

CHAPTER 113: TRANSIENT MERCHANTS, PEDDLERS, HAWKERS AND SOLICITORS

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• 113.01 PURPOSE.

The purpose of this chapter is to license and regulate transient merchants, peddlers, hawkers and solicitors in the village, the enactment of this chapter being necessary to promote and protect the public safety of those persons as well as to protect the public's general welfare, health and safety, protect residents' privacy, and prevent fraud and misrepresentation.

(Prior Code, ' 862.01) (Ord. 2010-1, passed 2-8-2010)

• 113.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HAWKER. Any person who offers goods, property or services for sale on the sidewalks, streets, highways, parks, thoroughfares or public rights-of-way of the village by crying out or by signals, music or other noise.

PEDDLER. Any person who travels from place to place by vehicle, wagon, cart or any other means of conveyance whatsoever for the purpose of displaying, selling, offering for sale, taking orders for sale, or leasing with the option to buy any goods, wares, food, beverages, merchandise or service.

PERSON. Any individual, group, club, association, partnership, corporation, society, or any other business entity or organization.

SOLICITOR. Any person who travels from place to place and offers for sale, takes orders for or attempts to take orders for the retail sale of any goods, wares, food, beverages, merchandise or services whatsoever for future delivery; or while on a public street or while in a public place, offers for sale, takes orders for or attempts to take orders for the retail sale of any goods, wares, food, beverages, merchandise or services whatsoever for future delivery.

TRANSIENT MERCHANT. Any person, whether owner, agent, consignee or employee, whether a resident or non-resident of the village, that engages in a temporary business of selling, offering or exhibiting for sale any goods, wares, food, beverages,

merchandise or service from any lot, stand, vehicle or cart whether motorized or not, or any other temporary or portable structure.

(Prior Code, ' 862.02) (Ord. 2010-1, passed 2-8-2010)

' 113.03 LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of transient merchant, peddler, hawker, or solicitor, as defined in ' 113.02 of this chapter, within the limits of the village without first obtaining a license as provided herein.

(Prior Code, ' 862.03) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.04 LICENSE APPLICATION.

An application for a license shall be made to the Village Clerk, upon the forms provided by the Clerk, not less than one week prior to commencing any activity defined in ' 113.02 of this chapter. A license application filed hereunder shall contain the following information:

(A) Name and description of the applicant.

(B) Permanent home and/or business address of the applicant.

(C) A copy of the most recent driver's license or state identification card and recent photograph of the applicant.

(D) The name, address, copy of driver's license, and recent photograph of any person acting on behalf of the applicant in any activity defined in ' 113.02 of this chapter.

(E) If a vehicle is to be used, a description of the same, together with license number or other means of identification.

(F) A brief description of the nature of the business and the goods or services to be sold.

(G) A statement as to the approximate locations within the village where any activity defined in ' 113.02 of this chapter will take place.

(H) A copy of a valid Michigan sales tax license.

(I) A copy of any Health Department licenses, if required under local, state or federal law.

(J) A statement as to whether or not the applicant, or anyone acting on behalf of the applicant, has been convicted of any felony, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(Prior Code, ' 862.04) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.05 LICENSE FEE.

The administrative fees for a license under this chapter shall be established from time to time by resolution of the Village Council.

(Prior Code, ' 862.05) (Ord. 2010-1, passed 2-8-2010)

' 113.06 INVESTIGATION, ISSUANCE OF LICENSE, DENIAL AND APPEAL.

(A) Upon receipt of such application, the Village Clerk shall cause such investigation of the applicant and the applicant's business to be made as the Clerk deems necessary for the protection of the public good, including a determination of whether or not the proposed activity is to be conducted in an area zoned for such activity. The Clerk shall thereupon approve or disapprove the license application. If the application is approved, the Clerk shall, upon payment of the prescribed license fee, deliver to the applicant a license. Such license shall contain the signature of the issuing Clerk, the name, address and photograph of said licensee, the kind of goods to be sold, the amount of the fee paid, the date of issuance, the approximate location of the activity and/or the license number or identifying description of any vehicle used in conjunction with such activity.

