

CHAPTER 863

Peddlers

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CROSS REFERENCES

Street performers - see BR & T Ch. 864
Power to license - see MSA 5.1740
Hawkers and peddlers generally - see MSA 19.691, et seq
Secondhand stores - see BR & T Ch. 856
Peddlers in parks - see S, U & PS Ch. 1064
Solicitors - see BR & T Ch. 862

863.01 INTENT

Regulation of all types of peddling is sufficiently connected to the City's interest in preventing crime, preventing fraud, and protecting citizens' quiet enjoyment and peace, especially in residential areas where there exists a significant connection among evening peddling in residential areas, evidence of nighttime crime and disruption of citizens' quiet enjoyment and peace to limit hours of peddling in residential neighborhoods, while leaving ample alternative channels of communication open to peddlers. The City has no other less restrictive means available to achieve these objectives.
(Ord. 386. Passed 6-20-94. Ord. 612. Passed 10-20-03.)

863.02 DEFINITIONS

As used in this chapter:

- (a) *Peddler* shall mean any person offering, exposing for sale or making available for a price, or donation, making sales and delivering articles to purchasers, or taking or attempting to take orders for sale of goods, foodstuffs, or services of any kind, for immediate or future delivery or performance, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether or not he or she is collecting advance payments on such sale, by any of the following means:

- (1) Traveling by foot, wagon, automotive vehicle, or other conveyance, from place to place, house to house, or street to street, carrying, conveying or transporting such goods, wares, merchandise or foodstuffs;
 - (2) Hiring, leasing or occupying any building or structure for the exhibit or sale of such goods, foodstuffs, or services, while not on the City tax rolls, including a person who associates temporarily with a local merchant or dealer, which building or structure is not otherwise used for that purpose;
 - (3) Offering out of doors such goods, foodstuffs or services from a stationary cart, stand, wagon, automotive vehicle or from one's person.
- b) *Person* shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, society, organization or league, and includes any trustee, receiver, assignee, subcontractor, agent or other similar representative thereof.
- (Ord. 386. Passed 6-20-94.)

863.03 LICENSE REQUIRED; EXCEPTIONS.

- (a) Required. No person shall peddle without a license from the City Clerk authorizing such peddling. Licenses shall bear the name and address of the person peddling, term of license, type and location of peddling, a picture, and a statement that the license does not constitute an endorsement by the City of the purpose of the peddling or of the person or group conducting the peddling. Such license shall be carried by a peddler. Such peddling shall comply with this Code, State laws and regulations and the conditions of the license. No peddling license shall be granted except upon approval of the Chief of Police.
- (b) Exceptions. The following activities are exempt from this chapter:
- (1) Peddling made in books, magazines, periodicals, newspapers and other similar publications or through the mail;
 - (2) Peddling made over the radio, television or telephone;
 - (3) Peddling by persons under twelve years of age where all proceeds are retained by such peddler. No adult or business shall hire or subcontract such peddler in an attempt to evade the provisions of this Chapter;
 - (4) Distributing handbills or leaflets where the distributor of them does not accept payments, orders or contributions;
 - (5) Peddling between merchants where neither merchant is the ultimate consumer of goods or services involved or the ultimate donor of the gifts involved;
 - (6) Any person qualifying as a "solicitor" shall be excluded from the definition of a peddler and the regulations contained in this Chapter;

(7) Persons who have express City Commission approval.
(Ord. 386. Passed 6-20-94.)

863.04 FILING FALSE APPLICATION.

No person shall knowingly file or cause to be filed an application or a document supporting an application containing one or more false statements.
(Ord. 386. Passed 6-20-94.)

863.05 DURATION; TRANSFERABILITY.

Licenses may be issued for up to one calendar year. The license issued under this Chapter is non-transferable.
(Ord. 386. Passed 6-20-94.)

863.06 PEDDLING LICENSE APPLICATION.

Every person desiring to peddle is required to make written application for a license from the City Clerk. An application shall be made upon a form provided by the City Clerk. The applicant shall truthfully state, in full, the information requested on the application, such as:

- (a) The applicant's name, telephone number, address of present place of residence, length of residence at such address and business address if other than the residence address;
- (b) Birthdate of applicant;
- (c) The name, telephone number and address of the person by whom the applicant is employed or whom the applicant represents and the length of time of such employment or representation;
- (d) A description sufficient for identification of the subject matter and method of the peddling in which the applicant will engage;
- (e) The period of time for which the license is applied;
- (f) The locations of all areas in which peddling will be conducted; and
- (g) The date, or approximate date, of the last license issued under this Chapter;
- (h) A statement as to whether or not a license issued to the applicant (or organization) represented under this chapter has ever been revoked, and if so, the reason for the revocation;
- (i) A statement as to whether or not the applicant has ever been convicted of a felony under the laws of the State or any other State or Federal law;
- (j) Driver's license or personal identification number;
- (k) Copy of Michigan sales tax license or Michigan Department of Treasury written approval;
- (l) A 2" x 2" color photograph of the head and shoulders of the applicant;

- (m) A signed permission slip from the property owner if setting up a stand on commercial property.
(Ord. 386. Passed 6-20-94.)

