

CHAPTER 27.

HAWKERS, PEDDLERS AND TRANSIENT BUSINESSES.¹

Article I. Repealed.

§§ 27-1 to 27-4. Repealed.

Article II. Peddlers and Canvassers.

- § 27-5. Definitions; exceptions to definitions.
- § 27-6. License--required; exemptions; application; procedure.
- § 27-7. Same--Investigation; denial, revocation and suspension.
- § 27-8. Same--Fees.
- § 27-9. Prohibited hours.
- § 27-10. Display of license.
- § 27-11. Deleted.
- § 27-12. Failure to leave premises on request.
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Article III. Mobile Food Carts and Mobile Food Vehicles.

- § 27-16. Definitions.
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- § 27-19. Same--operation.
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- § 27-21. Same--insurance required.
- § 27-22. Same--prohibited locations.
- § 27-23. Same--denial, revocation and suspension.

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Article I. Repealed.

Secs. 27-1 to 27-4. Repealed by Ord. No. 8282, 11-1-1976, § 1.

Article II. Peddlers and Canvassers.

Sec. 27-5. Definitions.

Sec. 27-5. Definitions; exceptions to definitions.

(a) For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Solicitor. A person who goes about from house-to-house, business-to-business, street-to-street, or any other type of place-to-place movement within the city for the purpose of obtaining, or attempting to obtain orders for the retail sale of services or personal property of any nature whatsoever, for future performance or delivery. For the purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

¹For state law as to hawkers, peddlers and transient merchants generally, see M.S.A., §§ 329.02 to 329.17. As to covering food peddler's vehicle, see § 28-21 of this Code.

Peddler. 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 offering for sale, displaying or exposing the sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting.

Person. Any natural individual, group, organization, corporation, partnership, or similar association.

Non-commercial door-to-door advocate. One who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this ordinance, the term door-to-door advocate shall include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

Transient merchant. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front, building, hotel or motel 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 in any one location for more than 14 days;

(b) Exceptions to definitions.

For purposes of this Article, the terms solicitor, peddler and transient merchant shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Persons engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 27-6(g);

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler;

(3) 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 or milk;

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route;

(5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large;

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales or estate sales;

(7) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this Article, excuse any person from complying with any other applicable statutory provision or ordinance. (Ord. No. 5173, 6-29-1931, § 2; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 1; Ord. No. 10301, 6-9-2014, § 1.)

Sec. 27-6. License--required; exemptions; application; procedure.²

(a) County license required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity;

(b) City license required. Except as otherwise provided for by this ordinance, no person within the city shall engage in or carry on the business of a peddler or transient merchant without first obtaining a city license to carry on such business. Said license is not required for operations occurring entirely within a permitted community event pursuant to Section 45-49. Solicitors need not be licensed, but are required to register with the city pursuant to Section 27-6(g);

(c) Application. An application for a license required by this Article shall be made at least 14 regular business days before the applicant desires to begin conducting business within the city. The application for a license shall be made on a form approved by 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) The applicant's full legal name;

²For state law exempting holders of city license from any other licensing requirements, see M.S.A., § 329.09.

- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent;
- (7) Full address of applicant's regular place of business, if any exists;
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) A general description of the items to be sold;
- (10) A statement as to whether or not the applicant has been convicted within the last ten years of any felony, gross misdemeanor, misdemeanor or ordinance violation for violating any state or federal statute or local ordinance, other than minor traffic offenses;
- (11) A list of the three most recent locations where the applicant has conducted business as a peddler;
- (12) The applicant's driver's license number or other acceptable form of photo identification;
- (13) The license plate number, registration information, vehicle identification number and physical description for any vehicle to be used in conjunction with the licensed business operation;
- (14) Any and all additional information as may be deemed necessary by the chief administrative officer or his/her designee;
- (d) Fee. All applications for a license under this Article shall be accompanied by the fee established under Section 27-8;
- (e) Procedure. Upon receipt of a complete application and payment of the license fee, the city will conduct an investigation, including background checks, necessary to verify the information provided with the application. Within 12 regular business days of receiving a complete application the city must issue the license unless grounds exist for denying the license application under Section 27-7, in which case the city must deny the request for a city license. If the city denies the license application, the applicant must be notified in writing of the decision, the reason for the denial and the applicant's right to appeal the denial under Section 27-7;
- (f) License exemptions.
 - (1) 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;
 - (2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity;
- (g) Registration.
 - (1) All solicitors and any person exempt from the licensing requirements of this ordinance shall be required to register with the city prior to engaging in those activities. 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 registration. Certificate of registration shall be non-transferrable;
 - (2) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register. (Ord. No. 5173, 6-29-1931, § 1; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 2; Ord. No. 10264, 12-9-2013, § 1; Ord. No. 10301, 6-9-2014, § 2.)

