

112. DOOR-TO-DOOR SALESPERSONS

112.01. Regulated Activity. As used in this chapter, a door-to-door salesperson is any person engaging in a "regulated activity." Regulated activity means the act of going from place to place or from house to house for any of the following purposes:

- (1) To sell personal property goods, wares, merchandise or Services;
- (2) To solicit or take orders for the sale of personal property, goods, wares, merchandise or services;
- (3) To exhibit or show personal property, goods, wares, or merchandise or services; or
- (4) To conduct a survey relative to any personal property, goods, wares, merchandise, or services.

112.02. Registration Required; Time Restrictions. Subdivision 1. It shall be unlawful for any person to engage in a regulated activity within the City without having been first registered by the city clerk and without having in his or her possession a permit issued and signed by the city clerk. Each individual person engaged in a regulated activity must be registered with the city clerk.

Subd. 2. This section does not apply to any licensed by the State of Minnesota to carry on a particular activity, any person engaged in a regulated activity on behalf of an organization that has received a permit under section 112.03 or a route salesperson of dairy or other perishable food products.

Subd. 3 It shall be unlawful for any person in engage in regulated activity within the City between the hours of 8:00 p.m., and 8:00 a.m.

(#3821, 6/18/07; 4027, 6/20/11)

112.021. Exemptions. The provisions of this chapter shall not be held to include the acts of persons selling personal property at wholesale to dealers in such article; nor to the acts of merchants or their employees in delivering goods in the regular course of business; nor to include or apply to any farmer or truck gardener who shall sell, solicit, exhibit, or take orders for the sale of his products of the farm or garden occupied and cultivated by him. Nothing contained in this chapter shall be held to prohibit any sale required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law. This chapter is inapplicable to the selling of books, pamphlets, magazines, or newspapers, which are inextricably intertwined with a statement carrying a religious, political, philosophical, or ideological message.

112.03. Non-Profit Solicitations. Any organization desiring to engage in a regulated activity for a charitable, religious, patriotic or philanthropic purpose not involving the use of a professional fund raiser shall be exempt from the provisions of 112.04 and 112.05 provided a

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permit is issued as provided in this section and provided there is filed an application in writing sworn to by oath or affirmation on a form to be furnished by the city clerk containing the following information:

- (1) Name, phone number and business address of the organization.
- (2) Purpose of the cause for which the permit is sought.
- (3) Names and addresses of the officers and directors of the organization.
- (4) Period during which solicitation is to be carried on, in no case to exceed 30 days.
- (5) Whether or not any commission, fees, wages or emoluments are to be paid to anyone in connection with such regulated activity.
- (6) Personal information relating to the identity of the representative of the applicant applying for the permit, including any information contained on the individual's drivers license, or other identification card, if the individual does not have a drivers license.

For the purpose of this section a "professional fund raiser" means any person who for personal financial compensation or profit participates in a regulated activity in the city on behalf of the organization requesting exemption under this section. Upon being satisfied that the applicant is a religious, charitable, patriotic or philanthropic organization whose regulated activity will not involve the use of a professional fund raiser, the city clerk shall issue a permit for 30 days without charge to the applicant to carry on such activity in the city. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitation a copy of the permit and written credentials stating the name of the organization, name of the agent and purpose of solicitation, which permit copy and credentials must be in the possession of the member, agent or representative while engaged in a regulated activity.

112.04. Application for Registration. Subdivision 1. Any person desiring to be registered under this chapter shall appear in person to file an application with the city clerk. The application shall be on a form prescribed by the city clerk, shall contain the information found in subdivision 2, and shall be sworn to under oath or by affirmation.

Subd. 2. An application for a door-to-door salesperson permit must contain the following information:

- A. The full legal name and date of birth of the applicant. Applicant shall provide a current driver's license or identification card issued by the State of Minnesota or other state, which license or card must include a picture of the person to whom it was issued.

