

Section 1145 - Peddlers, Solicitors, and Transient Merchants

1145.01. Purpose This Section is not intended to interfere with the legitimate business activities of peddlers as the same are defined herein, whether local or interstate. These provisions are intended only to, as nearly as possible, ferret out all illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the City, or their unique proximity to its residents, for purposes of harassment, nuisance, theft, or other unlawful activities.

1145.03 Definitions. Subdivision 1. When used in this Section, the following terms have the following meanings:

Subd. 2. "Peddler" means any person, whether a resident of the City of Hopkins or not, who goes from house to house, from business to business, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales where payment is received immediately for future delivery to purchasers. It does not include vendors of milk, bakery products or groceries who distribute their products to regular customers on established routes.

Subd 3. "Peddling" means the act of being a peddler.

Subd 4. "Solicitor" means any person, whether a resident of the City of Hopkins or not, who goes from house to house, from place to place, or from street to street with the intention of taking immediate orders for services or goods for future delivery and payment. All solicitors dealing with merchandise of any kind to be delivered to customers directly from points outside the State of Minnesota shall be exempt from payment of the license fee.

Subd 5. "Transient merchant" includes any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City of Hopkins or not, who engages in a temporary business of selling and delivery goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any vacant lot, parking lot, motor vehicle, trailer, tent, boxcar, or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided however that such definition does not include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only, nor shall such definition apply to any person, firm or corporation who sells such goods, wares, or merchandise from within the confines of a lawfully established and operating permanent retail sales operation.

1145.05. Permit Required. It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the City of Hopkins without first obtaining a permit therefore in compliance with the provisions of this ordinance.

1145.07. Exemptions. The terms of this Section do not include:

- a) the acts of merchants or their employees in delivering goods in the regular course of business;
- b) to the sale of farm or garden products by the person producing the same or where the products are sold at a "Farmer's market";
- c) children, age eighteen or younger, soliciting for school sponsored activities;
- d) children, age eighteen or younger, soliciting for such organizations as the "Boy Scouts" or "Girl Scouts" where the children soliciting are members of the organization and where the proceeds of the sale are mainly devoted to the benefit of children;
- e) organizations selling Christmas trees at sites approved by the City, although such organizations shall comply with Section 1145.15, Subd. 2, d) through g);
(Amended Ord. 2009-1008)
- f) "garage" or "estate" sales;
- g) solicitations by any organization for philanthropic, religious or educational causes if the following procedure has been accomplished: the requesting entity must file an application in writing, on a form to be furnished by the City Clerk, which shall give the following information:
 - 1. Name and purpose of the cause for which exemption is sought.
 - 2. Name of the individual in the organization responsible for the peddling or solicitations.
 - 3. Names and addresses of the individuals who will actually be doing the peddling or solicitation.
 - 4. Period during which the peddling or solicitation is to be carried on.
 - 5. Certificate of nonprofit status from the state where organized.

Upon receipt of the completed application, the City Clerk shall issue a permit without charge to such organization, association or corporation to solicit in the City. Such organization, shall furnish all of its members, agents, or representatives conducting the peddling or solicitation credentials, in writing, stating the name of the organization, name of agent and purpose of the peddling or solicitation.

The City may also exempt certain transient merchants who may sell goods, wares, or merchandise as part of a City sponsored or licensed festival or activity.

1145.09. Application. Applicants of a permit under this Section shall file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk. The application shall give the following information:

- a) Name (including last, first and middle), date of birth, driver's license number identification, and written authorization for necessary background checks by the Police Department of the person registering and each individual that will be carrying the activity of a peddler, solicitor, or transient merchant. While only one representative for a group need apply on behalf of the organization, each individual that will be participating in the peddling or soliciting activity shall be required to submit the above information to the Police Department.
- b) 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.
- c) A brief description of the nature of the business and the goods to be sold.
- d) The length of time for which the right to do business is desired.
- e) A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefore.
- f) The last municipalities, not to exceed three, where applicant carried on business immediately preceding the date of application, and the addresses from which such business was conducted in those municipalities.

1145.11. Fee. At the time of filing the application, the person registering shall pay a fee to cover the administrative costs of processing and investigation. The fee shall be for each individual who is registered. The fee shall be set by City Council Resolution.

1145.13. Investigation and Issuance. Subdivision 1. Upon receipt of each application, it shall be referred to the Chief of Police, or his designee, who 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 and shall endorse the application in the manner prescribed in this Section within seventy-two (72) hours, not including holidays or weekends, beginning the day after it has been received by the police department.

Subd 2. Any applicant may be found to be unsatisfactory for reasons including, but not solely limited to:

- a) Fraud, misrepresentation or incorrect statement contained in the application for permit.
- b) 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.
- c) Past conviction of any crime or misdemeanor involving fraud, theft or moral turpitude, or any crime of violence as defined in M.S. 624.713.
- d) Conducting the business of a 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 health, safety or general welfare of the public.

Subd 3. If, as a result of such investigation, the applicant is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and the reasons for the same, and return the application to the City Clerk, who shall notify the applicant that his/her application is disapproved and that no permit will be issued.

