**CHAPTER 112: TRANSIENT MERCHANTS**

Section

112.01 Definitions

112.02 Registration required

112.03 Exceptions

112.04 Applications

112.05 Religious, charitable and educational organizations; exemptions

112.06 Fees

112.07 Loud noises and speaking devices

112.08 Use of streets

112.09 Exhibition of registration; duty of police to enforce

112.10 Records

112.11 Revocation of registration

112.12 Appeal

112.13 Reapplication

112.14 Expiration

112.15 Violation

**112.01   DEFINITIONS**

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

**Canvasser or Solicitor**: Any person, whether a resident of this City or not, who goes from house to house, from place to place or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery or for service to be performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the order or whether or not he or she is collecting advance payments on such orders. This definition shall include any person who, for himself or herself or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

**Peddler**:  Any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchase or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; and further provided that 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 deemed a peddler. **Peddler**shall include the words **hawker** and **huckster**. It shall not include the vendor of milk, bakery products, groceries or ice who distributes his or her products to regular customers on established routes.

**Person**:  Any natural person, firm, partnership or corporation, association, club or society or any other organization.

**Transient Merchant:**  Any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in the temporary business of selling and delivering goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicles, trailer, tent, railroad box car or public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city for the exhibition and sale of goods, wares and merchandise, either privately or at a public auction. This definition shall not be construed to include any person, firm or corporation who, while occupying the temporary location does not sell from stock but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with these provisions merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting transient business in connection with, as a part of or in the same name of any local dealer, trader, merchant or auctioneer.

(Prior Code, Section 2‑200); (Ord. passed 8-19-1999)

**112.02   REGISTRATION REQUIRED**

It shall be unlawful for any Peddler, Canvasser or Solicitor, or transient merchant to engage in any business within the City without first registering with the City.

(Prior Code, Section 2‑201)  (Ord. passed 8-19-1999)  Penalty, see Section 10.99

**112.03   EXCEPTIONS**

This chapter shall not be held to include the acts of persons selling personal property at wholesale to dealers, nor to newsboys, nor acts of resident merchants or their employees, in delivering goods in the regular course of business; nor shall this chapter be held to include or apply to any producer or his or her employee, selling agricultural or farm products from the soil of the state by the producer or his or her employee; nor shall these sections apply to the selling of nursery products by the producer thereof from the soil of the state. Nothing contained in this chapter shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction pursuant to law.

(Prior Code, Section 2-202)  (Ord. passed 8-19-1999)

**112.04   APPLICATIONS**

Registration with the City Recorder shall include a sworn application in writing on a form furnished by the City Recorder which shall give the following information:

(A) Name and physical description of applicant;

(B) Complete permanent home and local address of the applicant, and in the case of transient merchants, the local address from which proposed sales will be made;

(C) A brief description of the nature of the business and the goods to be sold;

(D) If employed, the name and address of the employer, together with credentials established by the exact relationship;

(E) The length of time for which the right to do business is desired;

(F) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof. Where goods are located at the time of application is filed, and the proposed method of delivery;

(G) At the time of filing application, a fee, as set by the City Council, shall be paid to the City Recorder to cover the cost of investigation of the facts stated therein.

(Prior Code, Section 2‑203)’ (Ord. passed 8-19-1999)

**112.05   RELIGIOUS, CHARITABLE AND EDUCATIONAL ORGANIZATIONS; EXEMPTIONS**

(A) Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or so solicited from persons other than members of the organization, upon the streets, in an office or business building, by house to house canvass or in public places for a charitable, educational, religious, patriotic or philanthropic purpose shall be exempt from the provisions of Sections 112.04 and 112.06, provided there is filed a written, sworn application on a form to be furnished by the City Recorder which shall give the following information;

(1) Name and purpose of the cause for which permit is sought;

(2) Names and addresses of the officers and directors of the organization; and

(3) Whether or not any commission, fees, wages or emoluments are to be expended in connection with the solicitations and the amount thereof.

(B) Upon being satisfied that the organization, association or corporation is a religious, educational, charitable or philanthropic organization, the City Recorder shall issue a registration without charge to the organization, association or corporation to solicit within the city. The organization or corporation shall furnish all of its members, agents or representatives conducting solicitation, credentials in writing stating name of the organization, name of the agent and purpose of solicitation.

