

## ARTICLE III. TRANSIENT MERCHANTS, HAWKERS, PEDDLERS AND SOLICITORS\*

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\*State law reference—Authority to regulate transient commerce, Minn. Stats. § 412.221, subd. 19; authority to regulate transient merchants, Minn. Stats. § 437.02.  
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### DIVISION 1. GENERALLY

#### Sec. 38-115. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Peddler* means 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, selling or attempting to sell, and delivering goods immediately upon the sale of the goods, wares, products, merchandise, or other personal property that the person is carrying or transporting; the term does not include vendors of milk, bakery products or groceries who distribute their products to regular customers on established routes. The term "peddler" means the same as the term "hawker."

*Person* means any person, individual, co-partnership, limited liability company and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in the city regulated by this section.

*Solicitor* means 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 the sale of goods, wares, or merchandise including magazines, books, periodicals, other personal property or services of which they 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 noted above. The term "solicitor" means the same as the term "canvasser."

*Transient merchant* means a person, whether as owner, agent, consignee, or employee who engages in a temporary business out of a vehicle, trailer, boxcar, tent, or other portable shelter, store front, or from a parking lot for the purpose of 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 four consecutive days.

(Ord. No. 03-2008, § 485.01, 3-11-2008)

#### Sec. 38-116. Exemptions.

(a) *Applicability of article.* For the purpose of the requirements of this article, the terms "peddler," "solicitor," and "transient merchant" shall not apply to and shall not include the following:

- (1) Sale of personal property at wholesale to dealers;
- (2) The sale of papers or newspaper subscriptions;
- (3) Calling upon residents in connection with a regular route service for the sale and delivery of perishable daily necessities of life such as food, bakery products and dairy products. This article shall also not apply to any person who makes initial contacts with people for the purpose of establishing or trying to establish a regular customer delivery route for sale and delivery of perishable daily necessities of life such as food, bakery products and dairy products;
- (4) Calling upon residents at the request of said residents;

- (5) A sale required by statute or by order of any court or prevent the conduct of a bona fide auction sale pursuant to law;
- (6) Sales commonly known as garage sales, rummage sales, estate sales, as well as those persons participating in an organized, multiperson bazaar or flea market;
- (7) A person issued an invitation by the owner or legal occupant of a residential premises shall be exempt from the definitions of peddlers, solicitors, and transient merchants.

Exemptions from this article shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(b) *Nonprofit organizations and free expression.* Any organization, society, association, or corporation with a nonprofit status approved by the state or federal government desiring to solicit or to have solicited in its name money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations for a charitable, religious, patriotic, or philanthropic purpose by going from house to house, door to door, business to business, street to street, or other type of place to place, or when such activity is for the purpose of exercising that person's state or federal constitutional rights relating to the free exercise of religion or speech, is exempt from the licensing requirements of section 38-150, provided there is a registration filed in writing on a form to be provided by the City Clerk which contains the following information:

- (1) Organization's name and specific cause for which exemption is sought;
- (2) Names and addresses of the officers and directors of the organization;
- (3) Period during which solicitation is to be conducted;
- (4) Whether or not any commission, fee, wages or emoluments are to be expended in connection with such solicitation and the amount thereof; and
- (5) Names and addresses of all persons involved in canvassing efforts.

Persons exercising constitutional rights may lose their exemption from licensing if the person's exercise of constitutional rights is merely incidental to a commercial activity. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of section 38-150.

(c) *Farm produce, horticultural, fireworks.* 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. For the purposes of this article, the term "product" means any horticultural product grown, produced or cultivated and/or sold by any person in this state. Persons exempt from this subsection shall register with the city as required in subsection (b) of this section. The sale of fireworks shall be regulated by chapter 38, article V. Notwithstanding any provision of chapter 129, pertaining to zoning, to the contrary, no conditional use permit or zoning approvals relating to accessory uses shall be required for sales regulated by this section.

(Ord. No. 03-2008, § 485.20, 3-11-2008)

**Sec. 38-117. Prohibited activities.**

(a) *Loud noises and speaking devices.* A person licensed under this article may not shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, alleys, parks, or other places, for the purpose of attracting attention to any goods, wares, or merchandise which such license proposes to

sell.

(b) *Use of streets.* A person licensed or regulated under this article does not have an exclusive right to any location in the public streets, nor is such person permitted a permanent stationary location thereon. A person licensed under this article may not operate in a congested area where such operation might impede or inconvenience the public use of streets.

(c) *Private property.* Issuance of a license under this article does not permit the license holder to conduct the licensed activity on private property without the ongoing permission of the property owner or the property owner's authorized agent. If such property is conspicuously posted by the owner or person in control with a sign stating, "No Trespassing," or "No Solicitors or Peddlers" or similar language, the entry thereon by any person subject to the licensing or registration requirements of this article without the permission of the owner or agent shall be a public nuisance punishable as a misdemeanor.

