

**CITY COMMISSION
CITY OF WALKER
KENT COUNTY, MICHIGAN**

ORDINANCE NO. 15-625

AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE III OF THE CODE OF
ORDINANCES, CITY OF WALKER, MICHIGAN

THE CITY OF WALKER ORDAINS:

Section 1. Amendment of Chapter 22, Article III. That Chapter 22, Article III of the Code of Ordinances, City of Walker, Michigan is hereby amended to read in its entirety as follows:

Sec. 22-75. Purpose.

The purpose of this article is to promote and safeguard the public health, safety, general welfare and peace of the people of the City of Walker, and to protect the people of the City from endangerment associated with those who would take the opportunity to canvass streets with intentions to violate laws or ordinances.

Sec. 22-76. Definitions.

The words solicitor, solicit, solicitation, and soliciting as used in this article shall mean any person (which includes any individual, firm, entity, corporation, association, partnership, limited liability company, or organization or its agents) traveling either by foot, vehicle, or by other means, from place to place, from house to house, from street to street, taking or attempting to take orders for the sale of goods, products, merchandise or personal property of any nature; or attempting to collect funds, pledges, or donations for political, charitable, noncommercial or religious causes; or to take or attempt to take orders for services to be furnished or performed, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale or whether such person is collecting advance payments on such sales or not; or any similar action or activities including those persons who call themselves transient merchants, canvassers, hucksters, peddlers, or similar terms.

Sec. 22-77. License required.

Except as otherwise provided in this article, no person shall solicit or act as a solicitor within the City without first obtaining a license from the City. No license shall be granted by the City without prior approval by the Clerk or such other City official as is designated by the Clerk.

Sec. 22-78. - License application.

(a) Any person required to obtain a license under the provisions of this article shall file an application on forms provided by the Clerk and shall pay an application fee as provided by this section. Such application shall be fully completed and filed with the Clerk at least 14 calendar days prior to the date of commencement of the solicitation.

(b) A completed application shall contain the following information, as applicable to the activities under consideration:

(1) The applicant's name, permanent home address, place of business, and local address of business.

(2) Each individual solicitor must supply a copy of their driver's license or other form of government-issued photo personal identification.

(3) A description of the nature of the business, the goods or property to be sold, services to be offered, and the length of time for which the right to do business is sought.

(4) If the applicant is employed by another person, the name and address of the employer, together with credentials establishing the nature of the employment relationship.

(5) The place where the goods or property involved are manufactured or produced, where the goods or property are located at the time the application is filed, and the proposed method and timing of delivery.

(6) A background check from the state they reside, as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance or state statute, the nature of the offense, and the punishment or penalty assessed, if any.

(7) The applicant's federal taxpayer identification number.

(8) The applicant's state employer identification number.

(9) Any additional information required by the Chief of Police to determine whether the applicant, if licensed, will serve the public in a fair, honest, safe and competent manner and in compliance with the requirements of this article, other provisions of the City Code and all other applicable laws, statutes, ordinances, rules and regulations.

(c) The application form shall include a sworn, notarized affidavit to be signed by the applicant that, to the best of the applicant's knowledge and ability, all information provided on or in connection with the application is true and complete and all information requested in connection with the application has been provided. The affidavit shall also state that the applicant has read, understands, and agrees with the provisions of the license, and agrees to be bound by all of its terms.

(d) The application shall be accompanied by a nonrefundable application fee in an amount established by resolution of the City Commission.

(e) If the requirements of this article are met, the Clerk will prepare and issue a solicitor's license to each person soliciting under the application. The license must remain in the possession of the solicitor at all times while soliciting in the City and shall be presented by that person to any resident requesting identification prior to any attempt to sell a product or service to that resident.

(f) A license application under this article will be denied if any of the following apply:

(1) A requirement of this article will not be met.

(2) The safety of the residents of the City will not be protected.

(3) Either the applicant or the applicant's employer or organization has been convicted of either a felony or a misdemeanor involving solicitation, theft, or fraud.

(4) Either the applicant or the applicant's organization is delinquent in any taxes or other indebtedness to the City.

(5) Either the applicant or the applicant's organization has engaged in, aided, abetted, counseled, procured, commanded, permitted or assisted in the commission of a violation of any other law, ordinance, rule or regulation, or has otherwise engaged in undesirable or unlawful business practices likely to cheat, mislead or defraud the public, which violations or practices bear on the applicant's honesty, trustworthiness, business reputation, or moral character, or on the applicant's ability or propensity to engage in the business of being a solicitor in a fair, honest, safe and lawful manner.