(B) Any denial of a license application shall be made in writing, specifying the reasons for denial, within five business days of the filing of the application. An appeal of a denial shall be made to the Village Council, in writing, which shall decide the appeal within 35 calendar days of filing of the appeal. (Prior Code, ' 862.06) (Ord. 2010-1, passed 2-8-2010)

' 113.07 DISPLAY AND ALTERATION OF LICENSE.

(A) The license granted under this chapter shall be clearly and noticeably displayed during any activity defined in ' 113.02 of this chapter.

(B) The licensee shall exhibit such license to any police officer upon request. Failure to do so shall be deemed a violation of this chapter and may result in the revocation of such license.

(C) No licensee shall alter, change, remove or obliterate any information contained on such license. Any alteration, change, removal or obliteration of any information contained on such license shall be deemed a violation of this chapter and may result in the revocation of such license. (Prior Code, ' 862.07) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.08 TERM OF LICENSE.

All licenses issued pursuant to this chapter shall be valid for not more than 28 days from issuance, unless renewed by the applicant using the procedures outlined in ' 113.04 of this chapter and approved by the Village Clerk. The license granted under this chapter shall not be transferable or assignable. (Prior Code, ' 862.08) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.09 EXEMPTIONS.

The licensing provisions of this chapter shall not apply to the following:

(A) Any person who is commencing any activity defined in ' 113.02 of this chapter that is under the direct supervision of any school, state or federally registered or recognized charitable, non-profit or religious organization, provided that such person shall provide identification and evidence of their organizational affiliation upon request of the Village Council or village officers.

(B) Any person who is commencing any activity defined in ' 113.02 of this chapter that is exclusively intended to canvas or petition for a public official, political candidate, public policy or initiative being promoted for the purpose of a public referendum, initiative or election.

(C) Any war veteran who has first obtained a license pursuant to Act No. 359 of the Public Acts of Michigan 1921, being M.C.L.A. ' ' 35.441 *et seq.*, as amended.

(D) Any person engaged in the distribution of newspapers.

(E) The sale by farmers of their own products either produced by themselves or by their regular farm employees when such activity is being conducted in conjunction with a village sanctioned Farmers Market.@

(F) A person soliciting orders by sample, brochure, or sales catalog for future delivery or making sales at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(G) A person selling at an art fair or festival or similar event at the invitation of the event's sponsor if all the following conditions are met:

(1) The sponsor is a governmental entity or non-profit organization;

(2) The person provides the sponsor with the person's sales tax license number;

(3) If any food or beverage for immediate consumption is being sold, the person provides the sponsor with any license or permit required by the local and/or state health department.

(H) Store owners in the village who sell goods, wares or merchandise on the sidewalk in front of their stores on days designated as A Sidewalk Sale Days by the Village Council.

(I) Exemption from the licensing provisions hereof does not eliminate the requirement of obtaining scheduling permission for use of the village parks or streets under other provisions of these codified ordinances.
(Prior Code, ' 862.09) (Ord. 2010-1, passed 2-8-2010)

' 113.10 REVOCATION OF LICENSE.

(A) Licenses issued under the provisions of this chapter may be revoked for any of the following causes:

(1) Fraud, misrepresentation, or false statements contained in the application for license;

(2) Fraud, misrepresentation, or false statements made in the course of conducting any activity defined in ' 113.02 of this chapter;

(3) Any violation of this chapter;

(4) Conviction of any crime involving moral turpitude;

(5) Conducting any activity defined in section ' 113.02 of this chapter in such a manner as to constitute a breach of peace, nuisance, or which constitutes a menace to the health, safety, or general welfare of the public.

(B) Any revocation of a license shall be made in writing, specifying the reasons for revocation. An appeal of a revocation shall be made to the Village Council, in writing, which shall decide the appeal at the next regularly scheduled Council meeting.
(Prior Code, ' 862.10) (Ord. 2010-1, passed 2-8-2010)

' 113.11 HOURS OF OPERATION.

The activities defined in ' 113.02 of this chapter may take place within the Village only between the hours of 9:00 a.m. and 9:00 p.m.
(Prior Code, ' 862.11) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.12 USE OF PUBLIC STREETS, ALLEYS, SIDEWALKS, PARKS AND PROPERTY RESTRICTED.

