

CHAPTER 862

Solicitors

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CROSS REFERENCES

Power to license - see MCL 91.1
 Hawkers and peddlers generally - see MCL 445.371
 Solicitors in parks - see S,U & PU Sec. 1064.17

862.01 INTENT.

Regulation of all types of solicitation are 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 solicitation, evidence of nighttime crime and disruption of citizens' quiet enjoyment and peace to limit hours of solicitation in residential neighborhoods, while leaving ample alternative channels of communication open to solicitors. The City has no other less restrictive means available to achieve these objectives. (Ord. 387. Passed 6-20-94. Ord. 585. Passed 11-4-02.)

862.02 DEFINITIONS.

As used in this chapter:

- (a) *Solicitor* shall mean any person who requests money, credit, property, financial assistance or other thing of value, by personal interview or otherwise, on the plea or representation that such money, credit, property, financial assistance or other thing of value, or the net proceeds over reasonable expenses thereof, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purposes.
- (b) *Person* shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, church, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (c) *Structure* shall mean tents, push carts, trailers, stands, wagons, vehicles, booths or any other material or thing that occupies space whether portable or fixed.

(Ord. 387. Passed 6-20-94, Ord 920. Passed 7-15-11)

862.03 PERMIT REQUIREE; EXCEPTION.

- (a) Required. No person shall solicit without a permit from the City Clerk authorizing such solicitation. Permits shall bear the name and address of the person soliciting, type of permit, type and location of soliciting and a statement that the permit does not constitute an endorsement by the City of the purpose of the solicitation or of the person or group conducting the solicitation. Such permit, or a copy thereof, shall be carried by a solicitor. Such solicitation shall comply with this Code, State laws and regulations and the conditions of the permit.
- (b) Exceptions. The following activities are exempt from this chapter:
- (1) Solicitations made to a congregation or group in attendance at one location and made by the person or organization inviting the individuals composing the congregation or group;
 - (2) Solicitations made in books, magazines, periodicals, newspapers and other similar publications or through the mail;
 - (3) Solicitations made over the radio, television or telephone;
 - (4) The distribution of handbills or leaflets where the individual distributing them does not accept payments, orders or contributions;
 - (5) Any person qualifying as a "peddler" shall be excluded from the definition of a solicitor and the regulations contained in this Chapter.

(Ord. 387. Passed 6-20-94.)

862.04 FILING FALSE APPLICATION.

No person shall knowingly file or cause to be filed an application and a document supporting an application containing one or more false statements.

(Ord. 387. Passed 6-20-94.)

862.05 DURATION; TRANSFERABILITY.

A permit may be issued for up to one calendar year. The permit issued under this Chapter is non-transferable; provided, however, that this shall not prevent any solicitor from using any number of representatives and provided, further, that the City Clerk shall require that each representative shall wear a facsimile copy of such permit while engaged in solicitation or a standard identifiable uniform.

(Ord. 387. Passed 6-20-94.)

862.06 SOLICITATION PERMIT APPLICATION.

Every person desiring to solicit is required to make written application for a permit 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) Type of organization (e.g., religious, charitable, educational, citizen group, civic, patriotic or philanthropic);
- (b) Name, address, telephone number and headquarters of the person applying for the permit;

- (c) The names, addresses and phone number of the person or persons who will be in direct charge of conducting the solicitations;
 - (d) The purposes for which such solicitation is to be made and the approximate number of representatives who will be soliciting;
 - (e) An outline of the method or methods to be used on conducting the solicitations;
 - (f) Location of areas in which soliciting will be conducted;
 - (g) The time when such solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the day thereof;
 - (h) Such other information as may be required by the City Clerk to determine the kind or character of the proposed solicitation and whether such solicitation is in the interest of, and not adverse to, the public welfare;
 - (i) If applicable, a copy of a State permit to solicit funds or an exemption certificate;
 - (j) The date or approximate date of the last permit issued under this chapter.
- (Ord. 387. Passed 6-20-94.)

862.07 INVESTIGATION OF RESIDENTIAL AREA SOLICITOR.

Upon receipt of an application for license to solicit 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 approval of the Police Chief.

(Ord. 769. Passed 8-20-07)

862.08 SOLICITATION PERMIT FEES.

An application for a solicitor's permit shall be accompanied by a fee. Such fee shall be established by resolution of the City Commission. No fee shall be charged to citizen groups and religious groups.

(Ord. 387. Passed 6-20-94.)

862.09 SOLICITORS DISTRIBUTING FOOD.

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

(Ord. 387. Passed 6-20-94.)

862.10 PERMIT ISSUANCE OR DENIAL.

No permit shall be issued to, nor shall any soliciting be conducted by:

- (a) Any person who has made a false material statement in the application for the permit.
- (b) Any person who has been convicted of a violation of this chapter or whose solicitation permit 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.
- (d) Any person soliciting in the C-4 District on private property utilizing a tent or other structure or shelter made from soft fabric like material without first demonstrating that the tent or other structure will be properly secured and stable, is flame retardant, and

capable of withstanding strong winds.

862.11 BUSINESS REGULATION AND TAXATION CODE

(Ord. 387. Passed 6-20-94, Ord. 920. Passed 7-15-11.)

862.11 HOURS IN RESIDENTIAL AREAS.

No person shall engage in soliciting 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. 387. Passed 6-20-94.)

862.12 REVOCATION.

A permit 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 permitted solicitor:

- (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 permit.
- (c) Has violated any of the provisions of this chapter, which violation has been documented by a written complaint certified by the City Clerk, pursuant to Section 812.12.
- (d) Has conducted solicitation 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 registered solicitor 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 permit shall become null and void.

(Ord. 387. Passed 6-20-94.)

862.13 MANNER OF SOLICITING; DUTIES OF SOLICITORS.

No solicitor shall:

- (a) Solicit upon a premises in defiance of a posted notice stating " No Solicitors or 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 solicitation permit and all information required to be revealed by State law to any person requesting such information. Failure of a solicitor to reveal such information shall be grounds for the revocation of the permit pursuant to Section 862.11 or the denial of future solicitation permits pursuant to Section 862.09.
- (d) Fail to identify himself or herself and the name of the organization represented.

- (e) Fail to prominently wear the identification badge issued by the City Clerk.
 - (f) Solicit in a park as defined by 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 solicitor 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) If issued a license after the effective date of this amendment, leave a structure on private property in the C-4 District between the hours of 12 a.m. and 6 a.m, or leave such unattended for more than 2 hours.
 - (i) Solicit in a public area less than one block away from where a City-authorized street fair, public festival, farmer's market or event is being conducted, except with the permission of the sponsor.
 - (j) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention.
 - (k) Represent that the granting of a permit under this Chapter is an endorsement by the City.
 - (l) Fail to follow all provisions of State laws and regulations, City ordinances and conditions of the solicitation permit.
- (Ord. 387. Passed 6-20-94, Ord. 920. Passed 7-15-11)

862.14 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a solicitor has violated any provision of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the solicitor, together with a notice that an investigation will be made as to the truth of the complaint. The solicitor 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 permit 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 permit 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. 387. Passed 6-20-94.)

862.15 OTHER PERMITS OR LICENSES.

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

(Ord. 387. Passed 6-20-94.)

862.16 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. 387. Passed 6-20-94.)

862.17 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. 387. Passed 6-20-94.)

862.18 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. 387. Passed 6-20-94.)