
CHAPTER 73. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**7.51. Definitions.**

(1) The word "peddler" as used herein shall include any person, whether a resident of the City of Frankenmuth or not, whether traveling by foot or wagon, whether using a land, air or water vehicle of transport, or any other type of conveyance from place to place, or from street to street within the City of Frankenmuth who may carry or convey goods, wares, merchandise or provisions and offer same for sale and/or delivery to purchasers; or who, without moving from place to place within the City, shall sell or offer the same for sale from a wagon, vehicle or stationary point in, on or adjacent to the public streets of the said City. One who solicits orders, and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Chapter shall be termed a peddler subject to the provisions of this Chapter. The word peddler shall include "hawker" and "huckster".

(2) A "canvasser" or "solicitor" is defined as any individual, whether resident of the City of Frankenmuth or not, traveling either by foot, wagon, truck or any land, air or water vehicle from business place to business place, or from street to street, and carrying, conveying or transporting goods, wares, merchandise or provisions, who takes or attempts to take orders for sale of goods, wares, merchandise, provisions or personal property of any nature whatsoever for either present or future delivery; provided also that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses or occupies any building, structure, tent, booth, boat, hotel room, lodging house, apartment, shop or any other place within the City, for the purpose of exhibiting for future delivery as well as for selling to present purchasers.

(3) For the purpose of this Chapter, a "transient merchant", "itinerant merchant", or "itinerant vendor" is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares, merchandise and provisions within the City of Frankenmuth and who, in furtherance of such purpose, hires, leases, uses or occupies any booth, building, structure, vehicle, tent, boat, motel, hotel, lodging house, apartment, shop, or space upon any street or alley, parking lot, or other place within the City for the exhibition and sale of such merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of association temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection therewith, as a part of, or in the name of, any local dealer, trader, merchant or auctioneer.

7.52. Permit and License Required.

(1) It shall be unlawful for any person to engage in the business of peddler, as the same is herein defined, within the City of Frankenmuth, without first obtaining the permit and license required by this Chapter.

(2) It shall also be unlawful for any solicitor or canvasser, as defined herein, to engage in said business endeavors within the corporate limits of Frankenmuth without first obtaining a permit and license therefor in compliance with the provisions of this Chapter.

(3) It shall be unlawful for a transient merchant, itinerant merchant, or itinerant vendor, as defined herein to engage in such business within the City of Frankenmuth without first obtaining a license therefor in compliance with the provisions of this Chapter.

7.53. Exemptions from License. The licensing provisions of this Chapter shall not apply to:

- (1) Farmers or others selling home grown produce, crafts or other merchandise under special permission within a City market specially designated and located for that general purpose.
- (2) Non-profit civic and religious associations, clubs or corporations regularly operated and located within the City and/or Township of Frankenmuth. Such local organizations, however, shall apply for and thereafter be furnished with a permit or badge which must be displayed during hours of operation as evidence to the Police Department that they have been granted permission to so operate.
- (3) For the purpose of licensing, any charitable organization whose licensing and activities are presently covered under Public Act No. 368 of 1976, the same being M.C.L.A. 400.272-400.293; M.S.A. 3.240(2)-3.240(23).

7.54. Application. At least forty-five (45) days prior to the date of the commencement of the period for which the license is intended to be used, applicants for permit and license must file with the City Clerk a sworn application in writing, on a form to be furnished by the City Clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (legal and local);
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (7) Three photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which pictures shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner; and also a photograph of the booth, structure, vehicle or other base or station used in merchandising which portrays the applicant's intended display or exhibit;
- (8) The fingerprints of the applicant;
- (9) A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (10) If applicant intends to handle or sell anything edible by human beings, he/she shall also file with his/her application a statement certifying that he/she is free of any known infectious, contagious or communicable disease.
- (11) At the time of filing the application, a fee shall be paid to the City Clerk to cover the cost of investigation. Said fee shall be determined by City Council resolution from time to time.
- (12) Applicant shall file with the completed application a copy of any form contracts to be used in the course of applicant's business under this Chapter.

(13) Applicants for a permit or license to do business as a solicitor or canvasser as defined herein shall, besides the information in section 7.54(1)-(12) file a statement showing the place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

(14) Applicants for a permit or license to do business as a transient merchant as defined herein shall, besides the information in section 7.54(1)-(12), file a statement showing:

(a) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City of Frankenmuth; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

(b) The place or places in the City of Frankenmuth where it is proposed to carry on the applicant's business.

(c) The place or places, other than the permanent place of business of the applicant where applicant within the six (6) months preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.

(d) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City of Frankenmuth, the invoice value and quantity of such goods, wares and merchandise, whether same are proposed to be sold from stock in possession or from stock in possession and by sample, at auction, by direct sale or by direct sale and by the taking of orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such good or products are located at the time said application is filed.

(e) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Clerk, copies of all said advertising, whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto;

(f) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and two (2) references in writing from someone who has known the applicant personally; and

(g) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of applicant's business or the method or plan of doing such business as the City Clerk may deem proper to fulfill the purpose of this Chapter in the protection of the public good.