(6) The applicant has made a false statement or has misrepresented a material fact in the license application.

(g) All licenses issued in accordance with this article are subject to the following conditions, which shall be set forth on the license application form:

(1) The applicant shall agree to permit a reasonable inspection of the licensed activities by any properly identified public authority.

(2) The applicant shall agree to ascertain and at all times comply with all laws, ordinances, rules and regulations applicable to the licensed activities during the term of the license and shall agree to a temporary suspension of the license without notice or hearing in the event of a violation of the same.

(3) The applicant shall agree not to engage in the activities for which the license was issued at any time after the license has expired without having been renewed or reissued, at any time when the license is suspended or revoked, or during any pending legal action to appeal the denial, suspension or revocation of a license.

(4) The applicant shall agree to avoid all unfair trade practices as prohibited under state law.

(5) Any other condition determined by the Clerk or Chief of Police to be reasonably necessary to ensure that the licensee will serve the public in a fair, honest, safe and lawful manner.

(h) The following persons and organizations are exempt from the licensing requirements under this article when engaging in solicitation of the type identified below and when not engaged in fundraising. Except as otherwise provided in this subsection (h), all solicitation that is exempt under this section must comply with the general regulations and prohibitions of Section 22-83.

(1) Solicitation for Religious, Charitable or Nonprofit Institutions. Any person who is soliciting for a school, state or federally registered or recognized charity, a nonprofit corporation or entity, or a church or religious society is not required to obtain a license or pay a license fee pursuant to this article. The person responsible for any group identified in this subsection must still register with the City and provide the Clerk with a name, address and a copy of their driver's license or other government-issued photo personal identification before such exempt solicitation can occur within the City. The applicant shall provide evidence (e.g., 501(c)(3) status, etc.) to the City that the organization for which the solicitation is taking place is a school, recognizable charitable, nonprofit or religious organization.

(2) Political Speech or Canvassing. Solicitations exclusively intended to canvass or petition for a public office, political candidate, public policy or initiative being promoted for purposes of a public referendum, initiative, millage, election, or purpose does not require any registration, license or the payment of a license fee.

(3) Any person exempt from the licensing requirements of this article by virtue of state or federal law.

Sec. 22-79. License fees.

Prior to the issuance of a license under this article, a nonrefundable application fee in an amount established by resolution of the City Commission shall be paid to the Clerk. The application fee required by this section shall be in addition to the license fee required by section 22-78(d).

Sec. 22-80. License approval or denial; issuance.

(a) Licenses shall be approved or denied by the Clerk, following receipt of a recommendation from the Chief of Police within 14 days following receipt of the completed application and payment of the application fee. For purposes of this section, denial of a license shall include refusal to issue an original license or refusal to renew, extend or reissue an existing license.

(b) If a license is denied, the Clerk shall make written findings of fact in support of the denial based on the standards in this article. The applicant may appeal a denial to the City Commission by filing a written appeal with the Clerk within five business days following receipt of notice of denial. Upon the filing of an appeal as provided for in this article, the City Commission shall schedule and hold a public hearing and may reverse, affirm or modify the decision of the Clerk. The City Commission shall, in its determination, make written findings of fact supporting its decision based on the standards in this article. The determination of the City Commission shall be final.

Sec. 22-81. Indebtedness to the City.

A license under this article shall not be granted to any person owing any taxes or other indebtedness to the City, or who contemplates using any personal property on which personal property taxes are owing, in the operation of the business.

Sec. 22-82. Extension of initial term of license.

The initial term of a license may be extended for an additional term by payment of the applicable license fee, provided that there has been full compliance with all provisions of this article, and provided that no license shall be valid for a period in excess of one year. The effective term of a license, including any extensions granted, shall be expressly stated on the license.

Sec. 22-83. General regulations and prohibitions.

Unless otherwise expressly permitted by this article, another City ordinance, or otherwise mandated by law:

(a) Where a license is required by this article, it shall be unlawful for any person to engage in solicitation without having first obtained a license issued by the City. The license must be in the possession of the solicitor at all times while solicitor is engaged in the act of soliciting and displayed upon the request of any person.

(b) Where a license is required by this article, while conducting any act of solicitation the solicitor shall clearly display license and photo identification that correctly identifies who the solicitor is and for whom the solicitor is working.

(c) No persons shall store or park a vehicle at the curb for the purpose of solicitation from a vehicle,

nor shall any person establish a stand, booth or other place of business on any public street curb, sidewalk, public right-of-way or other public place. This subsection shall not be interpreted to prohibit parking for the purpose of making deliveries or for the purpose of consummating a business transaction with persons waiting at the curb, provided that the solicitor leaves the curb immediately after the deliveries or transactions are completed.

