SECTION 420
PEDDLERS, CANVASSERS, TRANSIENT MERCHANTS, AND SOLICITORS

420.01 DEFINITIONS

Subd. 1 Canvasser

A "canvasser" is a person who travels from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement to elicit information, conduct polls, provide information, seek funds, or attempt to influence a person's decision.

Subd. 2 Peddler

~~A peddler or solicitor is a~~ A "peddler" is any person ~~business location or residence in the City of Tonka Bay~~ who travels from house-~~-~~to- house, ~~or from~~ door-~~-~~to-door, business-to-business, street-to-street, or any other type of place-to-place movement to offer for sale or sell or peddle and delivering immediately upon sale goods, wares, products merchandise or other personal property that the person is carrying or otherwise transporting.~~books, newspapers, magazines, merchandise, insurance, course of instruction, or any other product or service, or to take orders therefor.~~ Peddlers and Solicitors also include any person who sells or offers for sale any goods, wares, or other articles or services of value at any place within the city other than upon land which is owned or leased by such person or at a store kept by said person or at a stand at one of the public markets. ~~Persons who may sell or peddle the products of a farm or garden occupied by him or her are specifically excluded from this subdivision.~~

Subd. 3 Person

A "person" is any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent, or employee

Subd. 4 Solicitor

A "solicitor" is 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 movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, or other personal property or services of which they 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.

~~Subd. 3 Person~~

~~The term "person" shall include individuals, firms and corporations.~~

Subd. 3 Transient Merchant

A "transient merchant" is a ~~ny~~ person~~,~~ ~~individual, partnership or corporation, whether principal, employee or agent, who engages in, does or transacts any temporary or transient business in this city, either in one locality or traveling from place to place in this city selling goods, wares and merchandise; and who, for the purposes of carrying~~

~~on the business, hires, leases, occupies or uses a building, structure, vehicle, property or other place for the exhibition and sale of the goods, wares and merchandise.~~ 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 or intend to remain in any one location for more than 14 consecutive days.

420.02 EXCEPTIONS TO DEFINITIONS

Subd. 1 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 good, 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 customers on their established regular delivery route.

Subd. 2 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 peddler, solicitor, and transient merchant, as shall 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.

Subd. 3 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 Section 420.09. The term door-to-door advocacy includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

420.03 LICENSE REQUIRED

Subd. 1 County License Required.

No person shall conduct business as a transient merchant within the City limits without first having obtained the appropriate license from the county as required by Minnesota Statutes Chapter 329.

Subd 2. City License Required. ~~It shall be unlawful for any~~

No person shall conduct business as a peddler or transient merchant ~~to engage in the activities of peddling, soliciting, canvassing or transient selling~~ without first having obtained a license from the City. ~~in compliance with the provisions of this chapter.~~Solicitors need not be licensed, but are still required to register pursuant to Section 420.09.

Subd. 2 A separate license shall be secured for each individual person engaged as a peddler~~, solicitor, canvasser~~ or transient merchant.

Subd. 3 Application

Application for a City license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business operations in the city. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

(1) Applicant's full legal name.

(2) All other names under which the applicant conducts business or to which applicant officially answers.

(3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).

(4) Full address of the applicant's permanent residence.

(5) Telephone number of applicant's permanent address.

(6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which applicant is an employee or agent.

(7) Full address of applicant's regular place of business (if any).

(8) Any and all business related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.

(9) The type of business for which the applicant is applying for a license.

(10) Whether the applicant is applying for an annual or daily license.

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City, with a maximum of 14 consecutive days.

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

(14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any required county license.

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) All additional information deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information and vehicle identification number (VIN) for any vehicle to be used in conjunction with the licensed business, and a physical description of the vehicle.

Subd. 4 Fee
All applications for a license under this chapter shall be accompanied by the fee established in the City Fee ordinance as it may be amended from time to time.

Subd. 5 Procedure
Upon receipt of an application and payment of a license fee, the City Clerk, within 2 regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application, the City Clerk must issue the license unless there exist grounds for denying the license under 420.05, in which case the City Clerk must deny the license application. If the City Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial, and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a public hearing. The decision of the City Council following the public hearing may be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

Subd. 6 Duration
Licenses granted to peddlers and transient merchants under this chapter shall be valid only during the time period indicated in the license.

Subd. 7 More restrictive provision, rule, or regulation to govern

Where provisions of this chapter are more or less restrictive than comparable provisions within any other portion of this code, rules or regulations of the city, the more restrictive provision, rule or regulation shall prevail. The City Administrator/ Clerk shall determine which is more restrictive and appeals from the determination may be made in the manner provided herein.

420.0~~3~~4 LICENSE EXEMPTIONS~~EXCLUSIONS~~
~~Certain businesses may be exempt from the requirements of this chapter. Specific exclusions include:~~

Subd. 1 Agricultural products.

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 they occupy and cultivate.

Subd. 2 Business by appointment.

No license shall be required for ~~solicitor or canvasser~~ any person doing business by appointment. A bona fide appointment is one made in advance, not one that is ~~not merely~~ obtained by going door-to-door in conjunction with the taking of orders, offering for sale or selling.~~;~~

Subd. 3~~2~~ Sales to stores and/or professionals.