863.07 PEDDLING LICENSE FEES.

An application for a peddler's license shall be accompanied by a fee. Such fee shall be established by resolution of the City Commission and is non-refundable unless canceled in person with the City Clerk in advance of the day for which cancellation is sought. No fee shall be charged to:

- (a) City of Traverse City merchants and representatives engaging in year-around business in the City and who are listed on the City's tax rolls or who are exempt from property taxes, or those new businesses who do not qualify for the City tax roll but have a year lease for a permanent location.
- (b) Any honorably discharged veteran who is a resident of this State and who has obtained a Veteran's License from a County Clerk within the State of Michigan.
- (c) Persons 12 years of age to and including 17 years of age where all proceeds are retained by the person. No adult or business shall hire or subcontract such persons in an attempt to evade the provisions of this Chapter.

(Ord. 386. Passed 6-20-94. Ord. 806. Passed 7-21-08.)

863.08 FOOD PEDDLERS

No license shall be issued to a food peddler until the applicant and any vehicle and equipment used by such applicant are approved by the Health Department.

(Ord. 386. Passed 6-20-94.)

**863.09 INVESTIGATION OF RESIDENTIAL AREA PEDDLER;
WAITING PERIOD.**

Upon receipt of an application for license to peddle in a residential area, the Police Chief shall conduct an investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good. No license shall be issued without the approval of the Police Chief. No license shall be issued under this chapter until a period of seventy-two hours has elapsed from the time of application, such period of time to be used by the Traverse City Police Chief for proper investigation of each application.

(Ord. 386. Passed 6-20-94.)

863.10 HOURS IN RESIDENTIAL AREAS

No person shall engage in peddling in residential areas prior to 9:00 a.m. or after 9:00 p.m. or sunset, whichever is earlier, on any weekday or Saturday, or at any time on a Sunday, New Years Day, Presidents Day, Memorial Day, Martin Luther King Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.
(Ord. 386. Passed 6-20-94.)

863.11 LICENSE ISSUANCE OR DENIAL

No license shall be issued to, nor shall any peddling be conducted by:

- (a) Any person who has made a false material statement in the application for the license.
- (b) Any person who has been convicted of a violation of this chapter or whose solicitation permit or peddler's license has previously been revoked by the City.
- (c) Any person who has been convicted of any crime involving moral turpitude, breach of the peace or is a menace to health, safety or the general welfare of the public.

(Ord. 386. Passed 6-20-94.)

863.12 REVOCATION.

A license shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a licensed peddler:

- (a) Has violated any of the provisions of this chapter, the Traverse City Code, or any statute of the State of Michigan.
- (b) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such a license.
- (c) Has violated any provision of this Chapter, which violation has been documented by a written complaint certified by the City Clerk pursuant to Section 863.14.
- (d) Has conducted peddling that is in any manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the licensed peddler in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the license shall become null and void.
(Ord. 386. Passed 6-20-94.)

863.13 MANNER OF PEDDLING; DUTIES OF PEDDLERS.

No peddler shall:

- (a) Peddle upon a premises in defiance of a posted notice stating "No Solicitors or Peddlers", "No Peddlers" or "No Solicitors".
- (b) Fail to immediately and peacefully depart from a premises when requested to do so by the occupant.
- (c) Fail to accurately reveal all information contained in the application for a peddlers license and all information required to be revealed by State law to any person requesting such information. Failure of a peddler to reveal such information shall be grounds for the revocation of the license pursuant to Section 863.12 or the denial of future solicitation permits or peddlers licenses pursuant to Section 863.11.
- (d) Fail to identify himself or herself and the name of the organization represented.
- (e) Fail to prominently wear the picture identification badge issued by the City Clerk.
- (f) Conduct business in a park as defined by Traverse City Code, Chapter 1064.
- (g) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property which is used by pedestrians or persons operating motor vehicles. A peddler shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten (10) minutes.
- (h) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention to any goods, wares or merchandise which the peddler proposes to sell.
- (i) Represent that the granting of a license under this Chapter is an endorsement by the City.

- (j) Fail to follow all provisions of State laws and regulations, City ordinances and conditions of the peddlers license.
(Ord. 386. Passed 6-20-94.)

863.14 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a peddler has violated any provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the peddler, together with a notice that an investigation will be made as to the truth of the complaint. The peddler shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a license is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this section, the applicant or holder of a license may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk or the filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to the City Commission. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction.

(Ord. 386. Passed 6-20-94.)

863.15 OTHER LICENSES OR PERMITS.

A license obtained under this Chapter shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by any other ordinance, statute or administrative rule.

(Ord. 386. Passed 6-20-94.)

863.16 PUSHCARTS OR PEDAL CARTS.

Pushcarts are restricted to sidewalks in the residential districts unless otherwise prohibited by local ordinance. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all City streets in accordance with the Michigan Vehicle Code. Motor vehicles are permitted on all streets in accordance with the Michigan Vehicle Code. Any peddler using a motor vehicle or pedal cart in a street, when stopped, shall place the vehicle parallel to and within twelve

inches of the curb and shall depart from such place as soon as the sale has been completed.

(Ord. 386. Passed 6-20-94.)

863.17 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2).

Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 386. Passed 6-20-94.)

863.18 CIVIL INFRACTION.

A person who violates this Chapter is responsible for a civil infraction and subject to a fine of not less than \$100 nor more than \$500.

(Ord. 386. Passed 6-20-94.)