Sec. 27-7. Same--Investigation; denial, revocation and suspension.

- (a) The application for a license required by this Article shall be thoroughly investigated by the Duluth police department, including background checks, who thereafter shall make a recommendation

to the chief administrative officer for the approval or disapproval of such license. Licenses may be denied, suspended, or revoked by the chief administrative officer or his/her designee for the following reasons:

- (1) The failure of an applicant to truthfully provide any information requested by the city as part of the application process; or
- (2) The failure of an applicant to sign the license application; or
- (3) The failure of the applicant to pay the required fee at the time of application; or
- (4) A conviction by the applicant or licensee within the past ten years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person; or
- (5) The revocation within the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; or
- (6) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the office of the Minnesota attorney general or other state attorney general's office, or similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years; or
- (7) The failure of an applicant to obtain and demonstrate proof of having obtain any required county license;

(b) Any person aggrieved by a denial, suspension or revocation of a city license may appeal such decision to the city council. Notice of such appeal to the city council must be made in writing to the city clerk within ten calendar days after such written decision is mailed to the applicant. The city council shall hear such appeal within 15 business days of the date the appeal is filed with the city clerk. The decision of the city council can be appealed by petitioning the Minnesota court of appeals for writ of certiorari. (Ord. No. 5173, § 3; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 3; Ord. No. 10301, 6-9-2014, § 3.)

Sec. 27-8. Same--Fees.

Annual fees for licenses required by this Article shall be set in accordance with Section 31-6(a) of this Code. All licenses issued under this Article shall expire on the 31st day of March each year. Licenses approved in 2026 will not expire until the end of the day on March 31, 2027. Licenses are non-transferrable. (Ord. No. 5173, § 4; Ord. No. 5787; Ord. No. 6964; Ord. No. 6973; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 4; Ord. No. 9118, 1-11-1993, § 21; Ord. No. 9611, 7-28-2003, § 27; Ord. No. 10301, 6-9-2014, § 4.; Ord. no 10965, 3-23-2026, § 4)

Sec. 27-9. Prohibited hours.

No peddler or canvasser shall call on or solicit business from any private residence or dwelling unit before 9:00 a.m. or after 9:00 p.m. unless he has been invited to do so by the owner or occupier of such residence. (Ord. No. 5173, § 6; Ord. No. 8301, 1-17-1977, § 5.)

Sec. 27-10. Display of license.

Any person licensed pursuant to this Chapter shall carry his license with him while engaged in the licensed activities, and shall display his license to any police officer or citizen upon request. (Ord. No. 5173, § 9; Ord. No. 8282, 11-1-1976, § 2.)

Sec. 27-11. Deleted by motion on 11-1-1976.

Sec. 27-12. Failure to leave premises on request.

No peddler or canvasser shall refuse or fail to leave any private residence, business establishment or office or other premises in the city when requested to do so by the owner, occupant or other person having authority over premises. (Ord. No. 5173, § 5; Ord. No. 8282, 11-1-1976, § 2.)

Sec. 27-13. Misrepresentations.