- B. The business and residence address and phone number of the applicant including a street or rural route address, the city or town, and the state. A post office box number shall not be accepted as the applicant's address. Address information shall include both the applicant's permanent address and, if different, the applicant's temporary address in the Rochester vicinity.
- C. The address to which all notices required under this chapter shall be sent.
- D. The age, sex, weight, height, color of eyes, and hair of the applicant.
- E. A description of any vehicle and license number to be used in the regulated activity.
- F. The name, phone number, and address of the person, firm, association, or corporation that the applicant represents or is employed by, or whose merchandise is being sold, and the name, phone number and address of the manager or supervisor to whom the applicant reports to during the course of undertaking the Regulated Activity. Such address information shall include a street or rural route address, the city or town, and the state at which the firm is located. A post office box number shall not be accepted as an address for the business entity. Address information shall include both the business entity's permanent address and, if different, the business entity's temporary address in the vicinity of Rochester.
- G. A description of the kind and nature of the property, goods, wares, merchandise or services sold or solicited for sale by the applicant, and an itinerary identifying the intended dates and areas of the city in which the applicant will be undertaking any Regulated Activity.
- H. The applicant's signature.
- I. A description and explanation concerning the applicant's conviction, if any, of any municipal ordinance anywhere in the country including a description of the nature of the violation, the date of the conviction, and the identity of the municipality involved.
- J. A description and explanation concerning the applicant's conviction, if any, of any municipal, state or federal law

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involving acts which, if they occurred in Minnesota, would constitute fraud, misrepresentation, theft, or embezzlement.

- K. The length of time during which the regulated activity is to be conducted, but in no event to exceed 30 days from the date of registration.

Subd. 3. At the time of the application's filing, a nonrefundable fee of \$50.00 shall be paid to the city clerk to cover the cost of investigation of the facts stated within the application.

Subd. 4. The city clerk shall refer each application to the police department for investigation, the results of which shall be reported back to the city clerk. (4080, 8/6/12)

112.05. Registration. Upon being furnished with the required information, payment of the prescribed fee and the completion of the police department investigation, the city clerk shall register the applicant forthwith and issue a permit, except as provided in Section 112.06. The city clerk shall make a reasonable effort to complete the registration process promptly. The permit must contain the signature of the issuing officer and must show the applicant's name, address and description, the kind of goods to be sold, the amount of fee paid, the date of issuance and the length of time during which the permit is valid, as well as the license number and other identifying description of the vehicle used in the regulated activity. The city clerk must record the registration in a permanent record.

112.06. Refusal to Register or Permit. The city clerk shall refuse to register any person or issue a permit to any organization defined in section 112.03 for any of the following reasons:

- (1) The conviction of the applicant for a violation under this chapter within three years immediately preceding the filing of the application.
- (2) The prior revocation of registration or permit under this chapter for cause within three years immediately preceding the filing of the application; or the revocation of any other license, permit or registration issued by the United States, the state of Minnesota, any other state, or any other municipality within the United States based upon or involving fraud or misrepresentation and within three years immediately preceding the filing of the application.
- (3) The applicant is under suspension under this chapter
- (4) The conviction of the applicant of a violation under any statute of the United States, the State of Minnesota or any other state, or under any ordinance of the City of Rochester or any other municipality within the United States, which violation involved acts which if they occurred in Minnesota would constitute fraud, misrepresentation, embezzlement, burglary, possession of burglary or theft tools, criminal sexual conduct, robbery, kidnapping, false imprisonment or assault and which conviction occurred within five years immediately preceding the filing of the

application.

- (5) The failure or refusal of the applicant to complete any part or all of the appropriate application form, or for submitting false or inaccurate information on the application form.
- (6) The activities proposed to be conducted by the applicant are unlawful under the ordinances of the city or the laws of the United States or the state of Minnesota.

If registration or permitting is refused, the city clerk shall notify the applicant in writing setting forth the grounds for such refusal. The applicant may appeal from the city clerk's decision by filing a written notice of appeal with the city clerk within 10 days after receipt of notice from the city clerk.

