

21.000

**PEDDLERS, SOLICITORS, TRANSIENT TRADERS,
CHARITABLE SOLICITATIONS, FARM VENDORS, FARM MARKETS
AND FLEA MARKETS.**

Ord. No. 1980-2, Eff. Mar. 3, 1980; Ord. Eff. July 30, 2000; Ord. Eff. June 28, 2009; Ord. Eff. May 29, 2012; Resolution Eff. June 9, 2014

21.001

PERMIT REQUIRED.

It shall be unlawful for any solicitor, transient trader, peddler, charitable solicitor, or farm vendor to engage in such activity within the corporate limits of the City of Gaylord without first obtaining the permit required by this Ordinance (if any) or to otherwise engage in such activity in a manner that is prohibited by this Ordinance, and without complying with the terms, conditions and requirements of this Ordinance.

21.002

DEFINITIONS.

1. **SOLICITOR.** A solicitor is defined as any person, whether resident of the City of Gaylord or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, or from street to street, taking or attempting to take orders for sale of goods, merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided, further, 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, premises, hotel room, motel room, lodging house, apartment or any other place within the City for the purpose of exhibiting samples and taking orders for future delivery.

The word "solicitor" shall include the word "canvasser" and shall also include any person who through the use of a telephone, solicits or attempts to solicit orders for the sale of tickets, goods, wares, merchandise, goods or commodities, advertising, membership, merchandise or personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future.

2. **PEDDLER.** A peddler is defined as any person, whether a resident of the City of Gaylord or not, traveling by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, or from street to street, selling or offering for sale, goods, merchandise, books or magazines, refreshments, personal property, goods or commodities, advertising, membership, merchandise or services of any nature whatsoever, or who, without traveling from place to place, shall sell or offer the same for sale from any motor vehicle or other type of conveyance, stand or display.
3. **TRANSIENT TRADER.** A Transient Trader is every person who opens, establishes or starts a business in the City of Gaylord and obtains and

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occupies premises within the City for the purpose of offering for sale, goods, wares, merchandise or services, which said business has not been assessed for personal property taxes, and shall include all persons, both principals and agents, who engage in temporary or transient business in the City, and who, for the purpose of carrying on such business, hire, lease or occupy any building or structure. Provided, however, that any business that has constructed, leased, improved or prepared such building or structure so that said business is intended to be permanent and not temporary, may apply to the City Council for a waiver of the licensing requirements of this Ordinance; and upon the granting of such a waiver by the City Council, such business shall not be considered a transient trader from the date such business was established until the Tax Day of the same calendar year. Prior to requesting the aforesaid waiver from the City Council, such business shall comply with Section 21.003 and allow sufficient time for the Chief of Police to conduct his investigation pursuant to Section 21.004.

4. **CHARITABLE SOLICITATIONS.** Charitable solicitations shall include agents, representatives or employees of any organization, corporation, club, or society, either charitable or fraternal who sell any newspaper, goods or commodities, articles of any kind or solicit funds or solicit orders for goods or services to be delivered in the future, the proceeds of which are to be used for any so-called charitable purpose.
5. **FARM VENDOR.** A Farm Vendor is any person, whether a resident of the City of Gaylord or not, who sells or offers for sale produce, crops, plants, shrubbery, flowers, vegetables, fruit or similar products which have been grown or raised in Michigan by the person or persons selling the same. Farm Vendor does not include any person who is offering such products for resale.
6. **FARM MARKET.** Farm Market is a piece or parcel of land upon or from which one or more Farm Vendors engage in the activity of a Farm Vendor as defined above.
7. **FLEA MARKET.** A Flea Market is a piece or parcel of land upon or from which two (2) or more Transient Traders engage in the activity of a Transient Trader as defined above.

21.003 APPLICATION FOR PERMIT.

Applicants for permit under this Ordinance must file with the City Clerk a sworn application, in writing, on a form to be furnished by the City Clerk, which shall contain as a minimum the following information:

1. Name and description of applicant.
2. Name of person conducting or supervising the requested permit activity in the City with credentials establishing the exact relationship.

3. Permanent name, address and complete local address of (1) and (2).
4. The applicant's federal tax identification number or social security number.
5. The applicant's Michigan Sales Tax License number.
6. A letter of recommendation, stating the author's name, address and telephone number; such letter to preferably be authored by a public official from the County or community where the applicant resides or regularly conducts business.
7. A brief description of the nature of the business and the goods/services to be sold.
8. The date(s), time(s), and location(s) for which the permit is requested.
9. 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.
10. The names of at least two (2) recorded, reliable property owners of the County of Otsego, State of Michigan, who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
11. A statement as to the method(s) to be used by the applicant.
12. Applicant's signature acknowledging his intent to abide by the conditions set forth in this Ordinance and that failure to do so may result in the denial and/or revocation of the permit.

