

ARTICLE III. PEDDLERS, SOLICITORS AND CONCESSIONAIRES

DIVISION 1. GENERALLY

Sec. 22-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Concessionaire means a person who offers merchandise or services for sale or rent, or who takes or attempts to take orders for merchandise or services, at intermittent times or varying locations, while not moving from place to place.

Door-to-door canvasser means a person who is a representative of a non-profit organization or agency and, who, in that capacity and solely as a benefit to the agency or organization, calls at the homes of residents for the purpose of soliciting contributions and/or collecting signatures, distributing information or seeking volunteers. Door-to-door canvasser shall also include persons engaged in noncommercial, religious canvassing and persons engaged in the distribution of handbills and/or pamphlets, signed or unsigned, political or otherwise.

Frozen confection means ice cream, ice, popsicles, ice cream bars, frozen candy, frozen dairy products and all other ice cream or other frozen sugar items with the exception of soft ice cream which shall not be sold.

Frozen confection vendor means any person who sells, offers for sale or assists in the sale of any frozen confection from a motor vehicle as motor vehicle is defined in the state motor vehicle code.

Peddler means a person who offers merchandise or services for sale or rent while moving from place to place.

Prepared food means a food product that has been prepared, processed, cooked and/or packaged for and/or by a prepared food vendor for reasonably immediate consumption by those persons who purchase the prepared food items from the prepared food vendor.

Prepared food vendor means any person who sells, offers for sale or assists in the sale of any prepared foods as defined in this section from a motor vehicle as motor vehicle is defined in the Michigan Vehicle Code.

Solicitor means a person who takes or attempts to take orders for merchandise while moving from place to place.

Temporary event means an event that does not last longer than four days and which is sponsored and/or conducted by a person, entity, corporation and/or organization.

Temporary event concessionaire means a person who offers merchandise, services and/or food for sale or rent in conjunction with a city approved and permitted temporary event, or who takes or attempts to take orders for merchandise, services and/or food, in conjunction with a city approved and permitted temporary event.

Temporary event sponsor shall mean that person, entity, corporation and/or organization, that is sponsoring and/or conducting a temporary event as defined in this chapter.

(Ord. No. 445, § 1, 8-1-88; Ord. No. 549, § 1, 10-18-93; Ord. No. 721, § 1, 4-21-03; Ord. No. 775, § 1, 5-15-06)

Cross references: Definitions generally, § 1-2.

Sec. 22-82. Rules and regulations.

- (a) All licensees under this article shall comply with the regulations contained in subsection (b) of this section.
- (b) No licensee shall:
 - (1) Sell or offer for sale any unsound or unripe or unwholesome food or defective, faulty, incomplete, or deteriorated merchandise.
 - (2) At any time in the conduct of the licensed business, obstruct any street, alley, sidewalk, or driveway.
 - (3) Remain in front of, or at the side of, any property against the wish or desire of the property owner or the tenant or occupant of such property.
 - (4) Engage in the licensed business within 500 feet of the entrance of any school building between the hours of 9:00 a.m. and 5:00 p.m. on the days when school is in session.
 - (5) Engage in the licensed business on those portions of streets on which a public park abuts.
 - (6) Stop his vehicle for the purpose of engaging in a licensed business within 50 feet of any street intersection in the city.
 - (7) Fail to comply with all provisions of the traffic ordinances of the city.
 - (8) Not remain standing at any one place on any of the streets, alleys, or public places in the city for a longer period of time than five minutes while engaging in the licensed business.
 - (9) Remain upon premises owned by another person for a longer period of time than five minutes while engaging in the licensed business without first having obtained a letter determination from the city building department that the conduct of the licensed business is a permitted use on the subject property under the city zoning ordinance.
- (c) The city council may from time to time adopt such additional reasonable rules and regulations, not inconsistent with this article, as may be necessary to regulate and govern the peddlers, solicitors, concessionaires or vendors of any foodstuffs intended for human consumption on the streets, sidewalks or public places in the city.
(Ord. No. 445, § 10, 8-1-88; Ord. No. 549, § 6, 10-18-93)

Sec. 22-83. Articles prohibited or restricted.