112.07. Revocation or Suspension of Registration or Permit. The city clerk shall by service of notice suspend for a period of not more than 60 days, or revoke any registration or permit under the authority of this chapter for any of the following reasons:

- (1) The conviction of the registrant of any of the offenses set forth in section 112.06.
- (2) The conviction of the registrant or permittee under any ordinance of any city or the laws of the United States, the state of Minnesota, or any other state involving fraud, misrepresentation or embezzlement during the effective period of the registration or permit.
- (3) The use of any fraud, misrepresentation, trick, or deception in carrying out or promoting a regulated activity.
- (4) The refusal of the registrant or permittee to exhibit proof of registration under this chapter to any official or police officer of the city.
- (5) The representation upon the application form or otherwise that the registrant or permittee is an employee, agent, or representative of any person whom the registrant does not, in fact, represent.
- (6) The refusal or failure of the registrant or permittee to leave the property or premises of others when requested to leave by the owner or occupant thereof.
- (7) The making of any false statement or misrepresentation by the registrant or permittee to gain entrance to any building or structure within the city.
- (8) The use of any false or fraudulent statement, whether written or oral, or any misrepresentation concerning the price, terms of payment, quality, quantity, or delivery of personal property, goods, wares, merchandise or services.
- (9) The violation by the registrant or permittee of any other provisions of this chapter.

112.08. Right of Appeal. If the city clerk refuses or fails to register the applicant or issue a permit, or if registration or permit is suspended or revoked, the applicant, permittee, or registrant may appeal that determination by filing a written notice of appeal with the city administrator within ten days after the city clerk's determination. If the notice of appeal is not timely filed, the right of appeal is terminated and thereafter no appeal may be brought. A timely appeal from a suspension or revocation shall stay the suspension or revocation until the decision of the hearing officer is rendered. (4253, 7/6/16)

112.09. Hearing; Hearing Officer. Subdivision 1. The city administrator, or designee, shall act as the hearing officer and shall have authority to hear appeals from the following city clerk actions:

- A. The refusal or failure to register an applicant or issue a permit.
- B. The revocation of a registration or permit.
- C. The suspension of a registration or permit.

Subd. 2. The hearing officer may receive all evidence, and hear witnesses on matters germane to the appeal. The hearing officer shall afford the registrant, permittee, or applicant making the appeal an opportunity to present evidence, cross examine witnesses, and be heard. The hearing officer may affirm, modify, or reverse the city clerk's action.

Subd. 3. Any person aggrieved by the hearing officer's determination may appeal to the Common Council. An appeal to the Common Council shall be taken within ten days from the hearing officer's decision by filing with the city administrator and city clerk a notice of appeal. The matter shall be placed on the Common Council's next regularly-meeting agenda for a public hearing. The Council may affirm, modify, or reverse the hearing officer's decision. (4253, 7/6/16)

112.10. Manner of Giving Notice. All notices to be given to an applicant, permittee or registrant under this chapter shall be given either by personal service, or by mail to the address for service of notices as shown on the application form. Service by mail shall be deemed complete on the date of mailing and shall be conclusively presumed that notice by mail was received by the applicant, permittee or registrant, and the failure of the applicant, permittee or registrant to receive such notice shall not invalidate the action taken pursuant to such notice.

112.11. Notice of Hearing. Notice of any hearing involving the registrant, permittee or the applicant shall be given by the city clerk in writing, setting forth specifically the purpose, time and place of hearing. Such notice shall be mailed to the registrant, permittee or applicant at least five days prior to the date set for hearing or shall be personally served at least three days prior to the date set for hearing.

112.12. Notice of Violation. The police department shall report to the city clerk all convictions for violations of the provisions of this chapter. A registration or permit shall be automatically cancelled and terminated without further action by the city clerk upon conviction of

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the registrant or permittee of a violation of this chapter or upon a forfeiture of bail by a registrant or permittee charged with a violation of this chapter.

112.13. Expirations. All registrations and permits under this chapter shall automatically expire 30 days from the date of issuance.

112.14. No Representations by City. The city and its duly authorized agents and employees make no representations whatsoever as to the quality of the merchandise, service or other thing offered for sale, and make no representations whatsoever concerning the honesty, integrity or reliability of persons registered under this chapter.

112.15. Loud Noise Prohibited. No registrant or permittee, nor any person in his behalf shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device on 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, alleys, parks and other public places.

(875, 10/4/54; 880, 11/1/54; 1670, 9/8/72; 2151, 10/21/80; 2161, 11/18/80; 2218 11/17/80; 2647, 8/22/89; 2708, 10/02/90; 2855, 12/22/92; 2985, 4/18/95; 3156, 3/16/98; 3186, 8/18/98; 3570, 6/16/03; 3668, 9/20/04; 3821, 6/18/07; 4027, 6/20/11; 4080, 8/6/12; 4253, 7/6/16)