(d) No person shall operate or maintain any stand, structure, building or vehicle on or near to any public right-of-way for the service of customers or for solicitation in such a manner that requires customers to stand, occupy, or congregate within the public roadway.

(e) No person shall conduct any solicitation so as to obstruct any street, alley, sidewalk, or driveway except as may be necessary and reasonable to consummate a permitted transaction or at any time after having been requested to desist by any public officer because of congested or dangerous traffic conditions or for the public health, safety, or welfare.

(f) No person shall engage in any solicitation on property against the wish or desire of the property owner or the tenant or occupant of the property. No person shall unlawfully trespass on the property of another while soliciting.

(g) No person engaged in any solicitation shall enter upon private premises without an appointment where a sign is displayed stating "No peddlers," "No solicitors," "No sales," "No trespassing," or words of similar meaning.

(h) No person engaged in solicitation shall, while in a stationary position in any public place, shout, cry out his goods or merchandise, nor blow any horn, ring any bell, broadcast or play any sound, or use any other similar device to attract the attention of the public.

(i) No persons shall engage in solicitation in the City except between the following hours:

(1) April 1 to September 30: 9:00 a.m. to 7:00 p.m.

(2) October 1 to March 31: 9:00 a.m. to 5:00 p.m.

(j) No person engaged in any solicitation shall enter upon property or call upon any occupant of the property by any means of entry or contact other than approaching the front entry door of the premises. No person engaged in any solicitation shall enter into an attached or detached garage or a rear yard, unless invited by the occupant of the premises.

(k) No person shall block or impede the passage of the person being solicited.

(l) No person who is soliciting shall follow the person being solicited after that person has objected to the solicitation or asked the solicitor to depart.

(m) No person shall use any threatening or assaultive behavior or language when engaging in solicitation.

Sec. 22-84. Display and use of licenses.

(a) A licensee shall carry any license issued under this article upon his person at all times when engaged in the activity for which the license was granted. If the activity for which the license was issued occurs within a structure, building or other place, the license shall be exhibited at all times in some conspicuous

place at the structure, building or place. A licensee shall produce his license for examination when requested to do so by any properly identified public authority or by any person with whom the licensee is dealing in connection with licensed activities.

(b) A licensee shall not allow any license to remain posted, displayed or used after the license term has expired, if a duplicate license has been issued, if the license has been suspended or revoked, or if the license for any other reason has become ineffective.

(c) A licensee shall not loan, sell, give or assign to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in his possession, the license issued to the licensee.

(d) No person shall display an expired license, a license for which a duplicate has been issued, a license which has been suspended or revoked, or a license which was approved and issued for another person.

(e) No person shall write upon, alter, amend, modify, change or damage a license, except as required by this article or as authorized by the Clerk.

Sec. 22-85. License suspension or revocation.

(a) A license granted under this article may be suspended or revoked by the Clerk for any of the reasons for denial of a license as provided by Subsection 22-78(f) or for any violation of Section 22-83. The Clerk shall make written findings of fact in support of the suspension or revocation of a license.

(b) If a license under this article is suspended or revoked, the licensee may appeal the suspension or revocation to the City Commission by filing a written request for an appeal with the Clerk within five business days following receipt of notice of the suspension or revocation. If appealed as provided by this section, the City Commission shall hold a public hearing on the suspension or revocation and may reverse, affirm or modify the decision of the Clerk. The City Commission shall in its determination make written findings of fact supporting its decision based on the standards in this article. The determination of the City Commission shall be final.

Sec. 22-87. Penalties and Remedies.

(a) Any person who violates any of the provisions of this article shall upon conviction be deemed guilty of a criminal misdemeanor and shall be punished by a fine of not less than \$150 nor more than \$500, imprisonment not to exceed 90 days or by both such fine and imprisonment, plus the costs of prosecution.

(b) Each day on which any violation of this article occurs or continues constitutes a separate offense subject to separate penalties.

(c) In addition to the above, the City shall have such other remedies as are accorded for a violation of this article pursuant to law and equity.

Section 2. Severability. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the rest of this Ordinance as a whole, or any part thereof other than that part declared to be invalid or unconstitutional.

Section 3. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall become effective upon this publication as provided by law.

ORDINANCE NO. 15-625 ADOPTED.

First reading: August 10, 2015

Second reading: August 24, 2015

Effective date: September 5, 2015