

## **CHAPTER 116: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS**

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## § 116.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted 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 shall include door-to-door canvassing and pamphleteering intended for non-commercial purposes, and shall include door-to-door canvassing and pamphleteering vehicles for the dissemination of religious, political and other ideas.

***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 delivering 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 association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

***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, 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.

## § 116.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this Chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to 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 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, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those 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 anyone conducting an auction as a properly licensed auctioneer, or 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.

(C) Nothing in this Chapter shall be interpreted to prohibit or restrict non-commercial door-to-door advocacy. Persons engaging in non-commercial door-to-door advocacy shall not be required to register as solicitors pursuant to Section 116.07.

## § 116.03 PERMITS; EXEMPTIONS.

(A) *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 may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity.

(B) *City Permit Required.* Except as otherwise provided for by this Chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a permit from the City. Solicitors shall be required to register with the City pursuant to Section 116.07.

(C) *Application.* Application for a City Permit to conduct business as a peddler or transient merchant shall be made to the City before the applicant desires to begin conducting business. Application for a permit shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name.
- (2) 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, distinguishing marks and features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) 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.
- (7) Full address of applicant's regular place of business (if any).
- (8) Any and all business related telephone numbers of the applicant.
- (9) The type of business for which the applicant is applying for a permit.
- (10) Whether the applicant is applying for an annual or daily permit.
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily permit, the number of days he or she will be conducting business in the City (maximum 14 consecutive days).
- (12) 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 business.
- (13) 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 traffic offenses.
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
- (15) Proof of any County or State Licenses required, or permits held.
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- (17) A general description of the items to be sold or services to be provided.
- (18) The applicant's driver's license number or other acceptable form of identification.
- (19) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the

permitted business and a description of the vehicle.

- (20) All additional information deemed necessary by the City Council and/or the Lake City Police Department.

(D) *Fee.* All applications for a permit under this Chapter shall be accompanied by a fee established in the City Fee Schedule as it may be amended from time-to-time.

(E) *Procedure.* Upon receipt of the completed application and payment of the permit fee, the City Clerk, within two (2) 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 City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. Once the application is complete, the City Clerk shall direct the Chief of Police or his/her designee to conduct an investigation, including background checks, necessary to verify the information provided with the application.

Within ten (10) regular business days of receiving a completed application, the City Clerk must issue the permit unless grounds for denying the permit pursuant to Section 116.04, in which case the Clerk must deny the permit. If the City Clerk denies the permit, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial. The applicant may appeal the denial by requesting, in writing and within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal at its earliest opportunity, and in any event within twenty (20) days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) *Proof of Permit.* When a permit is granted, the City shall provide to the applicant a Certificate of Proof of Permit which the applicant must carry on his/her person, and produce for residents, citizens, and/or law enforcement, if requested. The Certificate shall state the permitted individual's name, business name, business address, and "doing business as" identifying name, individual and business phone number, signature, as well as the duration of the permit issued.

(G) *Duration.* A permit granted under this Chapter shall be valid only during the time period indicated on the permit.

(H) *Permit Exemptions.*

- (1) No permit 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 permit 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 when the activity is for the purpose of exercising that person's

State or Federal Constitutional rights such as the 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. Penalty, see § 10.99.

#### **§ 116.04 PERMIT INELIGIBILITY.**

The following shall be grounds for denying a permit under this Chapter:

(A) The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

(B) The conviction of the applicant within the past five (5) years from the date of 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 permit is being sought in an honest and legal manner. Those violations shall include, but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(C) The revocation within the past five (5) years of any license or permit issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant in any other jurisdiction.

(D) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or any 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.

#### **§ 116.05 PERMIT SUSPENSION AND REVOCATION.**

(A) *Generally.* Any permit issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- (1) Fraud, misrepresentation or incorrect statements on the application form.
- (2) Fraud, misrepresentation or false statements made during the course of the permitted activity.
- (3) Conviction of any offense for which granting of a license or permit could have been denied pursuant to Section 116.04.
- (4) Violation of any provision of this Chapter.

(B) *Multiple Persons Under One Permit.* The suspension or revocation of any permit issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant whose permit is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any permit issued under this Chapter, the City shall provide the permit holder with written notice of the alleged violations and inform the permit holder 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 permit application, or if no residential address is listed, to the business address provided on the permit application.

(D) *Public Hearing.* Upon receiving the notice referred to herein paragraph (C) of this section, the permit holder shall make written request for a public hearing. If no request for a hearing is received by the 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 notices, service shall be considered complete 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. Within three (3) regular business days of the hearing, the City Council shall notify the permit holder of its decision.

(E) *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 permitted under this Chapter, the City Council may immediately suspend the person's permit and provide notice of the right to hold a subsequent public hearing as prescribed in paragraph (C) of this section.

(F) *Appeals.* Any person whose permit is suspended or revoked under this section shall have the right to appeal that decision in court. Penalty, see § 10.99

#### **§ 116.06 PERMIT TRANSFERABILITY.**

No permit issued under this Chapter shall be transferred to any person other than the person to whom the permit was issued. Penalty, see § 10.99

#### **§ 116.07 REGISTRATION.**

(A) All solicitors, and any person exempt from any of the permit requirements of this Ordinance pursuant to Section 116.03, shall be required to register with the City, but no fee shall be required. Persons engaging in non-commercial door-to-door advocacy shall not be required to register. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Proof of Registration, which the registrant must carry on his/her person, and produce for residents, citizens, and/or law enforcement, if requested. The Certificate shall state the registered individual's name, business name, business address, and "doing business as" identifying name, individual and business phone number, signature, as well as the duration of the permit issued. Certificates of Registration shall be non-transferable.

Penalty, see § 10.99

### **§ 116.08 PROHIBITED ACTIVITIES.**

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(A) 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, using any such sound device to enhance the volume, or by any other noise, so as to disturb the peace or be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.

(E) Failing to provide proof of permit or registration, and identification, when requested; or using the permit or registration of another person.

(F) Making any 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 upon the City having issued a permit or Certificate of Registration to that person.

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner that a reasonable person would find obscene, threatening, intimidating or abusive. Penalty, see § 10.99

### **§ 116.09 EXCLUSION BY PLACARD.**

No peddler, solicitor or transient merchant, unless specifically invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard of at least four (4) inches long and four (4) inches wide with print of at least (48) point in size, stating “No Peddlers, Solicitors or Transient Merchants”, “Peddlers, Solicitors, and Transient Merchants Prohibited”, or other such comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. Penalty, see § 10.99

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