

## **CHAPTER 113: PEDDLERS AND SOLICITORS**

### Section

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### **113.00 REGULATING THE USE OF PUBLIC RIGHTS OF WAY AND PUBLIC SPACES FOR COMMERCIAL PURPOSES AND PROVIDING A PENALTY AND REMEDIES FOR VIOLATION**

#### A. Definitions.

1. Public Space. For purposes of this ordinance, the term public space shall include all lands owned by the City of Lanesboro or dedicated for public use, including but not limited to roads, streets, alleys, boulevards, sidewalks, parks and rights-of-way, as well as all public structures or fixtures thereon.

B. Commercial Use. For purposes of this ordinance, commercial use shall mean any activity, whether sales or barter, conducted for financial gain or financial return, and including but not limited to activity to promote or advertise a product, service, or the like. Commercial use shall not include the mere traveling of a vehicle or conveyance over public streets, highways, or alleys from one point of private property to another point of private property, as long as no commercial activity involving sales, trade, or barter is conducted on a public space.

C. Exceptions. The following are permitted commercial uses of City of Lanesboro public spaces, for the purposes below specified.

1. Public parks. Events approved by the City of Lanesboro and the Lanesboro Park Board. The City reserves the right to regulate said uses by requiring insurance coverage, or reservation fees or permit fees to be

- paid to the City of Lanesboro according to fee schedules approved by the Lanesboro City Council.
2. Lanesboro softball field. Concession stands operated by the Lanesboro public schools, or other lawfully constituted nonprofit organization or association, including but not limited to 4-H clubs, shall be allowed to operate at the Lanesboro softball field.
- D. Savings Provision as to Ordinance 4-4-95. This ordinance is subject to the provisions in City of Lanesboro ordinance 4-4-95, which regulates certain activity in the City of Lanesboro downtown commercial district pertaining to sidewalks. Said ordinance 4-4-95 is not superseded or affected by this ordinance but this ordinance does apply to the streets and roadways and other public spaces, not including sidewalks, in that downtown commercial district.
- E. Penalty for Violation. Violations of this ordinance shall be classified as a petty misdemeanor, punishable by administrative citation and a fine of not more than \$300. In addition, the City of Lanesboro reserves the right to seek a temporary injunction and restraining order against any violator, and the City shall be entitled to collect its costs of prosecution and disbursements in obtaining said temporary injunction and restraining order.

### **113.01 DEFINITIONS.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**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 for 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. The term **PEDDLER** shall mean the same as the term Ahawker.®

**PERSON.** Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

**REGULAR BUSINESS DAY.** Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

**SOLICITOR.** 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 obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term Acanvasser.@

**TRANSIENT MERCHANT.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front 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 or intend to remain in any one location for more than 14 consecutive days.

#### **113.02 EXCEPTIONS TO DEFINITIONS.**

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER, SOLICITOR, and TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to 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 and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS, SOLICITORS, and TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under ' 113.07. The term **DOOR-TO-DOOR**

**ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

**113.03 LICENSING; EXEMPTIONS.**

(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 required by M.S. Ch. 329 as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Pursuant to M.S. ' 437.02, as it may be amended from time to time, except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to ' 113.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business operations in the city. Application for a license shall be made on a form approved by the City Council 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) Applicant's full legal name.
- (2) All other names under which the applicant conducts business or to which applicant officially answers.
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and 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 agent.
- (7) Full address of applicant's regular place of business (if any).
- (8) Any and all business related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.

(9) The type of business for which the applicant is applying for a license.

(10) Whether the applicant is applying for an annual or daily license.

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city, with a maximum 14 consecutive days.

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

(14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any required county license.

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) All additional information deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information and vehicle identification number (VIN) for any vehicle to be used in conjunction with the licensed business, and a physical description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to ' 30.11, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must

determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Clerk must issue the license unless there exist grounds for denying the license under ' 113.04, in which case the Clerk must deny the license application. If the City Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a public hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted to peddlers and transient merchants under this chapter shall be valid only during the time period indicated on the license.

(G) *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 of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place movement when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

Penalty, see ' 10.99

#### **113.04 LICENSE INELIGIBILITY.**

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license.