(A) No person engaged in any activity defined in ' 113.02 of this chapter shall have any exclusive right to any location in the public streets, alleys, sidewalks, parks or other public property, nor shall such person obstruct any street, alley, sidewalk or driveway or any congested area where operations would reasonably impede the free flow of pedestrian or vehicular traffic or at any time after having been requested to desist by any public officer because of congested or dangerous traffic conditions or for the public health, safety or welfare.

(B) No person engaged in any activity defined in ' 113.02 of this chapter shall conduct business at a location in the roadway where stopping, standing or parking is prohibited or during a time periods when stopping, standing or parking is restricted.

(C) Any person engaged in any activity defined in ' 113.02 of this chapter shall obey all traffic and parking laws, rules and regulations.

(D) Any person engaged in any activity defined in ' 113.02 of this chapter, for the purpose of protecting the general health, safety and welfare of the

public, is, from May 1 through September 30, prohibited from engaging in such activities on, or on any property fronting on Hancock Street or its adjoining sidewalks, alleys or parks from the intersection of Hancock and 6th Streets to the intersection of Hancock and Lowell Streets, and east and west from the west side of Carroll Street to the west side of Dover Street or the waterfront, as applicable, due to street and sidewalk congestion and impediment of the free flow of pedestrian and vehicular traffic, unless such activity is conducted entirely on private property with the express written permission of the property owner.

(E) No person engaged in any activity defined in ' 113.02 of this chapter shall sell, offer or expose for sale any goods, wares, food, beverages, merchandise or services within the Village Green or upon or along any street or public place which forms a boundary of said park. This section shall not apply to any person who is commencing any activity defined in ' 113.02 of this chapter who is under the direct supervision of any school, state or federally registered or recognized charitable, non-profit or religious organization, provided that such person shall provide identification and evidence of their organizational affiliation upon request of the Village Council or village officers, or any person who is canvassing or petitioning for a public official, political candidate, public policy or initiative being promoted for the purpose of a public referendum, initiative or election, or to any person who has a separate permit authorized or issued by the village providing use thereof.

(F) No person shall engage in any activity defined in ' 113.02 of this chapter on any property against the wish or desire of the property owner or occupant of the property. No person engaged in such activity shall visit any dwelling or residence without an appointment where a sign is displayed stating, "No peddlers@", "No solicitors@", "No sales@", "No trespassing@", or words of similar meaning. (Prior Code, ' 862.12) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.13 LOUD NOISES AND SPEAKING DEVICES.

No person shall shout, make any cryout, or use any sound device, including any loudspeaker or sound amplifying system, upon any of the streets, alleys, parks or other public places of said village or upon any private premises in the said village where sound of sufficient volume is emitted or produced for the purpose of attracting attention to any goods, wares, food, beverages, merchandise or services which the licensee proposes to sell. (Prior Code, ' 862.13) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.14 ENFORCEMENT.

It shall be the duty of any peace officer or person charged with enforcing this chapter to require any person who is seen undertaking any activity defined in ' 113.02 of this chapter and who is not known by such officer to be duly licensed pursuant to this chapter, to produce the license and to enforce the provisions of this chapter against any person found to be in violation of the same. (Prior Code, ' 862.14) (Ord. 2010-1, passed 2-8-2010) Penalty, see ' 113.99

' 113.15 PROVISIONS CUMULATIVE WITH OTHER LAWS.

The provisions of this chapter shall be in addition to and not instead of the provisions of any other chapter, laws, codes, rules or regulations of the federal, state, or county government applicable to the subject. (Prior Code, ' 862.16) (Ord. 2010-1, passed 2-8-2010)

' 113.99 PENALTY.

Any person found to be in violation of any provision of this chapter shall be punished by a fine not to exceed \$500 or by imprisonment not to exceed

90 days, or both. Each day a violation of this chapter continues shall be considered a separate offense and is subject to the penalties stated herein.

(Prior Code, ' 862.15) (Ord. 2010-1, passed 2-8-2010)