Subd. 4. If as a result of such investigation, the applicant is found to be satisfactory, the chief of police shall endorse on the application his or her approval and return the application to the city clerk, who shall deliver the permit to the applicant. Such permit shall contain the signature of the city clerk and shall show the name, address and photograph of said permittee, the class of permit issued and the kinds of goods to be sold thereunder, the date of issuance and the length of time that the other identifying description of any vehicle used in such licensed business. Each person issued a permit must carry it on his or her person while conducting or engaging in any activities regulated hereunder. No permit shall be used at any time by any person other than the one to whom it is issued. The City Clerk shall keep a permanent record of all permits issued.

1145.15. Practices Prohibited. Subdivision 1. Signs. Any resident of the City or business employee who wishes to exclude peddlers or solicitors from premises occupied by the resident or business may place upon or near the usual entrance to such premises a printed placard or sign bearing the notice: "Peddlers and Solicitors Prohibited". Such placard shall be at least 3 3/4 inches long and 3 3/4 inches wide and the printing thereon shall not be smaller than 48 point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

Any resident of the City or business employee who wishes to exclude the deposit of advertising handbills, advertising circulars and other advertising materials from the premises occupied by the resident or business may place upon or near the usual entrance to such premises a printed placard or sign bearing the notice: "Depositing of Handbills, Circulars, Advertising Material Prohibited". Such placard shall be at least 3 3/4 inches long and 3 3/4 inches wide and the printing thereon shall not be smaller than 48 point type. No person shall enter in or upon any premises or attempt to enter in or upon any premises where such placard or sign is placed and deposit any advertising handbills, advertising circulars or other advertising material. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

Subd. 2. Transient Business

- a. The site of the transient business shall be located only in the B3 Business Zoning District. (Added ord 2005-944)
- b. Traffic Hazards. No transient merchant shall display or offer for sale any merchandise at locations within one hundred fifty (150) feet of any intersection. The business must not cause traffic congestion on surrounding streets. (Added ord 2005-944)
- c. Setbacks. No transient merchant shall display or offer for sale any merchandise within or upon any public right-of-way or front or side yard setback when the side yard abuts a street. (Added ord 2005-944)
- d) the business may not generate noise, light, dust, or odors which reasonably would tend to disturb or annoy occupants of adjacent residential properties;
- e) the transient business licensee shall keep the parcel free of trash, litter, and debris;
- f) any tents, canopies, awnings or similar items and all water, electrical, and lighting facilities shall be in compliance with applicable codes and regulations;
- g) the transient merchant shall have in possession written evidence of consent of the owner or leasee of the parcel to conduct the transient business thereon.
- h) Parking. The space used by the transient merchant, including the space used for off-street parking, shall not exceed the space needed for the existing business at the site. Adequate off-street parking shall be available to serve both the principal use of the property and the transient merchant use of the property. (Added Ord 2005-944)
- i) Limitation on Number of Days. A transient merchant license shall be necessary for each event, and an event shall be limited to a maximum of four (4) continuous days. (Added Ord 2005-944)
- j) Limitation on Number of Licenses. No person shall be granted more than four (4) transient merchant licenses in one calendar year. (Added Ord 2005-944)
- k) Signage. No signage shall violate City Code provisions relating to size, location and number of business signs. (Added Ord 2005-944)
- l) State/County License. Transient merchants shall conspicuously post on the business premises the license issued under this Division and the license issued under Minnesota Statutes, Section 329.10. (Added Ord 2005-944)

m) Transfer of License Prohibited. A license issued under this Division to the applicant shall not be assigned or transferred to any person. (Added Ord 2005-944)

Subd. 3. Hours. No peddler or solicitor shall enter upon any residential or business premises for the purpose or carrying on his or her trade or business between the hours of 7:00 p.m. and 8:00 a.m. April 1 to October 31 or between the hours of 5:00 p.m. and 8:00 a.m. November 1 to March 31, unless such person has been expressly invited to do so by the owner or occupant thereof.

Subd. 4. Loud Noises and Speaking Devices. No permittee, nor any person in his/her behalf, shall shout, cry out, blow a horn, 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, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell.

1145.17. Registration Period. Registration shall be valid only for the calendar year. All registrations shall expire on June 30 after their issue. The registration fee shall remain the same throughout the year.

1145.19 Registration Nontransferable. A registration may not be transferred. Each peddler, solicitor, or transient merchant shall separately register.

1145.21. Revocation of License. Subdivision 1. Permits issued under the provisions of this Section may be revoked by the Council of the City after notice of a hearing, for any of the following causes:

- a) Fraud, misrepresentation or incorrect statement contained in the application for permit.
- b) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
- c) Any violation of this ordinance.
- d) Conviction of any crime or misdemeanor involving fraud, theft or moral turpitude, or any crime of violence as defined in M.S. 624.713.
- e) Conducting the business of a peddler, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in any unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to health, safety or general welfare of the public.

Subd. 2. Notice of the hearing for revocation of a permit shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the permittee to his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

1145.23. Appeal. Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit as provided in Section 1145.13 may appeal to the City Council. Such appeal shall be taken by filing with the Council within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 1145.21 of this ordinance for notice of hearing on revocation. No individual may conduct any business regulated hereunder while an appeal is pending.