(Ordinance No. 2002-08, 12-03-2002)

7.55. Credentials Committee. The City Council shall appoint a Credentials Committee, the members of which shall be charged with the duty of receiving and determining exemptions, approving applications for license, and making such other recommendations to the City Council as may be required to enforce this Chapter and secure the welfare of the business community and the people of Frankenmuth. The said committee shall be five (5) in number, comprising the following:

(1) The Chief of Police;

(2) The President of the Civic Events Council;

- (3) The Chairperson of the Chamber of Commerce;
- (4) The City Manager of the City of Frankenmuth; and
- (5) One City Councilmember, who shall serve under appointment by the Mayor.

(Ordinance No. 2002-08, 12-03-2002)

7.56. Investigation and Issuance.

- (1) Upon receipt of such application, the original and one (1) copy shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good and for the benefit of the Credentials Committee.
- (2) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and shall forward said application, along with his recommendations, to the Credentials Committee for the official approval or disapproval of the license application. For purposes of this section, character or business responsibility shall include but not be limited to those items of cause for license revocation contained in section 7.68.
- (3) If said application is approved by the Credentials Committee, the City Clerk shall immediately, upon applicant's payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued. One copy of the application shall be returned to the Chief of Police for his files.
- (4) If the Credentials Committee denies said application, the City Clerk shall notify the applicant thereof by registered or certified mail, return receipt requested, postage prepaid, sent to the applicant's address as stated on said application. The notice of denial shall include a statement of the reasons therefor.

7.57. License Fee. (see Chapter 72) No fee shall be required of one selling products of the farm or orchard actually produced by the Frankenmuth area seller.

7.58. Basis of Fees. For the purpose of this Chapter, any period of seven (7) calendar days or less shall be considered one (1) week; any period of more than seven calendar days and not more than thirty (30) days shall be treated as one (1) month; and any period of more than thirty (30) calendar days and not more than one (1) calendar year shall be treated as a year. The annual fees herein provided for shall be assessed on a calendar year basis, and on and after November 1st, the amount of the fee for such annual license shall be one-half the amount stipulated for the remainder of the year.

7.59. License Plates, Badges and Posting of Licenses.

- (1) The City Clerk shall issue to each licensee for peddling, soliciting and canvassing at the time of delivery of his license, two license plates for each vehicle to be used, plus a badge for each individual licensed under this Chapter. The license plates or badges shall bear the words "Licensed Peddler", and the number of the license in letters and figures plainly discernible. License plates shall be attached to the vehicle used by the licensee, either

on both sides or on the front and rear of the vehicle so used. Such badges shall be worn constantly by the licensee on the front of his or her hat or outer garment in such a way as to be conspicuous during such time as said licensee is engaged in peddling.

(2) Licenses issued to transient merchants under this Chapter shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

7.60. Transfer.

(1) No license or badge issued to peddlers, solicitors or canvassers under the provisions of this Chapter shall be used or worn at the time by any person other than the one to whom it was issued.

(2) No license issued to a transient merchant shall be transferred without written consent from the Credentials Committee as evidenced by an endorsement on the face of the license by the City Clerk, showing to whom the license is transferred and the date of the transfer.

7.61. Loud Noises and Speaking Devices. No person licensed under this Chapter nor any person in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

7.62. Use of Public Areas.

(1) Streets and Sidewalks. No person licensed under this Chapter, nor any person on his behalf, shall have any exclusive right to any location in the public streets or rights of way. No licensee shall be permitted a stationary location within a congested area if said location operates to impede or inconvenience the public use and enjoyment of city streets and sidewalks. In furtherance thereof, the Credentials Committee shall prescribe, as a condition of the license granted, specific setback areas from the City sidewalk to assure the unimpeded flow of pedestrian movement in the vicinity of applicant's sales exhibit.

(2) Parking Lots and Driveways. No sales activity or exhibit, whether mobile or stationary, shall be conducted in, upon or so near the entrance to parking lots or driveways as to obstruct or impede the free ingress and egress of vehicular traffic therewith. Partial use of space within parking lots which may face public streets or sidewalks may be granted with prior permission from the City Police Department.

(3) Exercise of Police Powers. For the purpose of this Chapter, the judgment of the Police Department, exercised in good faith, shall be deemed conclusive as to whether an area is congested or impeded or inconvenienced. In the processing of applications, the Credentials Committee shall have the power to withhold and refuse to grant further permits if, in its judgment, overcrowding of thoroughfares would result, should additional licenses be granted.

7.63. Exhibition of License. Persons licensed under this Chapter are required to exhibit their licenses at the request of any citizen.

7.64. Duty of Police to Enforce.

(1) It shall be the duty of any police officer of the City of Frankenmuth to require any person seen peddling, soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his peddlers, canvassers or solicitors license and to enforce this Chapter against any person found to be violating the same.

(2) It shall be the duty of the police officers of the City of Frankenmuth to examine all places of business and persons in their respective territories subject to the provisions of this Chapter, to determine if this Chapter has been complied with and to enforce this Chapter against any person found to be violating the same.

