

ORDINANCE 670

TITLE XI BUSINESS REGULATIONS, CHAPTER 112 PEDDLERS AND SOLICITORS

The City Council of the City of Cambridge hereby amends Title XI Business Regulations, Chapter 112 Peddlers and Solicitors as follows:

§ 112.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Non-Commercial Door-to-Door Advocate. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

Peddler. 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, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. For the purposes of this ordinance, the term peddler shall mean the same as the term hawker.

Solicitor. 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 goods, wares, products, merchandise, other personal property or services of which he or she 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 discussed above. The term shall mean the same as the term "canvasser." The definition of ***Solicitor*** does not include situations wherein the homeowner expressly consents to the presence of the person selling items prior to the person selling the items entering the property. (For example, in-home parties of Tupperware, Southern Living at Home, Longaberger Baskets, and the like.)

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days. Food trucks/carts are governed by the City's Zoning Code, Chapter 156, Section 156.087.

§ 112.02 EXCEPTIONS TO DEFINITIONS.

For the purpose of this chapter, the terms ***PEDDLER, SOLICITOR, and TRANSIENT MERCHANT*** shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 112.07.

(B) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

~~(A) — For the purpose of the requirements of this chapter, the terms **Peddler, Solicitor, and Transient Merchant** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.~~

~~(B) — In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi person bazaar or flea market, shall be exempt from the definitions of **Peddlers, Solicitors, and Transient Merchants**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.~~

~~(C) — Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy.~~

~~Persons engaging in door to door advocacy shall not be required to register as solicitors under § 112.07. The term *Door-To-Door Advocacy* includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.~~

§ 112.03 LICENSING; EXEMPTIONS.

(G) *License exemptions.*

(1) 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.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place movement for the primary activity ~~is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, freedom of the press, freedom of religion and the like. ; This exemption will not apply if that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.~~

§ 112.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

~~(A) — The failure of the applicant to obtain and show proof of having obtained any required county license.~~

~~(B) — The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.~~

~~(C) — The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.~~

~~(D) — The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.~~

~~(E) — The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.~~

(A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(C) The failure of an applicant to sign the license application.

(D) The failure of an applicant to pay the required fee at the time of application.

(E) A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(F) The revocation with the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

§ 112.05 LICENSE SUSPENSION AND REVOCATION.

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the ~~City Clerk-Administrator~~ City Administrator or Chief of Police within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

§ 112.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

§ 112.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 112.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. ~~The term *Door-To-Door Advocacy* includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.~~ Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the Chief of Police shall issue to the registrant a

Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

§ 112.08 PROHIBITED ACTIVITIES.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(H) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

This ordinance shall be in full force and effect from and after its passage and publication according to law. Adopted by the Cambridge City Council this 19th day of March, 2018.

Marlys A. Palmer, Mayor

ATTEST:

Lynda J. Woulfe, City Administrator

Summary Ordinance for Publication

The City Council of the City of Cambridge adopted Ordinance 670 amending Title XI Business Regulations, Chapter 112 Peddlers and Solicitors regulates how peddlers/solicitors conduct business within the City of Cambridge after getting the appropriate license. The complete ordinance is available for public inspection at the office of the City Administrator, 300 3rd Ave NE, Cambridge, Minnesota.

ATTEST:

Lynda J. Woulfe, City Administrator

Date of Publication: March 28, 2018