

Chapter 24

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS*

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ARTICLE I. IN GENERAL

Secs. 24-1—24-18. Reserved.

ARTICLE II. TRANSIENT TRADERS*

Sec. 24-19. Transient trader defined.

Every person who shall engage temporarily in the sale of goods, wares, produce and merchandise at a definite place of business in the city, whether by auction or otherwise without any bonafide intention of remaining in the business of selling or disposing of such goods, wares, produce or merchandise within the city shall be classified as transient traders or dealers, except as specified in section 24-21.

(Code 1972, § 20.401; Ord. No. 44, § 1, eff. 3-15-1972)

Sec. 24-20. Sale of merchandise prohibited on certain streets.

(a) It is unlawful for any person to sell at public outcry, hawk, peddle, or auction any goods, wares, merchandise, or produce of any nature on Kent Street between the intersection of Academy Street and Grand River Avenue or on Bridge Street between the intersection of Maple Street and Grand River Avenue except as permitted in subsection (b).

(b) A city official may issue a license to sell merchandise in the locations identified in subsection (a) of this section if the sales occur during a community event recognized by a resolution of the city council.

(Code 1972, § 20.402; Ord. No. 44, § 2, eff. 3-15-1972; Ord. No. 44-B, § 1, eff. 5-26-2011)

Sec. 24-21. Exceptions.

Nothing in this article shall be construed as prohibiting any resident from selling or offering for sale on the sidewalk in front of his regular place of business his goods, wares, merchandise and produce if the merchant does not occupy a

***Charter reference**—Power of city to regulate trades and occupations, § 2.1(b)(1).

State law reference—Licensing and regulations of transient merchants, MCL 445.371 et seq.

larger portion of the sidewalk in front of his place of business than is by law permitted; nor as prohibiting any person from selling at wholesale to tradesmen or merchants; nor as prohibiting the sale of supplies and equipment to resident merchants, tradesmen and professional men regularly doing business along the streets enumerated in section 24-20(a).

(Code 1972, § 20.403)

Sec. 24-22. License required.

(a) No person may engage in business as a transient trader or dealer within the city without first obtaining a license from the city.

(b) A city official may issue a blanket license to the sponsoring entity for a craft show or food sale sponsored by any local civic organization or recognized charitable, religious, educational, or fraternal organization when that event is recognized as a community event by resolution of the city council. A license issued under this paragraph is exempt from the requirements of sections 24-24 and 24-25.

(Code 1972, § 20.404; Ord. No. 44, § 4, eff. 3-15-1972; Ord. No. 44-B, § 2, eff. 5-26-2011)

Sec. 24-23. Application for license; contents.

The application for a license required by this article shall be made to the city clerk specifying the nature of the business in which the applicant proposes to engage in business, and also specifying the street and building in which he intends to carry on such business.

(Code 1972, § 20.405; Ord. No. 44, § 5, eff. 3-15-1972)

Sec. 24-24. Bond required.

After an application made pursuant to this article has been approved by the city council the applicant shall execute and file with the city a bond to the city in the penal sum as currently established or as hereafter adopted by resolution of the city council from time to time with one or more sufficient sureties, to be approved by the city council and conditioned that the applicant will in all respects comply with and faithfully observe all

the requirements of this article and other ordinances of the city relative to transient traders and dealers.

(Code 1972, § 20.406; Ord. No. 44, § 6, eff. 3-15-1972)

Sec. 24-25. License fee.

The fee for a license required by this article shall be as currently established or as hereafter adopted by resolution of the city council from time to time.

(Code 1972, § 20.407; Ord. No. 44, § 7, eff. 3-15-1972)

Sec. 24-26. Issuance of license.

Upon meeting all of the requirements of this article, the city clerk shall issue the license required by this article.

(Code 1972, § 20.408; Ord. No. 44, § 8, eff. 3-15-1972)

Sec. 24-27. Transferability of license; only one place of business to be licensed.

No license issued pursuant to this article shall be transferable or assignable and only one place of business shall be licensed by each license.