No peddler or canvasser shall intentionally misrepresent to any prospective customer the purpose of his visit or solicitation, nor the name or business of his principal, nor the source of supply of the goods, wares, merchandise or services which he sells or offers for sale, nor the disposition of the proceeds or profits of his sales. (Ord. No. 5173, § 7; Ord. No. 5490; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 6.)

Sec. 27-14. Interference with traffic prohibited.

No peddler or canvasser shall conduct his business in such a manner so as to interfere in any way with the free passage of pedestrians or vehicles along streets or sidewalks in the city. (Ord. No. 5173, § 8; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 7.)

Sec. 27-15. Applicability of article.

The licensing requirements of this Article shall not be held to include persons selling for bona fide charitable and religious organizations when the entire profit of sales are used for a charitable purpose and do not result in private pecuniary gain to any of the sellers, or to persons who offer for sale or sell or who peddle from house to house or in the markets, vegetables, butter, eggs or other farm or garden products. (Ord. No. 5173, 6-29-1931, § 7; Ord. No. 5490, 6-12-1933; Ord. No. 8282, 11-1-1976, § 2; Ord. No. 8301, 1-17-1977, § 8.)

Article III. Mobile Food Carts and Mobile Food Vehicles.

Sec. 27-16. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Baywalk. The constructed paved walkway in close proximity to the Lake Superior Duluth Harbor Basin extending from the Duluth Harbor North Breakwater Light along North Pier Road closely following the Lake Superior Duluth Harbor Basin waterline until an end point near the intersection of West Railroad Street and Harbor Drive.

Food and beverage service establishment. A building, structure, enclosure, or any part of a building, structure, or enclosure, used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Lakewalk. The constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to the east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park.

Mobile food cart. An outdoor food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

Mobile food vehicle. An outdoor food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.

Restaurant. A food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a mobile food cart or a mobile food vehicle. (Added by Ord. No. 10223, 5-13-2013, § 1.)

Sec. 27-17. License--required.

(a) No person or business shall operate a mobile food cart or mobile food vehicle within the city without a license. Said license is in lieu of the peddler license required pursuant to Section 27-6. Mobile food cart and mobile food vehicle licenses are not required for operations occurring entirely within a permitted community event pursuant to Section 45-49;

(b) The city may require such information on the license application as city staff deem reasonable and necessary, including but not limited to, the following information:

- (1) Trade name;
 - (2) Name, mailing address, email address, and telephone numbers of applicant and manager;
 - (3) Name and contact information of commercial food supply sources;
 - (4) Proof of applicable licenses or permits required by the state of Minnesota, St. Louis County, or this Code;
 - (5) Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;
 - (6) Information regarding water supply, fuel supply, and waste disposal.
- (Added by Ord. No. 10223, 5-13-2013, § 1; Ord. No. 10264, 12-9-2013, § 2.)

Sec. 27-18. Same--fees.

License applications under this Article shall be submitted to the city clerk with the designated license fee, said fee shall be set by city council resolution in accordance with Section 31-6(a) of this Code. Said fee is in lieu of the peddler license fee required pursuant to Section 27-8. All licenses under this Article shall expire on the 31st day of December each year. Licenses approved in 2014 will not expire until the end of the day of December 31, 2015. Licenses are non-transferable. (Added by Ord. No. 10223, 5-13-2013, § 1; Ord. No. 10264, 12-9-2013, § 3; Ord. No. 10343, 12-8-2014, § 1.)

Sec. 27-19. Same--operation.

A mobile food cart or mobile food vehicle is, by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157 and Minnesota Rules Chapter 4626, or their successors. Additionally, it shall be unlawful to operate any mobile food cart or mobile food vehicle in the city unless it is licensed, operated, and conducted in accordance with the following requirements:

