# CHAPTER 116: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section

116.01 Definitions
116.02 Exceptions to definitions
116.03 Permitting; exemptions
116.04 Permit ineligibility
116.05 Permit suspension and revocation
116.06 Permit transferability
116.07 Registration
116.08 Prohibited activities
116.09 Exclusion by placard

116.99 Penalty

## § 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 purpose of this chapter, 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.

***NON-PROFIT.*** Organization engaged in charitable, religious, patriotic or philanthropic 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 movement, for the purpose of offering for sale, displaying for 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. For purpose of this chapter, the term ***PEDDLER*** shall have the same common meaning as the term hawker.

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

***PROFESSIONAL FUNDRAISER.*** Any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, politician, social, or other charitable organization.

***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 considered 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 movement, 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. For purposes of this chapter, the term ***SOLICITOR*** shall have the same meaning 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 typically does not remain in any one location for more than 30 consecutive days.
(Ord. 116, passed 4-24-13)

## § 116.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of this chapter, the terms ***PEDDLER, SOLICITOR,*** and ***TRANSIENT MERCHANT*** shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this chapter shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Persons engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under § 116.07.

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(3) 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 or milk.

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(5) 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.

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(7) Any person participating in an organized multi-person bazaar or flea market.

(8) Any person conducting an auction as a properly licensed auctioneer.

(9) Any officer of the court conducting a court-ordered sale.

(10) Any person selling or attempting to sell items for a non-profit organization.

(B) Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.
(Ord. 116, passed 4-24-13)

## § 116.03 PERMITTING; EXEMPTIONS.

(A) *City permit required.* Except as otherwise provided for by this chapter, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city permit. Solicitors need not be permitted, but are required to register with the city pursuant to § 116.07.

(B) *Application.* An application for a city permit to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting a business operation within the city. 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) The applicant's full legal name;

(2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer;

(3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or 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 an agent;

(7) Full address of applicant's regular place of business, if any exists;

(8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;

(9) The type of business for which the applicant is applying for a permit;

(10) The dates during which the applicant intends to conduct business with a maximum of five consecutive days (for peddlers/solicitors) and 30 consecutive days for transient merchants;

(11) 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;

(12) 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 violating any state or federal statute or any local ordinance, other than minor traffic offenses;

(13) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;

(14) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant;

(15) A general description of the items to be sold or services to be provided;

(16) Any and all additional information as may be deemed necessary by the City Council;

(17) The applicant's driver's license number or other acceptable form of identification; and

(18) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the permitted business operation.

(C) *Fee.* Fees are due once the applicant's permit has been approved by the City Clerk and prior to the issuance of the permit. All fees will be established in the annual fee schedule as set by City Council.

(D) *Procedure.* Upon receipt of the application and payment of the permit fee, the City Clerk will, within two regular business days, determine if the application is complete. An application will be considered complete 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. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Clerk must issue the permit unless grounds exist for denying the permit application under § 116.04, in which case the City Clerk must deny the request for a city peddler or transient merchant permit. If the City Clerk denies the permit application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, an appeal before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for an appeal

(E) *Duration.* All permits granted under this chapter shall be valid only during the time period indicated on the permit.

(F) *Professional fundraisers not exempt.* A professional fundraiser working on behalf of an otherwise exempt group or person shall not be exempt from the licensing requirements of this chapter.

(G) *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 their own farm(s).

(2) No permit 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.
(Ord. 116, passed 4-24-13)

## § 116.04 PERMIT INELIGIBILITY.

The following shall be grounds for denying a peddler or transient merchant permit:

(A) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(B) The failure of an applicant to sign the permit application.

(C) The failure of an applicant to pay the required fee at the time of application.

(D) A conviction within the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the permit is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

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

(F) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or law enforcement agency, within the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.
(Ord. 116, passed 4-24-13)

## § 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) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form;

(2) Fraud, misrepresentation or false statements made during the course of the permitted activity;

(3) Subsequent conviction of any offense to which the granting of the permit could have been denied under § 116.04;

(4) Engaging in any prohibited activity as provided under § 116.08 of this chapter; and/or

(5) Violation of any other 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 on behalf of the permittee 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 permittee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any permit issued under this chapter, the city shall provide a permit holder with written notice of the alleged violations and inform the permittee of his or her right to an appeal 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) *Council appeal.* Upon receiving the notice provided in division (C) of this section, the permittee shall have the right to request an appeal. If no request for an appeal is received by the City Clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If an appeal is requested within the stated time frame, an appeal shall be scheduled within 20 days from the date of the request for the appeal. Within three regular business days of the appeal, the City Council shall notify the permittee 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 Council appeal as prescribed in division (D) of this section.

(F) *Court appeal.* Any person whose permit is suspended or revoked under this section shall have the right to appeal that decision in court.
(Ord. 116, passed 4-24-13)

## § 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.
(Ord. 116, passed 4-24-13)

## § 116.07 REGISTRATION.

(A) All solicitors and any person exempt from the licensing requirements of this chapter under § 116.03 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 permit application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.
(Ord. 116, passed 4-24-13)

## § 116.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manners:

(A) Calling attention to his or her business or the 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.

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, 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 specific individual or the general public.

(D) Conducting business before 9:00 a.m. or after 8:00 p.m.

(E) Failing to provide proof of license, or registration, and identification when requested.

(F) Using the license or registration of another person.

(G) Alleging false or misleading statements about the products or services 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 permit or certificate of registration to that person.

(H) Remaining on the property of another when requested to leave.

(I) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
(Ord. 116, passed 4-24-13)

## § 116.09 EXCLUSION BY PLACARD.

(A) 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 stating: "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.
(Ord. 116, passed 4-24-13)

## § 116.99 PENALTY.

Any individual found in violation of any provision of this chapter, shall be a guilty of a misdemeanor.
(Ord. 116, passed 4-24-13)