

ARTICLE XIII. - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS^[2]

Footnotes:

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State Law reference— Hawkers, peddlers and transient merchants, Minn. Stats. ch. 329.

DIVISION 1. - GENERALLY

Sec. 26-549. - Definitions.

(a)

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

Peddler means any person with no fixed place of business who goes from house to house, business to business, place to place, or street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers of the same.

Solicitor means any person who goes from house to house soliciting or taking or attempting to take orders for the purchase of any goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for delivery in the future, or orders for the performance of maintenance or repair services in or about the home or place of business, such as furnace cleaning, roof repair or blacktopping.

Transient merchant means any person who engages temporarily (60 days or less) in the business of selling and delivering goods, wares, or merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, parking lot, tent, alley, motor vehicle, trailer or railroad car.

(b)

Vendors of milk, groceries, bakery products, or other perishable commodities, or vendors of soft water service or laundry and dry cleaning pickup and delivery, who make an uninvited initiatory call upon the occupant of a residence as a preliminary step to the establishment of a regular route service for the sale and delivery of such commodities or the providing of such services to regular customer, shall not be included within the definition of "peddler" or "solicitor."

(c)

The term "peddler" or "solicitor" does not include any person who sells or attempts to sell, or solicits or attempts to solicit orders for goods, wares or merchandise, if doing so on behalf of a bona fide charitable, religious, civic, educational or political organization.

(Code 1978, § 7.85.01; Ord. No. 84-4A, 5-24-1984; Ord. No. 91-06, 6-17-1991; Ord. No. 08-12, § 2 (7.85.01), 3-25-2008)

Sec. 26-550. - Placards.

(a)

Prohibiting peddlers and solicitors from premises. Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by said resident may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." Such placard shall be at least 3½ inches long and 3½ inches wide and the printing thereon shall not be smaller than 49 point type. No peddler or solicitor shall enter in or upon any premises, or attempt to enter in or upon any premises, where such a placard or sign is placed and maintained.

(b)

Defacing placard. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

(Code 1978, §§ 7.85.02, 7.85.03; Ord. No. 84-4A, 5-24-1984; Ord. No. 08-12, § 2(7.85.02), (7.85.03), 3-25-2008)

Sec. 26-551. - Restrictions with regard to placement of transient merchant wares.

Transient merchants must make certain their goods, wares or merchandise for sale are on an improved surface per the zoning requirements for that district. They may not locate within required green space between the parking area and the right-of-way. The site must remain in compliance with article II, division 8 of this chapter.

(Code 1978, § 7.85.04; Ord. No. 08-12, § 2(7.85.04), 3-25-2008)

Sec. 26-552. - Acts in violation of article.

The following acts or omissions shall be deemed violations of the provisions of this article:

(1)

Acts prohibited by section 26-550;

(2)

A person who is required to submit information pursuant to section 26-586 and engages in peddling, soliciting, transient merchandising, or in making calls as described in section 26-549, without submitting such information, or without payment of the license fee required by section 26-28, or does any of the actions described in this subsection before council approval of the license;

(3)

Furnishing false information, or failing to furnish information as required by this article;

(4)

Sale of merchandise or services by a peddler, solicitor, transient merchant or vendor by means of statements that the person making them knows or should know are false or misleading;

(5)

Sale of merchandise by a peddler, solicitor, transient merchant or vendor, which merchandise is not of merchantable quality or is not fit for the purpose for which the seller knows, or has reason to know, the merchandise is being purchased;

(6)

Engaging in peddling, soliciting or transient sales after the hour of 9:00 p.m. or before 9:00 a.m. unless a previous appointment has been made.

(Code 1978, § 7.85.06; Ord. No. 84-4A, 5-24-1984; Ord. No. 91-06, 6-17-1991; Ord. No. 08-12, § 2 (7.85.07), 3-25-2008)

Sec. 26-553. - Use of devices to attract attention prohibited.

No person licensed under this article shall call attention to his business or to his merchandise by crying out, by blowing a horn, by ringing a bell, by any sound-amplified devices, or by any loud or unusual noise, unless otherwise noted in the permit application.

(Code 1978, § 7.85.07; Ord. No. 84-4A, 5-24-1984; Ord. No. 08-12, § 2(7.85.08), 3-25-2008)

Secs. 26-554—26-584. - Reserved.
DIVISION 2. - LICENSE

Sec. 26-585. - License required.

A license shall be required for any soliciting, peddling or transient merchandising, or in making calls as described in section 26-549.

(Code 1978, § 7.85.04; Ord. No. 84-4A, 5-24-1984; Ord. No. 91-06, 6-17-1991; Ord. No. 08-12, § 2 (7.85.05), 3-25-2008)

Sec. 26-586. - Application for license.