- (a) Applicable license fee under Section 27-18 shall be paid;
- (b) Prohibited from discarding waste, liquids, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles. Licensees shall be responsible for all litter and garbage left by customers;
- (c) Prohibited from using utilities from public property and right-of-ways;
- (d) Prohibited from using utilities of any adjacent private property without obtaining permission from the private property owner or agent;
- (e) Shall operate in strict compliance with the laws, rules, and regulations of the United States, state of Minnesota, St. Louis County, and the city;
- (f) Shall abide by all vehicular public parking regulations;
- (g) Shall comply with vehicle noise limits for electronically amplified sound and sound broadcasting devices pursuant to sections 34-22 and 34-24 of this Code;
- (h) Shall provide and maintain at least one clearly designated waste container for customer use per each mobile food cart or mobile food vehicle;

- (i) Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;
- (j) Licensees shall collect and remit applicable Minnesota and city sales tax. (Added by Ord. No. 10223, 5-13-2013, § 1.)

Sec. 27-20. Same--inspection.

Mobile food carts and mobile food vehicles are subject to inspection by city staff from the police, fire, and parks and recreation departments, and licensees must comply with any regulation or specific directive imposed by city staff from those departments. (Added by Ord. No. 10223, 5-13-2013, § 1.)

Sec. 27-21. Same--insurance required.

(a) Motorized mobile food vehicle. Before any license under this Article becomes effective, the licensee must possess an automobile insurance policy for its mobile food vehicle, if motorized, with coverage amounts not less than \$250,000 per person for bodily injury, \$500,000 per accident for bodily injury and \$100,000 for property damage;

(b) Mobile food vehicle and mobile food cart. Before any license under this Article becomes effective, the licensee shall possess a commercial general liability insurance policy for its mobile food cart and mobile food vehicle operations in coverage amounts not less than \$300,000 per occurrence and \$600,000 aggregate, with an endorsement satisfactory to the city attorney. Licensee shall name and maintain the city of Duluth as an additional insured on the insurance policy. (Added by Ord. No. 10223, 5-13-2013, § 1; Ord. No. 10264, 12-9-2013, § 4.)

Sec. 27-22. Same--prohibited locations.

(a) Mobile food carts and mobile food vehicles may not operate or travel on the Lakewalk or Baywalk;

(1) Mobile food carts and mobile food vehicles may not operate or travel through or on other city trails or parks unless the licensee obtains permission from the city parks and recreation department;

(b) Mobile food vehicles may not operate or travel on public sidewalks;

(c) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park;

(1) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots adjacent to or inside a city park unless the licensee obtains permission from the city parks and recreation department;

(d) Mobile food carts and mobile food vehicles are prohibited from obstructing the ingress or egress from commercial buildings during the building hours of operation;

(e) Mobile food carts and mobile food vehicles may not operate or travel on private property unless the licensee obtains permission from the private property owner or agent;

(f) Mobile food carts and mobile food vehicles may not operate within 200 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from the restaurant owner or manager, said 200 feet measured in a straight line of constant elevation;

(g) Mobile food carts and mobile food vehicles may not operate within 400 feet from a community event or parade as defined in Section 45-49 unless the licensee obtains permission from the permit holder of that community event or parade, said 400 feet measured in a straight line of constant elevation. (Added by Ord. No. 10223, 5-13-2013, § 1.)

Sec. 27-23. Same--denial, revocation and suspension.

Before any license is issued to any person by the city clerk, the application shall first be submitted to the chief administrative officer for his approval or denial. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reasons for denial, revocation, or suspension of a license covered by this Article. The licensee may then demand a hearing before the city council by delivering a written demand to the city clerk within ten business days after the notice of denial, revocation or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter. For the purposes of this Section "good cause" shall include, but not be limited to:

(a) The manner, or proposed manner, of operating the mobile food cart of mobile food vehicle violates any federal, state of Minnesota, St. Louis County, or city law (including this Article) or regulation;

(b) The manner of operating the mobile food cart or vehicle constitutes a public nuisance per Minnesota statutes 609.74 and 609.745, or their successors;

(c) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;

(d) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or

(e) Failure to timely pay licensee fee or previous pattern of operation without license.
(Added by Ord. No. 10223, 5-13-2013, § 1; Ord. No. 10264, 12-9-2013, § 5.)