

CHAPTER 6

BUSINESS REGULATIONS AND LICENSES

640. PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS AND DOOR-TO-DOOR ADVOCATES

Section 640.01. Purpose. The purpose of this ordinance is to promote the public health, safety and welfare by protecting the privacy of residents of the city and by discouraging fraudulent sale of or solicitation for goods or services or fraudulent solicitation on behalf of organizations or causes and by protecting against persons of criminal intent who travel from place to place in the city under a guise of legitimacy.

Section 640.03. Definitions. For the purposes of this ordinance, the following terms shall have the meanings given to them:

Subd. 1. "Door-to-Door Advocate" means a person who goes door-to-door for the primary purpose of disseminating religious, political, social or other ideological materials or advocating such beliefs. For purposes of this ordinance, door-to-door advocacy includes door-to-door canvassing and pamphleting for non-commercial purposes.

Subd. 2. "Peddler" means any person who goes from house to house, place to place or street to street conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

Subd. 3. "Person" means any individual, partnership, corporation, organization, society or association acting as a peddler, solicitor, transient merchant or door-to-door advocate.

Subd. 4. "Professional Fundraiser" means any person who, for compensation, performs any solicitation for a religious, political, social or charitable organization.

Subd. 5. "Solicitor" means any person who goes from house to house, place to place, or street to street soliciting or taking orders for the sale of goods, wares or merchandise of any nature for future delivery, or for services to be performed in the future, regardless of whether such individual has, carries or exposes for sale a sample of the subject of such order or whether advance payment on such orders is collected. Solicitation shall include any effort to obtain orders even though such may not initially purport to be the case.

Subd. 6. "Transient Merchant" means any person who engages in, does or transacts any temporary and transient business in the city, either in one locality or in traveling from place to place in the city selling goods, wares or merchandise, and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, tent, vacant lot, vehicle or railroad car for the exhibition and sale of such goods, wares or merchandise.

Section 640.05. License Required. Except as provided in section 640.15, no person shall engage in or follow the business of a peddler, solicitor or transient merchant without first having obtained a license therefor from the city.

Section 640.07. Application. Application for a peddlers, solicitor or transient merchant license shall be made to the city clerk on forms provided by the city. The application shall contain at least the following information and shall be signed by the applicant:

- (a) name and physical description of the applicant, along with valid photo identification;
- (b) any other names under which the applicant has or does conduct business;
- (c) complete permanent home and local address of the applicant and, for transient merchants, the local address from which proposed sales will be made;
- (d) permanent and local telephone numbers of the applicant and the cellular phone number at which the applicant may be reached while working;
- (e) a brief description of the nature of the business and the goods to be sold;
- (f) the name and address of the employer, principal or supplier of the applicant, together with credentials therefrom establishing their relationship;
- (g) a Minnesota Tax Identification Number or Federal Tax Identification Number or a sufficient explanation to why one is not required;
- (h) the dates and hours of the day during which the business will be carried on;
- (i) the source of supply of the goods or property proposed 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;
- (j) if a transient merchant, written permission of the owner of the property from which sales will be conducted;
- (k) a photograph of the applicant taken within the previous six months, which shall be approximately 2" by 2" and show the head and shoulders of the applicant in a clear and distinguishable manner;
- (l) a statement as to whether the applicant has been convicted of any misdemeanor, gross misdemeanor or felony for violation of any statute, law, or ordinance, other than traffic violations, the date and nature of the offense and the punishment or penalty assessed therefore;
- (m) the names of other municipalities, not to exceed five in number, where the applicant carried on similar business immediately preceding the date of application and the

address from which such business was conducted in those municipalities;

- (n) if a transient merchant, a copy of the license issued by Hennepin County;
- (o) if a vehicle is to be used, a description of the vehicle, together with state of registration and license number or other means of identification;
- (p) the required fee; and
- (q) any other information reasonably required by the city in order to conduct an investigation of the applicant.

Section 640.09. Application Fee. The application fee for a peddler, solicitor or transient merchant license shall be set by ordinance in the city fee schedule. The fee shall be non-refundable regardless of whether the license is issued or denied and shall not be prorated even if the license is issued for less than the remainder of the calendar year.

Section 640.11. Issuance of License.

Subd. 1. Upon receipt of a completed application for a peddler, solicitor or transient merchant license, including the required fee, the city clerk shall transmit a copy of the application to the chief of police and such other public officials as the city clerk may deem appropriate, who shall conduct an investigation. The chief of police or designee has authority to conduct a criminal history and driver's license check on the applicant through the State of Minnesota, Bureau of Criminal Apprehension.

Subd. 2. Within five days of receipt of a report from the chief of police and other public officials recommending approval of the license application the city clerk shall issue the license. The license shall have one copy of the applicant's photograph attached to it, which shall be exhibited by the applicant upon request by a police officer or any person in the city contacted by the applicant in connection with the licensed activity. Licenses shall be valid for the period of time stated thereon but shall expire no later than December 31 of the year of issuance. The city clerk shall maintain a record of all licenses issued hereunder.

Subd. 3. Within five days of receipt of a report from the chief of police or other public official recommending denial of a license application, the city clerk shall deny the application and notify the applicant in writing of the denial. Any person aggrieved by a decision of the city clerk to deny a license may appeal such denial to the city council by submitting a written request and the administrative appeal fee to the city clerk within 15 business days of receipt of notification of the denial. The city council shall hear the applicant's appeal at its next regular meeting occurring not sooner than 10 days after receipt of the appeal by the city.