(Code 1972, § 20.409; Ord. No. 44, § 9, eff. 3-15-1972)

Secs. 24-28—24-57. Reserved.

ARTICLE III. SOLICITING, CANVASSING AND PEDDLING

Sec. 24-58. 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:

Canvassing or *soliciting* means the going from store to store, door to door, house to house, place to place and street to street within the city for the purpose of soliciting orders for or canvassing occupants or residents for the sale of food products, books, magazines, goods, wares, or merchandise of any nature whatsoever for immediate or

future delivery, or for the purpose of soliciting orders for, or canvassing occupants or residents for the installation or servicing of any household equipment or appliances, including but not limited to, furnace or boiler repair and maintenance, repair or servicing television sets or VCR's, repair and servicing of washing machines, clothes dryers, dishwashers, garbage disposals and incinerators, or any utility service such as phone, gas, electricity or cable television, or the installation of storm windows and screens, awnings, roofing and siding of buildings, the cleaning, painting or modernization of buildings and the providing of any service of any nature whatsoever.

Local organization means any church, educational, fraternal, charitable, veteran, or other nonprofit organization having its principal offices in the city, serving the residents of the city.

Peddling means the going from door to door, house to house, place to place, store to store, street to street in the city, carrying, conveying or transporting by person, motor vehicle or other type of conveyance for the purpose of offering for immediate sale, food products, wares or merchandise of any nature whatsoever, landscaping materials of all types, and any service of any nature whatsoever.

(Code 1972, § 20.423; Ord. No. 110, § 14-32, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-59. Unlawful acts.

(a) It shall be unlawful for any person to engage in or carry on the business of soliciting, canvassing or peddling, as defined herein, in the city, without first obtaining a license in compliance with the provisions of this article.

(b) It shall be unlawful for any person to solicit or canvass upon any premises in the city if requested by anyone in control of the premises not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign or any similar notice indicating in any manner that the occupants of said premises do not desire to have solicitors, canvassers or peddlers call upon them.

(c) It shall be unlawful for any person to solicit, canvass, or peddle in the city at anytime on a Sunday or on any other day prior to 9:00 a.m. or after 8:00 p.m. of the official time of the city on any day; provided, however, that such hours may be extended by the city manager and any such extension shall appear on the license as issued or amended.

(Code 1972, § 20.424; Ord. No. 110, § 14-33, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-60. Application for license.

Applications for licenses required by this article shall be made upon forms provided by the clerk, which shall be signed and verified under oath by the applicant, if an individual, or by the authorized agent for any firm, partnership, association, corporation, company, or organization and shall set forth the following:

- (1) If an individual, the name, address and telephone number of the individual;
- (2) If a partnership, the name, residence and business address and telephone number of each partner;
- (3) If a corporation, the name, date and state under whose laws such corporation was organized, and if a foreign corporation, whether authorized to do business in the state; the names of the principal officers, directors and local representatives, their residences and business addresses and telephone numbers;
- (4) If an employee, the name, residence and telephone number of the employee together with written credentials setting forth the exact nature of his employment;
- (5) The length of time for which permission to do soliciting is sought;
- (6) A brief description of the nature of the business and the goods, product or service involved;
- (7) A statement as to the method of solicitation or peddling to be used by the applicant;
- (8) The place where the goods or property proposed to be sold, or orders taken for

the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;

- (9) A photograph of the applicant and any other solicitor acting in concert with the applicant taken within 60 days immediately prior to the date of the filing of the application, which picture shall be a two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (10) The fingerprints of the applicant and any other solicitor acting in concert with the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable the clerk to properly evaluate such character and business responsibility; and
- (11) A statement as to whether or not the applicant and any other solicitor acting in concert with the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor.

(Code 1972, § 20.425; Ord. No. 110, § 14-34, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-61. Investigation and issuance, appeal process.