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

(C) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(D) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Office of the Minnesota Attorney General, or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

### **113.05 LICENSE SUSPENSION AND REVOCATION.**

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by the applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Subsequent conviction of any offense for which granting of a license could have been denied under ' 113.04.

(4) Engaging in prohibited activity as provided under ' 113.08.

(5) Violation of any other provision of this chapter.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.  
Penalty, see ' 10.99

### **113.06 LICENSE TRANSFERABILITY.**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.  
Penalty, see ' 10.99

### **113.07 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under ' 113.03, shall be required to register with the city. Persons



engaging in door-to-door advocacy shall not be required to register. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. 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 the registration. Certificates of Registration shall be non-transferable.

Penalty, see ' 10.99

### **113.08 PROHIBITED ACTIVITIES.**

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(G) Remaining on the property of another when requested to leave, or to otherwise conducting business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

Penalty, see ' 10.99

### **113.09 EXCLUSION BY PLACARD.**

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of

conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating ANo Peddlers, Solicitors or Transient Merchants,@ or APeddlers, Solicitors, and Transient Merchants Prohibited,@ or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see ' 10.99

### **113.10 EFFECTIVENESS.**

The provisions of " 113.01, 113.02, 113.08 and 113.09 shall automatically apply upon adoption of this chapter. Sections 113.03, 113.04, 113.05, 113.06 and 113.07 shall not be effective until the adoption of a City Council resolution or ordinance authorizing the licensing of persons covered by those sections.

### **113.11 REGULATING THE USE OF MOBILE FOOD UNITS (ALSO KNOWN AS FOOD TRUCKS).**

#### DEFINITIONS

1. Definitions. As used in this chapter, the following terms shall have the following meanings:

- A. "Applicant" means a person who applies for a Mobile Food Unit License.
- B. "City" means the City of Lanesboro.
- C. "Council" means the City of Lanesboro City Council.
- D. "Licensee" means a person who possesses a Mobile Food Unit License.

E. "Mobile Food Unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location for the purpose of Vending.

F. "Operator" includes any person, firm, or corporation who owns, leases, contracts or in any other fashion permits a person to operate under this Ordinance any Mobile Food Unit for the purpose of Vending, including the person driving or working in any such Unit.

G. "Vend" or "Vending" means offering food for sale from a Mobile Food Unit within the City limits.

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2. License Required. No Operator shall Vend from a Mobile Food Unit within the City unless a license to do so is first obtained from the City. There shall be three types of licenses issued to Mobile Food Units by the City:

- (a) Annual Property Owner Owned Mobile Unit License;
- (b) Per Occurrence License for visiting Mobile Food Units;
- (c) Annual License for visiting Mobile Food Units.

The License Fees shall be established and identified under Lanesboro City Ordinance 30.111 (Fee Schedule), and shall entitle the Operator to Vend from one such vehicle for the time period specified in the license.

3. License Application and Approval. Application for a Mobile Food Unit License shall be made in writing to the City Clerk.

A. License Fee. The License Fee is due at the time of filing the application. Payment may be made by either cash or check, payable to the City Treasurer.

B. Required Information. The City Clerk may require certain information on the application as it deems reasonable and necessary including but not limited to the following:

i. Applicant Information. Name and address of the Applicant; name and address of proposed Vending location, including a signed authorization from the property owner(s) of where the Mobile Food Unit will be located;

ii. Particular Information about Mobile Food Unit. Vehicle registration and licensing, types of equipment, power sources, installation specifications, and information on any custom fabricated equipment within the Unit;

iii. Proof of Compliance. Copies of all licenses or permits required by the State of Minnesota Health Department or Fillmore County Public Health;

iv. Indemnity. A signed statement that the Applicant will defend, indemnify, and hold the City harmless from any and all claims for damage to property or injury to persons which might result or arise out of the Applicant's operation of a Mobile Food Unit as permitted by this Ordinance.

v. Insurance. A certificate of insurance showing the Applicant has obtained the following types of coverage:

a. Commercial General Liability in the amount of one million dollars (\$1,000,000.00)

b. Commercial Aggregate in the amount of two million dollars (\$2,000,000.00).

vi. Scope of Insurance. Each policy mentioned above must protect the Applicant, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the Applicant's operation of a Mobile Food Unit. The policies shall further provide that they may not be cancelled except upon 30 days' written notice filed with the City Clerk. No license issued under this Ordinance shall be valid at any time the insurance required by this clause is not maintained and evidence of its continuance is on file with the City Clerk. A certificate of insurance shall contain an acknowledgement signed by the insurer that prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the City Clerk by said insurance company.

vii. Final Approval. Upon receipt of all required information and the payment of all required license fees, the City Clerk or City Administrator shall approve the application.