(Prior Code, Section 2‑204)’ (Ord. passed 8-19-1999)

**112.06   FEES**

(A) Fees shall be fixed by the City Council by resolution, and may in like manner be amended or altered from time to time at the discretion of the City Council. The City Council may establish separate fees for the applicants who own real or personal property located within the City used for the business which registration is made and which property is on the tax rolls of the City or who are agents or representatives of a person, firm or corporation who owns property located within the city used primarily for the business for which registration is made and which property is on the tax rolls of the City; and applicants for whom these criteria do not apply.

(B) The fees established by the City Council shall be assessed on a calendar year basis. On or after July first the amount of the fee for an annual registration shall be one‑half the amount stipulated above for the remainder of the year. Resident registrants may pay the annual fee in quarterly installments, in advance.

(C) Registration fees shall not be applied so as to create an undue burden upon interstate commerce. Any applicant who believes that the registration creates such an undue burden may apply to the City Recorder for reconsideration of the fee so that it shall not be discriminatory, unreasonable or unfair to such commerce.

The application may be made before, at, or within six months after payment of the prescribed

registration fee. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume of business and such other information as the City Recorder may deem necessary in order to determine the extent, if any, of undue burden on commerce. The City Recorder shall then conduct an investigation, comparing the applicant’s business with other businesses of like nature, and shall make findings of fact from which he or she shall determine whether the fee is unfair, unreasonable or discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee the City Recorder shall may use any method which shall assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees prescribed by the City Council.

(Prior Code, Section 2‑206)  (Ord. passed 8-19-1999)

**112.07   LOUD NOISES AND SPEAKING DEVICES**

No registrant, nor any person on his or her behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the City or upon the private premises where sound of sufficient volume is emitted or produced therefrom may be plainly heard upon the streets, alleys, avenues, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such registrant proposes to sell.

(Prior Code, Section 2‑208)  (Ord. passed 8-19-1999)

**112.08   USE OF STREETS**

No registrant shall have any exclusive right to any location in the public streets, nor shall any registrant be permitted a stand thereon, nor shall any registrant be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. The judgment of a Law Enforcement or Code Enforcement officer exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Prior Code, Section 2‑209)  (Ord. passed 8-19-1999)

* 1. **EXHIBITION OF REGISTRATION; DUTY TO ENFORCE**

1. Registrants are required to exhibit their certificate of registration at the request of any citizen.
2. It shall be the duty of the City Law Enforcement or Code Enforcement officer to require any person seen peddling, soliciting or canvassing, and who is not known by the officer to be duly registered, to produce the person’s registration, and to otherwise enforce this chapter.

(Prior Code, Sections 2‑210, 2-211)  (Ord. passed 8-19-1999)

**Section 112.10   RECORDS**

The City Recorder shall be responsible for maintaining all business registration records.

(Prior Code, Section 2‑212)  (Ord. passed 8-19-1999)

**112.11   REVOCATION OF REGISTRATION**

(A) Registrations issued under this chapter may be revoked by the City Council after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or incorrect statement contained in the application for registration;

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his or her business as solicitor, canvasser, peddler, transient merchant or itinerant vendor;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor; or

(5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, 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.

(B) Notice of hearing for revocation of registration shall be given as provided in Subsection 110.08.

(Prior Code, Section 2‑213)  (Ord. passed 8-19-1999)

**112.12   APPEAL**

Any person aggrieved by the action of the City Recorder or Enforcement Officer under this Chapter shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on the appeal and notice of the hearing will be given to the applicant in the same manner as prescribed in Subsection 110.08 for notice of hearing on revocation.

(Prior Code, Section 2‑214); (Ord. passed 8-19-1999)

**112.13   RE-APPLICATION**

A registrant whose registration has been revoked may reapply for registration not less than six (6) months after the final date of the revocation.

(Prior Code, Section 2‑215)  (Ord. passed 8-19-1999)

**112.14   EXPIRATION**

All annual registrations shall expire on the thirty-first (31st) day of December in the year issued, or upon such other date specified on the registration.

(Prior Code, Section 2‑216)  (Ord. passed 8-19-1999)

**112.15   VIOLATION**

Violation of this section shall be a class “A” violation as defined in ORS Chapter 153.

Each day’s violation of the provisions of this Chapter shall constitute a separate offense.

(Prior Code, Section 2‑217)  (Ord. passed 8-19-1999)