(a) Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the said

application to the city clerk, who shall notify in writing with the reasons the applicant's application is disapproved and that no permit and license will be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval and return the application to the city clerk who shall, upon payment of the prescribed license fee, issue and deliver to the applicant his license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and telephone number and photograph of said licensee, the kind of goods, products, or services to be sold thereunder, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The clerk shall keep a permanent record of all licenses issued. The clerk may issue a license to a local organization without investigation upon being satisfied that such organization qualifies as such under this article and he shall notify the police department of the issuance of such license.

(d) If any applicant feels an application for a license has been improperly denied or that a license has been improperly revoked, said applicant may appeal in writing said denial of an application or revocation of a license within three days to the city manager or his designee whose decision shall be rendered within three days and shall be final.

(Code 1972, § 20.426; Ord. No. 110, § 14-35, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-62. License fee.

The fees currently established or as hereafter adopted by resolution of the city council from time to time shall be paid to the clerk of the city at the time of application and no license shall be issued until such fees are paid.

- (1) *Duplicate copies of licenses.* The issuance of a license and payment of the license fee by a firm, partnership, association, corporation, company or other organization shall not waive the requirement that each in-

dividual person engaged in soliciting, canvassing or peddling shall also be licensed.

- (2) *Application for adjustment.* None of the license fees provided for by this article shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the city manager for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit, and supporting testimony, show his method of business and the gross volume or estimated volume of business and such other information as the city manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The city manager shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of a fact from which he shall determine whether the fee fixed by this article is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the city manager shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by this section. Should the city manager determine the gross sales measure of the fee to be the fair basis, then he may require the applicant to submit, either at the time of termination of applicant's business in the city or at the end of each three month period, a sworn statement of the gross

sales and pay the amount of fee therefor; provided, that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in this section.

(Code 1972, § 20.427; Ord. No. 110, § 14-36, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-63. Expiration of license.

All licenses shall expire on the day specified in the license.

(Code 1972, § 20.428; Ord. No. 110, § 14-37, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-64. Display of license.

Licenses issued under the provisions of this article must be in the possession of the licensee at all times and must be displayed at the request of any police officer of the city or at the request of any citizen being solicited or canvassed or to whom goods, products or services are being peddled.

(Code 1972, § 20.429; Ord. No. 110, § 14-38, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-65. Orders.

All orders taken by licensees shall be in writing and in duplicate, stating the name and address of both the solicitor, canvasser or peddler and his employer, and, if applicable, the terms of the order, a description of the goods and/or products involved, the sale price, the down payment, the balance and the terms of payment of same. One copy of the order shall be delivered to the purchaser. Such order shall contain a statement that buyer has a right to cancel the agreement by mailing a notice to seller stating that the buyer does not want the goods or services and that such notice must be mailed before midnight on the third business day after buyer signs the agreement. The name and business address where the notice must be mailed to shall be thereafter clearly placed on the agreement. Said statement shall be in not less than ten-point bold type.

(Code 1972, § 20.430; Ord. No. 110, § 14-39, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-66. Practices constituting a nuisance.

Entering a private residence in the city by a solicitor, or peddler under false pretenses, for the purpose of soliciting orders for the sale of goods, wares, merchandise or personal services, or for the purpose of disposing of and/or peddling the same or remaining in a private residence or on the premises thereof after the owner or occupant thereof shall request any such person to leave, or going in and upon the premises of a private residence by such person for any of the purposes herein set forth, when the owner or occupant thereof has displaced a "No Soliciting" sign on such premises, is declared to be a nuisance and in addition to any other penalties imposed herein, shall be punishable as a violation of this Code as prescribed in section 1-13.

(Code 1972, § 20.431; Ord. No. 110, § 14-40, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-67. Revocation of license.

(a) Permits and licenses issued under the provisions of this article may be revoked by the chief of police or his designee immediately, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for a license;
- (2) Fraud, misrepresentation or false statement in the course of carrying on his business as a solicitor or canvasser;
- (3) Any violation of this article;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or
- (5) Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(b) Revocation of a license shall be given in writing, setting forth specifically the grounds of complaint to the licensee in person if reasonably possible or at his last known address.

(Code 1972, § 20.432; Ord. No. 110, § 14-41, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-68. Enforcement.