No license shall be required for ~~Sales~~persons selling goods to retail or wholesale stores or to professional or industrial establishments.~~; and~~

Subd. 4~~3~~ Constitutionally protected conduct.

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 when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

Subd. 5 Other.

No license shall be required for ~~M~~merchants or their employees delivering goods to established customers in the regular course of business, the sale of goods or admissions to events by K-12 students where the proceeds of such sales benefit a program or activity in which the student is involved, governmental organizations, or to the sale of goods by members of the Girl Scouts or Boy Scouts of America.

420.0~~5~~4 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.

(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 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, 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 Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding 12 months.

420.06 REVOCATION

Subd. 1 ~~Permits and l~~Licenses issued under the provisions of this chapter may be revoked by the City Administrator/Clerk for any of the following causes:

a. Fraud, misrepresentation or false statement contained in the application for license;

b. Fraud, misrepresentation or false statement made in the course of carrying on his or her business;

c. Any violation of this chapter;

d. Conviction of any felony or of a misdemeanor involving moral turpitude;

e. Conducting the business licensed in an unlawful manner or in 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.

Subd. 2 Any license may be revoked without notice if in the opinion of the City Administrator/Clerk or the Police Chief the good order of the city requires action.

420.07~~5~~ APPEAL

Any person aggrieved by the action of the ~~c~~City or any person whose license has been denied or revoked ~~without notice~~ may appeal to the City Council by filing, within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for appeal. The Council shall set a time and place for a hearing on the appeal, and notice of the hearing shall be given to the person appealing by mailing to the address set forth on the application written notice at least seven (7) days prior to the hearing.

420.08~~6~~ LICENSE LIMITATIONS

Subd. 1 All license holders are required to exhibit their licenses at the request of any citizen.

Subd. 2 No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it is issued.

Subd. 3 No license holder, nor any person in their behalf, shall shout, blow a horn, ring a bell or use any sound devices upon any of the streets, parks or other public places of the ~~c~~City or upon any private premises in the ~~c~~City.

Subd. 4 It shall be the duty of any police officer of the ~~c~~City to require any person seen peddling or operating as a transient merchant ~~or engaging in like activities~~ and whom is not known to the officer to be duly licensed, to produce his or her license and to enforce the provisions of this chapter against any person when in violation of the same.

Subd. 5 Failure of any person to comply with any of the ordinances of the ~~c~~City or the laws of the state shall be grounds for suspending or revoking a license granted under this chapter.

Subd. 6 Door-to-door activities allowed under the provisions of this chapter shall be restricted to the hours of 8 a.m. to 8 p.m.

420.09 REGISTRATION

All solicitors, and any person exempt from licensing requirements of this chapter under Section 420.03 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 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 City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be nontransferable.

~~**NO FEE FOR CANVASSING, RELIGIOUS, POLITICAL, EDUCATIONAL AND CHARITABLE ORGANIZATIONS**~~

~~The fee imposed by this section does not apply to any organization, society, association or corporation if the organization is registered with the Secretary of State pursuant to the provisions of M.S. Section 309.515 if the organization intends to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind or intends to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of the organizations upon the streets, in office or business buildings, by house to house canvass or in public places. To qualify for this exemption, the organization or individual shall provide a sworn application in writing on a form furnished by the city which shall include the following information:~~

~~Subd. 1 Names and addresses of the officers and/or directors of the organization;~~

~~Subd. 2 Name and purpose of the cause for which the license is sought;~~

~~Subd. 3 The period during which the canvassing is to be conducted;~~

~~Subd. 4 A complete list of those to do canvassing giving full name, address and date of birth for background review and permit approval by the Police Department.~~

420.10~~08~~ POSTING

Subd. 1 Any resident of the City of Tonka Bay who wishes to exclude peddlers, or solicitors~~, or canvassers, including any person who sells or offers for sale~~

~~products of a farm,~~ from their premises may post a printed placard or sign bearing the following notice: "Peddlers, ~~canvassers~~ and solicitors prohibited" or other comparable statement. Such placard shall be no larger than 10 inches wide by 4 inches high and the printing thereon shall not be smaller than 1/2 inch.

Subd. 2 It shall be unlawful for any peddler, ~~canvasser~~ or solicitor ~~including any person who sells or offers for sale products of a farm,~~ within the corporate limits of the City of Tonka Bay, to enter in or upon any premises where such placard or sign is placed and maintained.

Subd. 3 It shall be unlawful for any person other than the person occupying such premises to remove, injure or deface said placard or sign.

420.~~0~~11~~9~~ ACTIVITIES PROHIBITED

No peddler, ~~or~~ solicitor or transient merchant shall sell or offer for sale any goods, wares, services, or other articles of value upon or along the streets or other public place within the City of Tonka Bay.

420.12~~0~~ NUISANCE

No person shall conduct his business so as to annoy other persons or to become a nuisance or so as to obstruct travel upon any street, alley or public place within the City of Tonka Bay. No person shall call attention to his merchandise by crying out, by blowing a horn, by ringing a bell, or by any other loud or unusual noise.

420.13~~1~~ PENALTY

Any person violating any provision of Section 420 shall be guilty of a misdemeanor.