- (a) No peddler, concessionaire, solicitor or vendor, whether licensed or not under this article, shall peddle or sell any uncooked meat/meat products of any kind and/or uncooked poultry or fresh, cured or smoked fish of any kind, except that prepared/package food vendors may engage in the sale of prepared/package foods as provided for in this article.
- (b) The peddling, selling, vending or giving away of wrapped frozen ice cream bars, frozen ice known as popsicles, other types of ice cream and/or frozen confection products from pushcarts or bicycles is prohibited as a necessary police measure for the prevention of traffic accidents and personal injuries in the streets of the city. The peddling, selling and/or vending of wrapped frozen ice cream bars, frozen ice known as popsicles, other types of ice cream and frozen confection products shall be in accordance with the regulations of this article.
(Ord. No. 549, § 7, 10-18-93; Ord. No. 775, § 2, 5-15-06)

Sec. 22-84. Inspection of food articles; frozen confection sales.

- (a) The sale of fruits, vegetables, perishable foodstuffs, prepared foods and/or frozen confection products shall be subject to inspection by the county health department.

(b) Frozen confection products and prepared foods shall be sold only from properly working and operating refrigerated trucks of modern design approved by the county health department and the city. (Ord. No. 549, § 8, 10-18-93)

Sec. 22-85. Sales to minors; warning lights required on vehicle.

No person peddling, selling or vending frozen confection products from vehicles shall make sales to minors under the age of 16 years unless there is displayed on the vehicle properly operating vehicle flashing warning lights visible from the front and rear and from each side of the vehicle which, under normal atmospheric conditions, are visible from a distance of 500 feet unless such vehicle is stopped in a legal parking location not closer than 100 feet to the nearest intersecting street.

(Ord. No. 549, § 9, 10-18-93)

Sec. 22-86. Weights and measures; use.

No licensee shall sell or deliver any merchandise which is ordinarily sold by weight or measure by the use of any other than standard weight or measure.

(Ord. No. 445, § 14, 8-1-88)

Sec. 22-87. Obstructing traffic.

No licensee shall stand or be on any public street, alley, or public place, or in any building or place of business abutting on any street, alley, or public place, and attract persons or induce persons to congregate on any public sidewalk, street, alley, or public place so as to tend to obstruct traffic, whether pedestrian or vehicular.

(Ord. No. 445, § 15, 8-1-88)

Sec. 22-88. Noisemakers.

(a) No licensee shall utilize any bell, chime, or other noisemaking device for the purpose of attracting persons to buy or order the merchandise the licensee has for sale. This prohibition shall not be construed to exclude the customary horn required under the motor vehicle laws of this state.

(b) No licensee shall call out or make any noise of any kind whatsoever, or use a bell, horn, or other noisemaking device with a view of attracting persons to buy or order merchandise or service the licensee has for sale.

(Ord. No. 445, § 16, 8-1-88)

Sec. 22-89. Enforcement.

The provisions of this article shall be enforced by the city police department and its duly authorized representatives. They shall be authorized to enter, during normal business hours, for the purposes of enforcement of this article, including inspection purposes, any vehicle for which a current license is in effect or for which a license has been applied. A license can be denied, revoked or suspended if entry to the vehicle where the license would be in effect is refused during normal business hours.

(Ord. No. 549, § 10, 10-18-93)

Secs. 22-90--22-100. Reserved.

DIVISION 2. LICENSE

Sec. 22-101. Required.

No person shall be a peddler, solicitor, concessionaire, frozen food vendor and/or prepared food vendor within the city without first obtaining a license from the city.

(Ord. No. 549, § 2, 10-18-93)

Sec. 22-102. Exceptions.