7.65. Records.

(1) The Chief of Police shall report to the City Clerk all convictions for violation of this Chapter and the City Clerk shall maintain a record for each license issued and record the reports of violation therein.

(2) The City Clerk shall deposit the record of fingerprints of the licensee, together with his license number, with the Chief of Police.

7.66. Hours of Operation. No peddler, solicitor or vendor, as defined herein, shall engage in such business within the City of Frankenmuth after the hour of 8:30 P.M. and before the hour of 9:00 A.M., unless an extension or exception to said hours is expressly granted by the City Council.

(Ordinance No. 2002-08, 12-03-2002)

7.67. Evidence of Insurance.

(1) Public Liability Insurance. The Credentials Committee shall require each applicant hereunder to give evidence of the fact that such exhibitor or sales unit is adequately insured for public liability protection; and it shall be a condition of the granting of a license hereunder that the applicant holds harmless the City of Frankenmuth for any loss or damages sustained by third persons through the conduct, activity or negligence of the applicant.

(2) Indemnity Bond. The Credentials Committee may also require applicant to file an Indemnity Bond with the City Clerk to indemnify the City of Frankenmuth for any and all damage to City property of any kind whatsoever, and conditioned also upon the promise that the applicant will pay to the City of Frankenmuth all fines and penalties which may be assessed against said applicant for the breach of any provision of this Code related to the business carried on by such person within the City of Frankenmuth. The amount of said bond shall be determined by City Council resolution from time to time.

(Ordinance No. 2002-08, 12-03-2002)

7.68. Revocation of License. Permits and licenses issued under this Chapter may be revoked by the Council of the City of Frankenmuth after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler;
- (3) Any violation of this Chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;

(5) Conducting the business of peddling, soliciting, canvassing or transient merchant, in an unlawful manner or in such 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.

7.69. Notice. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed by registered or certified mail, return receipt requested, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

7.70. Appeal. Any person aggrieved by the action of the Credentials Committee in the denial of a permit or license as provided in this Chapter shall have the right to appeal to the Council of the City of Frankenmuth. Such appeal shall be taken by filing with the Council, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 7.69. The decision and order of the Council on such appeal shall be final and conclusive.

7.71. Vending Prohibited in City Parks: Exceptions. No license shall be issued for peddling, soliciting, canvassing or vending within any of the parks of the City of Frankenmuth, except that the Civic Events Council, with the permission of the City Parks and Recreation Commission, may allocate and govern vendors licenses and licensees within the confines of the festival grounds it establishes with said Park Commission for the operation of its annual Bavarian Festival; or except that the Recreation Department, with the permission of the City Park and Recreation Commission may allocate and govern vendors licenses and licensees on park grounds during Recreation Department sponsored activities and events.

Private organizations occupying a portion of a public park with the permission of the said Park Commission may, under ground rules ordered by the Commission, conduct sales and merchandising exhibits for patronage by their own organization members attending the private event of said permitted group.

7.72. Expiration of License. No automatic renewal or continuation of any license granted hereunder shall be implied, and each such license shall expire on the date specified in the license; except for the licenses granted to those non-stationary peddlers or hucksters as defined herein which may be issued upon an annual basis. Such annual licenses shall expire on the 30th day of April of each year.

7.73. Unlicensed Soliciting or Peddling at Private Residences; Notice; Duty; Exemption.

(1) The practice of going in and upon private residences in the City of Frankenmuth, Michigan, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise who are unlicensed, for the purpose of soliciting orders for the sale of goods, wares, merchandise and other personal property and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a violation of this Code.

(2) It shall be unlawful for licensed solicitors, peddlers, hawkers, itinerant merchants or transient vendors to engage in business at a private residence where notice has been conspicuously posted at or near the front door, by the owner(s) or occupant(s) reading "No Solicitors or Peddlers" or containing such other language which clearly states the desire of said person to prohibit soliciting or peddling on said premises. The size of such sign may not exceed Zoning Code requirements for that Zoning District.

(3) It shall be the duty of licensed solicitors, peddlers, hawkers, itinerant merchants or transient vendors to first determine whether each private residence has posted a notice thereon which prohibits such business activity. In the event such activity is prohibited by notice, than such licensee shall immediately and peacefully depart from the premises. Any solicitors, peddlers, hawkers, itinerant merchants or transient vendors who have gained entrance to any residence, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by the owner(s) or occupant(s).

(4) Upon prior petition brought before it, the City Council may grant such exceptions to subsection (1) hereof for solicitation of a civic or eleemosynary nature as may, in its judgment, produce sufficient community benefit to warrant exemption therefrom.

(Ordinance No. 2002-08, 12-03-2002)

7.74 Violation; Municipal Civil Infraction. A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by Section 1.12(3)(b) of this Code. The City Manager is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing the alleged violators to appear at the City of Frankenmuth Municipal Ordinance Violations Bureau) for violations under this Chapter as provided by this Code.

(Ordinance No. 2002-05, 08-07-2002)