirements of this chapter under Paragraph C shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the

Administrator, Clerk/Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall not be transferrable.

2. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.
9. *Badges And Identification.* All peddlers, transient merchants, or solicitors shall display a permit, issued in their name, containing a number to correspond to the number of the license, and the license expiration date issued by the City Clerk, which shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his or her place of business the license issued hereunder which license shall be shown at the request of any citizen or police. The licensee shall also have on his or her person, a government issued identification containing a current photograph of the licensee.
10. *Prohibited Activities.* No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:
 1. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
 2. Obstructing the free flow of traffic, either vehicular or pedestrian, ~~traffic~~ on any street, alley, sidewalk or other public right-of-way.
 3. No more than one individual may approach the doorway of a private home or residence to conduct the business of peddling, soliciting or a transient merchant activity in the city.
 4. Conducting business in a way as to create a threat to the health, safety and welfare of any specific individual or the general public.
 5. Conducting business before 9:00 a.m. and after 5:00 p.m.
 6. Failing to provide proof of license, or registration, and identification, when requested,;
 7. ~~or u~~Using the license or registration of another person.
 8. ~~Making any~~Alleging false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
 9. Remaining on the property of another when requested to leave, ~~or to~~
 10. ~~o~~Otherwise conductoperating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
11. ~~Entry To Premises Restricted~~Exclusion by Placard. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:
 1. ~~Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by him or her may place upon or near the usual entrance to the premises, a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." The placard shall be no larger than two square feet in size and the printing thereon shall not be smaller than 48 point type. At least four (4) inches long.~~
 2. At least four (4) inches wide.
 3. With print of at least forty eight (48) point in size.
 4. ~~No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, upon which such placard or sign is placed and maintained. Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.~~
 5. No person other than the property owner or tenant~~person occupying such premises~~ shall remove, ~~injure, or~~ deface or otherwise tamper with any sign or placard under this Chapter. ~~the placard or sign.~~

12. *Trespass.* It is hereby declared to be unlawful and shall constitute trespass for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of the residence for the purpose of securing an audience with the occupant and engage in soliciting or peddling in defiance of the notice exhibited at the main entrance of the residence pursuant to Paragraph K.
13. Penalty. Any individual found in violation of any provision of this ordinance, shall be guilty of a misdemeanor.

11.04.020 Garage Sales

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

GARAGE SALE. The ~~infrequent~~ temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing, and appliances. A garage sale is limited in frequency, duration, and advertising as defined in this section. The exchange or sale of merchandise must be conducted within the residence or accessory structure of the premises.

SALE OF HOUSEHOLD ITEMS. The sale of individual household items, for example, refrigerator or couch, by temporary display for sale on the premises by the occupant of the premises.

2. *Requirements.* Garage sales or sales of household items are permitted without permit provided they meet the following standards:
 1. Garage sales and sales of individual items last no longer than three consecutive days;
 2. Sales are held no more than two ~~(2)~~ iee yearly times per calendar year per residential address, and sales cannot be held back-to-back;
 3. Sales are conducted on the owner's or occupant's property. Multiple-family sales are permitted if they are held on the property of one of the participants;
 4. No new retail goods or items purchased for retail may be offered for sale;
 5. No consignment goods may be offered for sale;
 6. No permanent or semi-permanent sales area shall be established. Items, tables, racks, signs or other display structures must be removed immediately upon the conclusion of the sale.
 7. All directional and advertising signs shall be free-standing and shall be removed within 24 hours of completion of the sale;
 8. All directional and advertising signs shall be placed on private property and shall have the owner's permission;
 9. No directional or advertising signs may be larger than two feet by three feet; and
 10. Sales authorized under this section are limited in time to the hours of 8:00 a.m. to 8:00 p.m.
3. *Violations; Enforcement.*
 1. Violations of this section may be enforced by the appropriate city official as an administrative code violation and may include revocation of the right to hold future sales for up to one year.
 2. The violation of any paragraph of this section shall constitute a misdemeanor.

11.04.030 Christmas Tree Sales

1. *License Required.* It shall be unlawful for any person, firm, association, or corporation to maintain and operate a Christmas tree lot without having first secured a license from the City ~~Council and posting a cash bond therefor.~~
2. *License Application And Fee.* Any person, firm, association, or corporation desiring to operate a Christmas tree lot may make application to the City Council for a license therefor. The application shall give the name and address of the applicant, a description of the land to be used, and either evidence of ownership in the application or written permission to so use the land. The application shall be accompanied by a license fee in the amount specified in the City's fee schedule, as ~~set~~amended from time to time ~~by Council resolution.~~ The Council, at its discretion, may grant or deny the application. All licenses of this type shall be issued by the Administrator, Clerk/Treasurer and shall expire on the February 1 following the year of issuance.
3. *Bond.* Upon Council approval ~~that~~of a Christmas tree lot license ~~shall be issued to any person, firm, association, or corporation,~~ the licensee shall deposit with the Administrator, Clerk/Treasurer a cash bond in the amount ~~as established~~specified in the city's fee schedule, as amended from time to time. ~~The cash bond must be posted prior to the license being issued, and the posting of the bond shall be a condition precedent to the issuance of a license by the Administrator, Clerk/Treasurer.~~ This cash bond ~~shall~~will be held until the licensed site~~that lot or parcel of land that the license has been issued for~~ has been completely cleared and cleaned of all Christmas trees, Christmas tree debris, and all other ~~Christmas paraphernalia~~related material. If the site is fully cleaned, ~~—~~ prior to ~~the~~ February 1 following the Christmas season ~~that a license was applied for, the applicant has cleared and cleaned the lot or parcel of ground~~ and the Building ~~Inspector~~Official of the city has so ~~certified this fact~~certifies the cleanup to the Administrator, Clerk/Treasurer, ~~then in that event,~~ the applicant's ~~cash bond shall be returned to the applicant.~~ ~~In the event that~~If the Building ~~Inspector~~Official ~~has not certified~~certifies to the Administrator, Clerk/Treasurer that the lot has not been cleared or cleaned of all Christmas trees, Christmas tree debris, and all other related material~~Christmas paraphernalia~~, the applicant shall forfeit his or her cash bond and the city may, at its discretion, clear and clean the site ~~with or without permission of the application owner, if he or she be not the applicant, may clear and clean the lot~~ of all Christmas trees, Christmas tree debris, and related materials~~Christmas paraphernalia~~.
4. *Penalty.* See SLPC 1.04.200(A). ~~Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor which is punishable by a fine of up to \$1,000 and 90 days in jail, or both~~