The provisions of this article shall be enforced by the police department and it shall be the duty of any police officer of the city to require any person seen soliciting, canvassing or peddling and who is not known by such officer to be duly licensed, to produce his license.

(Code 1972, § 20.433; Ord. No. 110, § 14-42, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Sec. 24-69. Exempt persons.

Persons soliciting as the duly authorized representative or agent of any local civic organization or business or recognized charitable, religious, educational or fraternal organization, or any persons under the age of 18 years of age when engaged in soliciting or peddling on foot in the neighborhood of their residence under the direct supervision and approval of their parent and/or school principal, shall be exempt from the licensing requirements of this article; provided, however, that an officer of such civic organization, local business, charitable, religious or fraternal organization or principal of an educational organization shall have first notified the city clerk in writing of the proposed solicitation or peddling in writing on forms provided by the city clerk.

(Code 1972, § 20.434; Ord. No. 110, § 14-43, eff. 8-12-1975; Ord. No. 110-A, eff. 5-1-1999)

Secs. 24-70—24-80. Reserved.**ARTICLE IV. MASSAGE THERAPISTS
AND MASSAGE ESTABLISHMENTS*****Sec. 24-81. Massage license required.**

(a) Except as otherwise provided in this article, it is unlawful for any person to act as a massage therapist or instructor or to operate a massage establishment or massage school within the city without first obtaining a license from the city. For purposes of this article, "massage therapist" means a person who is compensated for the

***Editor's note**—Ord. No. 44A, § 1, effective December 16, 2010, set out provisions intended for use as §§ 24-1—24-9. For purposes of clarity, and at the editor's discretion, these provisions have been included as §§ 24-81—24-89.

practice of massage but does not include health professionals licensed under the Public Health Code of Michigan.

(b) The provisions of this article pertaining to massage establishments do not apply to:

- (1) A licensed medical doctor, osteopath, chiropractor, nurse, or physical therapist;
- (2) A person engaging in the practice of massage on his or her spouse or relative within the first degree of consanguinity in either of their residences;
- (3) A barber, manicurist, beautician, cosmetologist, or esthetician who is licensed under the laws of this state, the laws of another state within the United States, or federal law, and who practices within the established limits of that license, and who administers a massage in the normal course of his or her duties; provided, however, that the barber, manicurist, beautician, or cosmetologist performs massage only on the face, hands, feet, or neck of another person, and performs massage for beautifying or cosmetic purposes only.

(c) In any prosecution for violation of this section, the exemptions constitute affirmative defenses.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-82. Application fee.

The city council may, from time to time by resolution, set a nonrefundable application fee for a massage establishment or massage school license. The city council may also require a massage establishment or massage school license applicant to pay the reasonable costs of conducting any inspections or verifying any of the information submitted by the applicant.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-83. Requirements for license.

An application for a license to operate a massage establishment or massage school is made to the city clerk.

- (a) A massage establishment or massage school must be operated by a licensed massage therapist.

(b) To obtain a license, a massage therapist must possess the following:

1. Proof of graduation from a school of massage licensed by the State of Michigan or current licensure by another state with equivalent standards of 600 class hours of education from a state licensed school in the United States; and either
2. Proof of current professional membership in the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification, including liability insurance; or
3. Proof of certification from the American Massage Therapy Association.

(c) The license application must include the following:

1. The name and residence of each applicant. If the applicant is a corporation, the names and residences of all the directors, officers, and shareholders owning a ten-percent interest or more, either directly or indirectly or beneficially, must be given. If the applicant is a partnership, the names and residences of each partner must be given.
2. The name and residence of the operator(s) and of each employee.
3. A scaled drawing of the area designated as the massage establishment or massage school. If that area encompasses only part of the premises, the drawing must specify the use of all other areas within the premises.