4. Transfer of License Prohibited. The Mobile Food Unit license may not be transferred to another person or entity. Each license is valid for only one Mobile Food Unit.

5. Limitations on Vending Activity. The following restrictions apply to Mobile Food Unit Operators throughout the City:

A. An Operator shall not set up any dining area on public property, including but not limited to, tables, chairs, booths, stools, benches, or stand-up counters. See Lanesboro City Ordinance 113.00 et seq.

B. An Operator may only serve customers when the Mobile Food Unit is lawfully stopped.

C. An Operator shall not sell or operate within fifty (50) feet of a licensed restaurant's property line.

D. An Operator must comply with all posted parking restrictions.

E. All waste liquids, garbage, litter, and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting covers and properly disposed of. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles,

or any other place other than the Mobile Food Unit. The garbage receptacle shall be easily accessible for customer use. The Licensee and Property Owner shall be responsible for all litter and garbage left by customers.

F. The Operator must comply with the Minnesota Food Code.

G. Mobile Food Unit hours of operation must comply with the City's existing noise ordinance, as it may be updated from time to time.

6. Compliance with State law. Any Mobile Food Unit wishing to operate within the City must first meet all licensing and registration requirements under the laws of the State of Minnesota. Proof of compliance with State law is required.

7. Registration. In an effort to retain the natural aesthetic of the City, no more than two (2) food trucks will be permitted to operate within the City on the same day. Operators are encouraged to contact the City to determine availability. Registrations will be organized on a calendar basis, first come first served.

7 (a). Notice from Annual License Holders. Mobile Food Units which purchase an Annual License must give at least two (2) weeks prior notice to the City of the Mobile Food Unit's desire to Vend in the City on its selected date. If the Mobile Food Unit does not provide at least two (2) weeks prior notice to the City of its desire to Vend in the City on a selected date, then the Mobile Food Unit shall be considered in violation of this ordinance and may be subject to the Penalty and Enforcement provisions in Paragraph 10.

8. Exempt events. The following City events are partially exempt from certain requirements and application of this Ordinance: Buffalo Bill Days, Art in the Park, Rhubarb Fest, and any other celebration, gathering, or event designated as exempt by the Council, and which is hosted by the City of Lanesboro.

8(a) Exemption. The events identified immediately above shall not be required to adhere to Paragraph 5(a) of this Ordinance. Moreover, a separate fee schedule for these exempt events shall be applicable, which separate fee schedule shall be set by the event's organizer. The separate fee schedule set by the event's organizer shall not set any license fee lower than the City's current fee schedule for Mobile Food Units.

9. COVID-19. Nothing in this Ordinance is intended to violate or exceed the current local, state, and federal guidelines for the declared COVID-19 Pandemic. The City intends to adhere to all local, state, and federal guidelines in administering this Ordinance.

10. Penalty and Enforcement. Any person, firm, or corporation who violates any part of this Ordinance shall be guilty of a misdemeanor and a separate offense

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shall be deemed committed on each day during or on which a violation occurs or continues.

11. License Suspension, Revocation and Denial. Any license issued by the City pursuant to the provisions of this Ordinance may be suspended, revoked, or, if in connection with the application or renewal of a license, denied upon a finding that the Licensee:

A. Failed to comply with any applicable state law, city ordinance, Minnesota Food Code, or state or county health regulation relating to a Mobile Food Unit;

B. Failed to possess any license, permit, or approval from any state or county authority needed in order to legally operate the Mobile Food Unit within the State of Minnesota or Fillmore County;

C. Violated any provision of this Ordinance;

D. Failed to comply with any condition set forth in the license;

E. Allowed the Mobile Food Unit business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public; or

F. Provided false or misleading information on the application.

12. Effective Date. This Ordinance shall be in full force and effect from its date of publication.

Passed and approved this 6 day of June, 2022 by the City of Lanesboro.