21.004 INVESTIGATION; ISSUANCE OF PERMIT.

1. Upon receipt of such application, the form or a copy thereof 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 interest, and the Chief of Police shall also investigate the suitability of the proposed location, in terms of parking, traffic, congestion and the like in order to best protect the safety and general welfare of the public and patrons of such activity.
2. The Chief of Police, at his discretion for the protection of the public interest and to aid in the investigation, may require a photograph and fingerprints of the applicant and such additional data as necessary to conduct the investigation.

3. If, as a result of the investigation, the character and business responsibility of the applicant and the suitability of the location for the proposed activity are found to be satisfactory, the Chief of Police shall endorse on the application his approval, and the City Clerk, upon payment of the prescribed permit fee, deliver to the applicant his permit. Such permit shall contain the signature and seal of the City Clerk and shall show the signature and seal of the City Clerk and shall show the name, address, class of permit issued, and the kind of goods, dates, times, locations of sale thereunder, the amount of the fee paid, the date of issuance and the length of time the permit shall be operative, as well as the license number and other identifying description of any vehicle(s) used in such sale.
4. If, as a result of such investigation, the applicant's character or business responsibility or the suitability of the proposed location for the activity is found to be unsatisfactory, the Chief of Police shall endorse upon such application his disapproval and his reasons for same, and return the said application to the City Clerk, who shall notify the applicant that his or her application is denied and that no permit will be issued.
5. Provided, however, and notwithstanding anything in this Ordinance to the contrary, no permit shall be issued for any solicitor or peddler to conduct or engage in door to door sales or solicitations for profit in any residential district or residential area. Such sales or solicitations are hereby declared to be unlawful, punishable as set forth in Section 21.017 of this Ordinance.

Amend. by resolution June 9, 2014

21.005 RECORDS.

The City Clerk shall keep a permanent record of all permits issued.

21.006 FEES AND BONDS.

The City Clerk shall collect such fees and accept such surety or performance bonds that shall be established by the City Council. All fees so collected shall be deposited in the General Fund of the City of Gaylord.

21.007 APPEAL.

Any applicant for a permit which is disapproved or revoked under the terms of this Ordinance may appeal such denial or revocation to City Council provided that such appeal is requested in writing citing the grounds for appeal within thirty (30) days of the date of the denial or revocation. Council upon hearing the appeal may uphold the denial or revocation, modify, or order the permit to be reissued.

21.008 FEE REBATE.

Should any permittee conduct his business for a period more than three (3) months, the City Council may if it shall so vote, remit to such permittee, part or all of such

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permit fee incurred and paid, after the expiration of said three (3) months, provided, that the Council shall be convinced that it is the permittee's bona fide intention to continue such business permanently in the City of Gaylord, and provided that such business has become subject to assessment for taxes, and has been wholly assessed by the City Assessor, and that all such taxes due thereon have been paid.

21.009 SPECIAL DISCLOSURE.

No person shall advertise, represent, or hold out to the public that any sale is an insurance, assignee's bankrupt, receivers, trustees, administrators, mortgager's or closing-out sale, or sale of mortgaged goods, wares and merchandise damaged by fire, smoke, water or otherwise unless he shall at the time of application for said permit, make and file with the City Clerk an affidavit showing all the facts in regard to the sale which he proposes to conduct, including a true statement of the names of the persons from whom the goods to be sold were obtained, the date of delivery of same to the applicant, the place from which same were purchase or acquired and all other details necessary to identify the goods which are offered for sale.

21.010 HEALTH DEPARTMENT APPROVAL REQUIRED.

Each applicant for a permit who shall indicate in his application sale of any food or product for human consumption shall obtain any applicable Public Health Department permits and/or certification prior to the issuance of any permit under this Ordinance.

21.011 EXHIBITION OF PERMIT.

Any person obtaining a permit under this Ordinance shall exhibit the permit at the request of any citizen.

21.012 PRACTICES CONSTITUTING DISORDERLY CONDUCT.

Entering a private residence in the City by a solicitor, or peddler, as defined in this Ordinance, under false pretenses, for the purpose of soliciting orders for the sale or for the purpose of disposing of and/or peddling of any goods, wares, merchandise, or personal service; or remaining in a private residence or other private property or on the premises thereof after the owner or occupant has requested such person to leave is deemed to be a disorderly person and in addition to any other penalties imposed herein, shall be punishable in accord with Section 4105 of this Code.