Exceptions to this division shall be as follows:

- (1) Persons engaged in the sale of daily or weekly newspapers or milk delivery licensed under state law, or operating concessions which are, as regulated by the city zoning ordinance, accessory uses to the principal permitted use of the property on which they are located;
- (2) Temporary event concessionaires and temporary event sponsors that are in compliance with the requirements of section 22-110 and who are sponsoring, conducting and/or participating in a city approved and permitted temporary event;
- (3) Persons, entities, corporations and/or organizations participating in a city sponsored event and/or an event that the city is one of the co-sponsors of.
- (4) Door-to-door canvassers.

(Ord. No. 445, § 3, 8-1-88; Ord. No. 721, § 2, 4-21-03; Ord. No. 775, § 3, 5-15-06)

Sec. 22-103. Application--Required submissions.

(a) A person desiring to be a frozen food vendor and/or prepared food vendor shall meet all the requirements of this section and section 22-104 and, in addition, shall submit:

- (1) A copy of such person's most recent driver's license, and the city may perform a background check.
- (2) Proof of inspection for safety equipment by the city police department and/or their duly authorized representative and a certified copy of current county/state license, in accordance with section 22-105.
- (3) Proof of \$500,000.00 liability insurance which must be kept current during the lifetime of the license.
- (4) Reserved.

(b) If the applicant applying for a license to be a frozen confection vendor and/or prepared food vendor will be selling and/or vending the frozen confection and/or prepared food on behalf of another person and/or business entity, and/or if the motor vehicle to be used by the applicant is owned by another person and/or business entity, the applicant shall set forth on its application the name, address and telephone number of such person and/or business entity and, if the business entity is a corporation, the applicant shall set forth the state of incorporation, as well as the registered agent of such corporation.

(Ord. No. 549, § 3, 10-18-93; Ord. No. 775, § 4, 5-15-06)

Sec. 22-104. Same--Contents.

A person desiring to be a peddler, solicitor, or concessionaire shall file an application in writing with the city clerk upon forms provided and maintained in that office. The city clerk shall require the applicant to state in writing upon such forms:

- (1) His full name, residence, and address. A post office box alone shall be insufficient to identify the applicant's residence.

- (2) The kind of merchandise or service the applicant proposes to peddle, solicit, or sell.
 - (3) The length of time for which the applicant wishes to obtain a license.
 - (4) Whether the applicant expects to use a vehicle and the description of such vehicle, together with the vehicle license number and vehicle identification number.
 - (5) Whether applicant is a farmer, artisan, or veteran, or blind person. If an artisan or farmer, the applicant shall give the location of the shop or farm, and the size of the farm. If a war veteran, the applicant shall give the date of discharge, and the number of the applicant's county veteran's license.
 - (6) If the applicant is applying for a free license, the applicant shall affirm that: in the case of an artisan, that all of the merchandise to be sold is manufactured by the applicant personally; in the case of a farmer, that the products to be sold are produced by the applicant, and the applicant's regularly employed farm help; in the case of a war veteran, that all of the merchandise or services to be offered for sale by the applicant are his own, and that the license will be used by the applicant personally, and by no other person. If an applicant claims to be blind, proof of blindness shall be certified by the county health department. If the applicant is a dealer in merchandise being delivered through interstate commerce, the applicant shall affirm that all of the merchandise being sold in the city is to be delivered directly to the customer from stocks of merchandise located outside the state. The applicant shall also list the types of merchandise to be sold and the person by whom the orders will be filled.
 - (7) The application shall be accompanied by a photograph of the applicant and a set of fingerprints made by the police department.
 - (8) Reserved.
- (Ord. No. 445, § 4, 8-1-88; Ord. No. 775, § 5, 5-15-06)

Sec. 22-105. Referral of applicants for sale of food.

All applications for license for the sale of food for human consumption shall be referred to the county health department for approval and determination as to whether the applicant proposes to sell any foodstuffs, the peddling or vending of which is prohibited, and whether the applicant is free from communicable diseases and has provided for the caring and storage of such foodstuffs in a sanitary manner. No license shall be issued by the city under this article until the application has been approved by the county health department.

(Ord. No. 445, § 5, 8-1-88)

Sec. 22-106. Fees; term; exemption.