(d) A license will not be granted until the clerk receives the following:

1. A certificate signed by the building inspector showing that the physical standards for a massage establishment or massage school in this ordinance have been met, and that the zoning ordinance, building code, elec-

trical code, plumbing code, and any other relevant standards have been met;

2. A certificate from the chief of police that the applicant, the operator(s) and the employees have not been convicted of any felony, the offense of prostitution, failure to obey the lawful command of a police officer, indecent exposure, solicitation for immoral purposes, criminal sexual conduct, or a violation of any criminal obscenity statute or ordinance within the eight years prior to the date of the license application.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-84. Standards for premises.

Each massage establishment or massage school must comply with the following standards:

- (a) All tables, tubs, shower stalls and floors (except reception and administrative areas) must be made of nonporous materials that may be readily disinfected.
- (b) Separated closed containers must be provided for wet towels and waste materials.
- (c) All equipment, shower stalls, toilets, lavatories, and any other accouterments must be regularly treated by disinfectants and must be maintained in a clean and sanitary condition at all times.
- (d) No part of the quarters where patrons are massaged may be used for or connected to any bedroom or sleeping quarters. No person may sleep in any massage establishment or massage school.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-85. Sanitation standards, employees, operators and patrons.

Each massage establishment or massage school shall comply with the following standards in providing services to patrons:

- (a) No person may be serviced who is infected with any fungus or any other skin infec-

tion, nor may any service be performed on a patron exhibiting skin inflammation or eruptions.

- (b) All personnel must wash his or her hands in hot water with soap before giving any service or treatment to each separate patron.
- (c) All towels, tissues, sheets, or other coverings may be used singularly for each patron, and must be discarded for laundry or disposal immediately after use.
- (d) Non-disposable tools of the trade must be disinfected after use upon each patron.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-86. Inspections.

Any massage establishment or massage school licensed under this division must be open to inspection by the building inspector, fire chief, or the police department at any time, to assure compliance with the provisions of this article.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-87. Sexual acts prohibited.

It is unlawful for any owner, operator, employee, or student of a massage establishment or massage school to promote, offer, or engage in public nudity, as defined in subsection 18-191 of this Code of Ordinances, or any activities prohibited by article VII of Chapter 18 of this Code of Ordinances, at any establishment licensed or required to be licensed under this division.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-88. Grounds for revocation of license.

Any license granted herein may be revoked for any of the following reasons:

- (a) A violation of any of the standards or requirements in this article.
- (b) A violation of the city zoning ordinance, building code, plumbing code, or electrical code.
- (c) When any owner, operator, or employee of a massage establishment or massage school is convicted of a violation of this chapter

or of state law relating to the types of offenses enumerated in section 24-87, or any other similar sexual offense occurring while on the business premises.

(Ord. No. 44A, § 1, eff. 12-16-2010)

Sec. 24-89. Procedures for revocation.

With proper grounds, a license issued under to this chapter may be revoked on the request of the city's building official, the city's police chief, the city clerk, or the city manager in the following manner:

- (a) The official requesting the revocation will cause written notice of the revocation, including a statement of the grounds for revocation, to be delivered to the licensee. The notice must state that the licensee may, within 14 calendar days of the date of the notice, file a written request to appeal with the city.
- (b) If a timely written request is made, the mayor will schedule a public hearing before the mayor, a council member appointed by the mayor, and a city department head appointed by the mayor who was not involved in the request to revoke the license. That hearing must be held within 30 calendar days of the request for appeal. Notice of the hearing must be given in writing to the licensee and the involved city officials, stating the date, time, and place of the hearing. At the hearing, the city may be represented by the official initiating the request for revocation or by the city attorney. A majority of the hearing panel is required to either affirm the revocation, to reverse the revocation, or to take action less than revocation, such as a license suspension. The panel must issue a written decision within 14 calendar days after the hearing is completed.
- (c) If a request for appeal is not timely filed or if the hearing panel affirms the revocation, the revocation will take effect in accordance with the original request.
- (d) A revocation or action for a revocation does not affect the city's rights with re-

spect to any criminal prosecution or any civil proceeding brought pursuant to or to enforce any provision of this chapter. The hearing panel's determination with respect to revocation does not bar any the criminal or civil proceeding.

(Ord. No. 44A, § 1, eff. 12-16-2010)