21.013 REVOCATION OF PERMIT.

Permits issued under the provisions of this Ordinance may be revoked by the City Clerk of the City of Gaylord for any of the following causes:

- a. Fraud, misrepresentation, or false statement contained in the application, or its accompanying documents, statements, certificates or permits, filed to obtain the permit.

- b. Fraud, misrepresentation, or false statement in the course of carrying on his business or failure to conduct the business under the terms of the permit.
- c. Any violation of this Ordinance.
- d. Conviction of any crime or misdemeanor involving moral turpitude.
- e. Conducting such business 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.

21.014 MISCELLANEOUS REGULATIONS.

- 1. A Farm Market or Flea Market shall not be operated, conducted or established in an R-1, R-2 or B-1 zoning district.
- 2. No permit shall be issued to any person owing any personal property taxes or other indebtedness to the City of Gaylord, or who contemplates using in furtherance of his or her activities hereunder any personal property on which personal property taxes are owing.
- 3. All Peddlers, Transient Traders, Solicitors, Charitable Solicitors, and Farm Vendors, and the owners of any land on which a Farm Market or Flea Market is operated shall at all times comply with any applicable rules and regulations adopted by City Council. A copy of such rules and regulations shall be provided to each such person at the time of application for permit or submission of any required information sheet.
- 4. Any Peddler, Solicitor, Transient Trader, Charitable Solicitor or Farm Vendor must have any sales tax license, Health Department permit, or Temporary Food Establishment permit as is required by any applicable law, or governmental rule or regulation.
- 5. The owner of any land on which a Farm Market or Flea Market is situated is responsible to insure that all Farm Vendors or Transient Traders thereon have complied with the terms, conditions and requirements of this Ordinance and with the rules and regulations adopted by the City Council. If a landowner allows or permits repeated or continuing violations of this Ordinance or the rules and regulations of the City Council, the City Council may, after providing the landowner with an opportunity to be heard, prohibit any Farm Market or Flea Market on property owned by such landowner for such time as the City Council deems appropriate.

21.015 EXEMPT PERSONS.

- 1. This Ordinance shall not be construed to prohibit the sale of goods, wares, merchandise, or personal services to local merchants and dealers who are engaged in or about to engage in business in the City of Gaylord.

2. The permit requirements of this Ordinance shall not apply to Farm Vendors who are participating in a City or Downtown Development Authority sanctioned Farm Market and pay a fee for such participation.
(Amended by ord. eff. May 29, 2012)
3. This Ordinance shall not be construed to prohibit such business as is allowable under the Interstate Commerce Commission regulations.
4. This Ordinance shall not be construed to prohibit sales authorized by state or federal statute.
5. This Ordinance shall not apply to persons soliciting in conjunction with a "charitable solicitation" subject to the provisions of 21.016, provided that such person or persons are soliciting on behalf of an entity or organization that is located or conducts its activities primarily within Otsego County. Nor shall this Ordinance apply to any political group seeking funds or membership.
6. As to events taking place in the Downtown Development District which are sponsored and sanctioned by the Gaylord Downtown Development Authority, the provisions of this Ordinance as to peddlers (as defined) requiring application, permit and the payment of fees shall not be applicable. Rather, the Board of Directors of the Gaylord Downtown Development authority or their designee shall determine, in their sole discretion, what types and numbers of peddlers to allow in conjunction with such sponsored or sanctioned events and the application and fee requirements related to same. Only such peddlers as are approved by the Gaylord Downtown Development Authority or who are otherwise licensed under this ordinance shall be permitted in the Downtown Development Authority District during such events.
(Amended by ord. eff. June 28, 2009)

21.016

CHARITABLE SOLICITATIONS.

Charitable solicitations as defined in this Ordinance may be conducted within the City of Gaylord upon approval by the City Council of an application submitted to the City Clerk in accord with 21.003 of this Ordinance.

1. A police investigation as provided in 21.004 may be ordered in the discretion of the City Clerk or City Council.
2. Requests for on-street solicitation must be approved by Council action at the time the application is approved.
3. No person, society or corporation, their agents, representatives or employees shall falsely or by misrepresentation of any kind, sell any newspaper, article or thing or secure subscriptions therefor, or solicit contributions claiming the proceeds of which sale, subscription, or contribution are to be used for any so-called charitable purpose.

4. There shall be no fee for charitable solicitations.

21.017 PENALTIES.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor punishable by a fine of up to \$100.00. Each day that a violation exists or continues shall be a separate offense. In addition, the City Council may revoke the permit or prohibit further activities by any person violating any provision of this Ordinance.

21.018 EFFECTIVE DATE.

The Ordinance shall take effect on May 15, 1994; further amend. eff. July 30, 2000; Ord. Eff. June 28, 2009; Ord. Eff. May 29, 2012; Resolution Eff. June 9, 2014