(d) *Practices prohibited.* No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

- (1) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;
- (2) Creating a direct threat to the health, safety, or welfare of any individual or the general public;
- (3) Entering upon any residential premises for the purpose of carrying on the licensee's or registrant's trade or business between the hours of 7:00 p.m. and 9:00 a.m. Monday through Saturday, and peddling or soliciting is prohibited on Sundays, unless such person has been expressly invited to do so by the property owner or occupant thereof;
- (4) Harassing, intimidating, abusing, or threatening a person, continuing to offer merchandise for sale to any person after being told not to do so by that person, or failing or refusing to leave the premises of the resident occupant after being told to do so by the resident occupant.

(Ord. No. 03-2008, § 485.35, 3-11-2008)

#### **Sec. 38-118. Records.**

The Chief of Police must report to the City Clerk all convictions for violation of this article. The City Clerk must maintain a record for each license issued and record the reports of violations there. Any report of violation according to this section is grounds for revocation of the license.

(Ord. No. 03-2008, § 485.40, 3-11-2008)

#### **Secs. 38-119—38-149. Reserved.**

### DIVISION. 2. LICENSE

#### **Sec. 38-150. Required.**

It is unlawful to engage in the business of peddler, solicitor, or transient merchant in the city without first obtaining a license therefor as provided by this article, unless exempt from such license pursuant to the requirements of section 38-116. In addition, 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 Minn. Stats. ch. 329.

(Ord. No. 03-2008, § 485.05, 3-11-2008)

**Sec. 38-151. Application.**

(a) *Form.* Applications for a city license under this article must be filed in writing with the City Clerk on a form provided by the city.

(b) *Contents.* The application must contain the following:

- (1) Applicant's full legal name and other names under which the applicant conducts business or to which the applicant officially answers;
- (2) Physical description of the applicant (hair color, eye color, height, weight, distinguishing marks or features) or a copy of a current driver's license;
- (3) Complete permanent home and local address of the applicant; and in the case of transient merchants, the local address from which proposed sales will be made with a letter of signed permission from the property owner;
- (4) Applicant's phone number;
- (5) A brief description of the nature of the business and the goods to be sold or services to be provided;
- (6) The name, address and phone number of the employer, principal, or supplier of the applicant, together with credentials establishing the exact relationship;
- (7) The dates during which the applicant intends to conduct business and the names of its agents conducting business in the city;
- (8) The supply source of goods, or property prepared to be sold, or orders taken for the sale thereof, the location of such goods or products at the time of the application, and the proposed method of delivery;
- (9) A recent photograph (approximately two inches by two inches) of the applicant, showing the head and shoulders of the applicant in a clear and distinguishing manner, to be used on the identification card prepared by the city;
- (10) A statement as to whether or not the applicant has been convicted of any crime or violation of any municipal ordinance other than traffic violations, the nature of the offense, and the punishment or penalty assessed therefor;
- (11) The names of up to three other municipalities where the applicant conducted similar business immediately preceding the date of the current application and the addresses from which such business was conducted within those municipalities;
- (12) The applicant's driver's license number or other acceptable state-issued identification;
- (13) The license plate number and description of the vehicle to be used in conjunction with the licensed business, if applicable;
- (14) Proof of county license (applicable to transient merchants only).

(Ord. No. 03-2008, § 485.10, 3-11-2008)

**Sec. 38-152. Fee.**

At the time of filing the application, the license fee as established by the city must be paid to the City Clerk.

(Ord. No. 03-2008, §§ 485.15, 485.45, 3-11-2008)

**Sec. 38-153. Investigation and issuance.**

The license application for nonexempt applicants must be referred to the Chief of Police or delegate who must immediately conduct a CCH investigation of the applicant as authorized by section 34-19 and a driver's license check, and promptly return the application to the City Clerk with a recommendation.

(Ord. No. 03-2008, § 485.25, 3-11-2008)

**Sec. 38-154. License requirements.**

(a) *Contents.* The license and identification badge must contain the signature of the issuing officer and show the name, address, and photograph of the licensee, the date of issuance and expiration, and the license number.

(b) *Duration.* Each license shall be valid only for the period specified therein, and no license may extend beyond December 31 of the year in which it was granted.

(c) *Nontransferable.* No license is transferable from one person to another. Each person involved in any activity regulated by this article shall be separately licensed even though associated with an organization licensed hereunder.

(d) *Identification.* Each licensee must wear the identification badge supplied by the city upon approval of the license, conspicuously showing his name and the organization for which he is working and must carry his city issued license when conducting the business or activity required to be licensed.

(Ord. No. 03-2008, § 485.30, 3-11-2008)

**Secs. 38-155—38-176. Reserved.**