- (a) Licenses granted under this article shall not be transferable or assignable.
- (b) The fees for a license under this article shall be as established from time to time by resolution of the city council.
- (c) All licenses issued under this article shall expire on December 31 of each year following the date of issuance. For the purpose of implementing the new licensing period, any license issued after May 31, 2006 shall expire December 31, 2007.
- (d) This article is not intended to prohibit the sale by mechanics and artisans of products of their own manufacture, the sale by farmers of their own products, either produced by themselves or by their regular farm employees, any war veteran who has first obtained the license pursuant to Act No. 359 of the Public Acts of Michigan of 1921 (MCL 35.441 et seq.), as amended, any persons who are taking orders for the sale of merchandise to be delivered through interstate commerce, or the sale by blind

persons of any products, whether made by themselves or not. All such persons must first obtain a license, as required by this article, and shall furnish satisfactory proof to the city clerk that they are the persons that they represent themselves to be and are entitled to such classification, and they must comply with all of the terms and conditions of this article. Upon so doing, the city clerk shall furnish a license, free of charge, entitling them to engage in the class of business and for the sale of the type of merchandise indicated in their application and no other.

(Ord. No. 445, § 6, 8-1-88; Ord. No. 775, § 6, 5-15-06)

Sec. 22-107. Revocation or suspension; hearings.

A license issued under this article may be revoked or suspended for the violation of any of the terms of this article, the health and/or food laws of the state or the criminal statutes of the city, state, or the United States. Such revocation shall be by giving written notice to the licensee. The licensee shall be entitled to a hearing before the city council, if such hearing is demanded by him in writing and presented to the city clerk, within ten days of the filing of the written demand at the following regular meeting of the city council or at a special meeting of the city council called for such purpose. The city council, after hearing both sides of the question, shall act as sole judge as to whether or not revocation or suspension shall stand.

(Ord. No. 445, § 7, 8-1-88)

Sec. 22-108. Content; display.

(a) The license granted under this article shall be in such form as to contain a photograph of the licensee, his address, signature, and physical description. All licensees shall have on their person the issued license while engaged in peddling, soliciting, or selling.

(b) No licensee shall change, remove or obliterate any entry made on such license.

(c) Failure to conspicuously and constantly exhibit the license while engaged in the licensed business shall be sufficient cause for suspension or revocation of such license.

(d) It shall be the duty of every licensee to exhibit his or her license to any police officer or any person, when requested to do so. Failure to show the license upon request shall be deemed a violation of this article.

(Ord. No. 445, § 8, 8-1-88; Ord. No. 549, § 4, 10-18-93; Ord. No. 775, § 7, 5-15-06)

Sec. 22-109. Physical examination.

(a) Whenever required by the county health department, any person licensed under this article, shall submit to a physical examination by a physician approved by the county health department.

(b) Reserved.

(Ord. No. 445, § 9, 8-1-88; Ord. No. 549, § 5, 10-18-93; Ord. No. 775, § 8, 5-15-06)

Sec. 22-110. Requirements for temporary events, temporary event sponsors and temporary event concessionaires.

(a) No person, entity, corporation and/or organization shall hold and/or conduct a temporary event, as defined in this chapter, within the city without first obtaining a temporary event permit from the city.

(b) A temporary event sponsor shall, 30 days prior to holding and/or conducting a temporary event, as defined in this chapter, apply to and obtain from the community development department a temporary event permit and the temporary event sponsor and the proposed temporary event shall comply with all of

the requirements of this section and subsections (1) through (3) and subsections (5) through (8) of section 1821 of the Auburn Hills Zoning Ordinance, as amended.