Section 640.13. Grounds for Denial of License. The following shall be grounds for denial of an application for a peddler, solicitor or transient merchant license:

- (a) omission or misrepresentation of any material fact or information on the application;

- (b) revocation or suspension within the previous five years of any peddler, solicitor or transient merchant license in any jurisdiction;
- (c) failure or refusal to consent to a background check;
- (d) conviction within the previous 10 years of any crime involving fraud, deceit or misrepresentation in any trade or business or of any crime which reflects adversely on the applicant's suitability to conduct business or of any crime involving any form of actual or threatened physical harm to another;
- (e) intent to sell or take orders for the sale of any goods, wares, merchandise or services which are illegal or injurious to the public health, safety or welfare; or
- (f) revocation or suspension by any jurisdiction of any other license or permit required to conduct business.

Section 640.15. Exemptions. This ordinance shall not apply to the following:

- (a) sale of personal property at wholesale to dealers in such articles;
- (b) sale or delivery of newspapers or making contact for the purpose of establishing a delivery route for newspapers;
- (c) delivery by merchants of goods purchased in the regular course of business;
- (d) sale of the products of the farm or garden occupied or cultivated by the seller;
- (e) sale to dealers by commercial travelers or selling agents in the usual course of business;
- (f) sale or delivery of items of food or drink to householders on a regular route;
- (g) a sale required by statute or by order of any court, or a bona fide auction sale pursuant to law;
- (h) a garage, rummage or similar sale involving household or other items owned and used by the seller;
- (i) solicitation by an organization, society, association or corporation solely of its own members;
- (j) non-commercial door-to-door advocates not engaged in the sale of any goods or services; or
- (k) distribution of materials door to door free of charge.

Exemption from the requirements of this ordinance does not include exemption from any other

applicable provision of the code of ordinances unless an exemption under such other provision also applies.

Section 640.17. Door-to-Door Advocates Exemption.

Subd. 1. No license shall be required under this ordinance for any person going door-to-door for the purpose of advocating any religious, political, social or other position or belief protected by the federal or state constitution. This exemption does not apply and such person is required to obtain a license if the exercise of the person's constitutional rights are merely incidental to a commercial activity.

Subd. 2. A professional fundraiser working on behalf of an otherwise exempt door-to-door advocate is not exempt from the licensing requirements of this ordinance.

Section 640.19. Prohibited Activities. No peddler, solicitor, transient merchant or door-to-door advocate shall conduct business or activities in any of the following manners:

- (a) calling attention to any goods or services by means of blowing a horn or whistle, ringing a bell, crying out, using amplified sound or any other noise in an unreasonably audible manner;
- (b) obstructing vehicular or pedestrian traffic on any street or other right-of-way;
- (c) stating, implying or doing anything to suggest that the license issued by the city is or constitutes an endorsement by the city or any of its officers or employees of the goods, services or activities being offered;
- (d) conducting business or activities other than during permitted hours;
- (e) failing to produce a license and identification when requested by a police officer or any person in the city contacted by the license or certificate holder in connection with the business or activity;
- (f) using the license of another person or a false license;
- (g) making false or misleading statements or claims about the goods or services being offered;
- (h) remaining on the property of another after being requested to leave;
- (i) failing to heed any no solicitation or similar notice posted on the property;
- (j) selling or taking orders for the sale of any goods or services which are illegal or injurious to the public health, safety or welfare; or
- (k) conducting business or activities in any manner which a reasonable person would find

threatening, intimidating or abusive.

Section 640.21. Licenses Not Transferable. No license or certificate issued pursuant to this ordinance shall be transferable. Each individual shall be separately licensed or certified when more than one individual is involved in a sales or advocacy activity.

Section 640.23. Use of Property. No person licensed or certified under this ordinance has an exclusive right to any specific location on public property, nor shall a stationary location thereon be permitted. No person licensed or certified under this ordinance shall operate in a congested area or where he or she may impede or interfere with traffic. Nothing in this ordinance shall be deemed to permit persons licensed or certified hereunder to use private property without the consent of the owner thereof.

Section 640.25. Exclusion of Peddlers, Solicitors and Door-to-Door Advocates. Any person who wishes to exclude peddlers, solicitors and door-to-door advocates from premises he or she occupies may place upon or near the usual entrance to such premises a conspicuous printed placard or sign bearing a notice that peddlers, solicitors and door-to-door advocates are prohibited. No peddler, solicitor or door-to-door advocate 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 notwithstanding the fact that he or she may have obtained a license or certificate under the provisions of this ordinance. No person other than the occupant shall remove, damage or deface such placard or sign.

Section 640.27. Suspension or Revocation. Any license may be suspended or revoked by the chief of police upon reasonable evidence the person is or has become ineligible for a license under section 640.13 or for any violation of section 640.19. The chief of police shall notify the person of the suspension or revocation in writing at the person's permanent address or place of business and by attempting to contact the person by telephone at the addresses and telephone numbers provided under section 640.07. Any person aggrieved by the suspension or revocation of a license under this section may appeal the suspension or revocation to the city council in the manner specified in section 640.11.

Section 640.29. Hours of Solicitations. Peddlers, solicitors and door-to-door advocates may engage in sales or activities daily between the hours of 9:00 a.m. to 7:00 p.m., or until sundown, whichever occurs first.

Section 640.31. Violations. Any person violating any provision of this ordinance shall be guilty of a misdemeanor.

Amendment History of this Section

Adopted July 1, 1986 (Ord. 230).

Amended August 16, 2005 (Ord. 390). Amended Subsection 640.11, giving Chief of Police authority to conduct background check before the issuance of a license.

Amended July 3, 2007 (Ord. 424). Amended Subsection 640.07 and 640.09 and added Subsection 640.29 to require proper identification, set license fee, and set hours.

Amended May 4, 2010 (Ord. 482). Amended Subsections 640.01 through 640.29 and added Subsection 640.31.