(a)

In order to acquire the license required in this article, the peddler, solicitor, transient merchant or vendor, except a person selling or peddling the products of a farm or garden occupied and cultivated by themselves, or a person conducting a garage or estate sale, must submit the following information to the city clerk:

(1)

Name and permanent address and local address, if any;

(2)

A brief description of the nature of the business and the goods to be sold;

(3)

If employed, the name and address of the employer;

(4)

The period of time within which applicant intends to conduct activities including days of the week and hours of the day (i.e., 9:00 a.m. to 6:00 p.m., Monday through Saturday).

(5)

The source of supply of the goods or property proposed to be sold, or in the case of goods or property to be sold by solicitation of orders where such goods or products are located at the time the information is submitted to the city clerk, and the proposed method of delivery.

(6)

Any felonies or gross misdemeanors, or any crimes of theft or issuance of a worthless check, of which the registrant was convicted within the ten most recent years, and the nature of the crime of which the registrant was convicted.

(7)

Whether the registrant has taken advantage of any state or federal bankruptcy or insolvency law or proceeding as a bankrupt or debtor within the ten most recent years. Every peddler, solicitor or vendor required to submit the foregoing information shall promptly submit to the city clerk any changes therein required by changes in circumstances.

(8)

In the case of transient merchants, the place where the business is to be carried on together with written consent of the property owner of proposed location.

(9)

A copy of county license if applicable.

(10)

If nonprofit organization, a certificate of nonprofit status from the state where organized.

(b)

Every application shall bear the written report and recommendation of the chief of police. The police chief or his designee shall immediately institute an investigation of the applicant including, but not limited to, a criminal history and wanted persons check with the Bureau of Criminal Apprehension, for the protection of the public good. No transient merchant license shall be issued for sales from any location which does not have sufficient parking for customers and for areas where customer parking would interfere with normal traffic flow. The completed application shall be presented to the council for consideration and, if granted by the council, a license shall be issued by the city clerk upon payment of the required fee. The fee shall be set annually by council ordinance.

(Code 1978, § 7.85.05; Ord. No. 84-4A, 5-24-1984; Ord. No. 91-06, 6-17-1991; Ord. No. 08-12, § 2 (7.85.06), 3-25-2008)

Sec. 26-587. - Non-issue/denial.

(a)

If as a result of a background investigation, the applicant is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and the reasons for the same, and return the application to the city clerk, who will in turn bring the request with recommendation for denial to the city council. The police chief must comply with the provisions of Minn. Stats. ch. 364 if the recommendation for denial is based in whole or in part upon prior criminal convictions. If the council denies the issuance of a license, the city clerk shall notify the applicant that his application is disapproved and no permit shall be issued.

(b)

Any applicant may be found to be unsatisfactory for reasons including, but not solely limited to:

(1)

Fraud, misrepresentation or incorrect statement contained in the application for permit.

(2)

Past fraud, misrepresentation or incorrect statement made in the course of carrying on a business as a solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(3)

Past conviction of any crime or misdemeanor involving fraud, theft or moral turpitude, or any crime of violence as defined in Minn. Stats. § 624.713.

(4)

Conducting the business of peddler, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may have been, in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety or general welfare of the public.

(Code 1978, § 7.85.10; Ord. No. 08-12, § 2(7.85.10), 3-25-2008)

Sec. 26-588. - Carrying and display.

All licensees must make an appointment with the police department, after the license is approved by council, but prior to conducting business, to have a photo taken and an identification badge issued. Such photo identification badge must be worn whenever business is being conducted.

(Code 1978, § 7.85.08; Ord. No. 84-4A, 5-24-1984; Ord. No. 08-12, § 2(7.85.09), 3-25-2008)

Sec. 26-589. - Revocation.

Any license may be revoked by the council for a violation of any provision of this Code if the licensee has been given a reasonable notice of seven days and an opportunity to be heard.

(Code 1978, § 7.85.09; Ord. No. 84-4A, 5-24-1984; Ord. No. 91-06, 6-17-1991; Ord. No. 08-12, § 2 (7.85.011), 3-25-2008)

Sec. 26-590. - Appeal.

Any person aggrieved by the denial/revocation of a license may appeal to the city council. Such appeal shall be taken by filing with the city clerk, within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city clerk shall schedule a time and place with the city council for hearing on such appeal, and notice of such hearing shall be given to the applicant. No individual may conduct any business while an appeal is pending.

(Code 1978, § 7.85.12; Ord. No. 08-12, § 2(7.85.12), 3-25-2008)

Secs. 26-591—26-613. - Reserved.