(c) The temporary event sponsor, in its application to the community development department for a temporary event permit, which application shall be on a form provided by the community development department, shall, in addition to complying with the requirements of subsections (1) through (3) and subsections (5) through (8) of section 1821 of the Auburn Hills Zoning Ordinance, as amended, also provide the following information:

(1) The temporary event sponsor's name, address, telephone number, copy of driver's license and the kind of entity the temporary event sponsor is;

(2) The proposed dates, times and location of the special event;

(3) The nature of the temporary event and the activities that are proposed to take place at the temporary event;

(4) The total length of time for which the temporary event sponsor wishes to obtain the temporary event permit for;

(5) The kind of merchandise or services that will be sold and/or offered for sale at the temporary event, as well as whether food will be provided at the temporary event, and whether said food will be sold and/or provided by the temporary event sponsor and/or by temporary event concessionaires and the kind of food to be provided and/or sold;

(6) A list of all of the temporary event concessionaires that will be participating in the temporary event as well as the following information for each temporary event concessionaire:

a. Name, address and telephone number of the temporary event concessionaire;

b. The kind of merchandise, service and/or food the temporary event concessionaire proposes to sell and/or offer for sale;

c. The length of time the temporary event concessionaire will be selling and/or offering to sell merchandise, service and/or food;

d. A copy of the temporary event concessionaire's most recent driver's license, and if the temporary event concessionaire does not have a driver's license, some other form of identification that contains a photograph of the temporary event concessionaire.

(7) Temporary event sponsors and/or temporary event concessionaires that will be selling, offering for sale and/or providing food at the temporary event must have a license from and/or written approval from the Oakland County Health Department to sell, offer for sale and/or provide the food at the temporary event and the temporary event sponsor must provide to the community development department with its application a copy of the Oakland County Health Department license and/or written approval allowing the temporary event sponsor and/or temporary event concessionaire to sell, offer for sale and/or provide food at the temporary event.

(8) A temporary event sponsor may file an amended list of temporary event concessionaires with the city up to one week before the date of the temporary event, with the amended list of temporary event concessionaires to contain all of the information required by this section.

(9) The name, address and telephone number of a contact person for the temporary event sponsor that the city can contact at any time to address problems and/or other issues that might arise during the course of the temporary event.

(10) A list of any other events that the temporary event sponsor, has sponsored and/or conducted during the previous three years including the dates and locations of said events.

(d) The temporary event sponsor shall, at the time it files its application with the community development department, submit and pay to the city a temporary event permit application fee in the amount that is established from time-to-time by resolution of the city council.

(e) The temporary event sponsor shall obtain liability insurance for the temporary event in an amount to be established from time-to-time by resolution of the city council, with said liability insurance to also name the city as an additional insured and the temporary event sponsor shall provide proof to the community development department by means of a certificate of insurance establishing that said insurance is in full force and effect and names the city as an additional insured. The temporary event sponsor shall also execute and file with the community development department, prior to the city's issuance of a temporary event permit, a hold harmless agreement in which the temporary event sponsor agrees to hold harmless and indemnify the city and its officers, employees, contractors, subcontractors, representatives and agents from and against any and all liability and costs, including attorney's fees, for personal injury, property damage and/or any and all injuries and/or damages resulting and/or arising from the temporary event and/or from any actions and/or omissions of the temporary event sponsor and/or the temporary event concessionaires and/or their officers, employees, contractors, subcontractors, representatives and/or agents.

(f) Prior to the issuance of a temporary event permit to the temporary event sponsor, the materials and application submitted by the temporary event sponsor shall be reviewed by the clerk's office, the community development department, the police department and the fire department, to ascertain whether the application and materials submitted by the temporary event sponsor, as well as the temporary event, comply with the requirements of this chapter, the requirements of subsections (1) through (3) and subsections (5) through (8) of section 1821 of the Auburn Hills Zoning Ordinance, as well as all other requirements of the Auburn Hills Code, and if said city departments determine that the temporary event sponsor's submitted application and materials and the proposed temporary event do comply with the aforementioned requirements, the community development department shall issue a temporary event permit to the temporary event sponsor provided that the temporary event sponsor has paid the temporary event permit application fee. A temporary event permit issued by the city to a temporary event sponsor for a temporary event shall also act as a permit to allow each temporary event concessionaire listed on the temporary event sponsor's application to participate in the special event.

(Ord. No. 721, § 3, 4-21-03)

Secs. 22-111--22-130. Reserved.