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PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Mayor and Council of the City of Hyattsville 12-1-69. Amendments noted where applicable.]

GENERAL REFERENCES

- Municipal infractions - See Ch. 20.
- Streets and sidewalks - See Ch. 105.
- Vehicles and traffic - See Ch. 114.

§ 90-1. Definitions. [Amended 9-15-08 by HO-2008-08, Amended 12-5-16 by HO-2016-02]

When used in this Chapter, the following words, terms and phrases and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Canvasser means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

Charitable means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.

Contributions mean and include the word alms, money, subscription, property or any donations under the guise of a loan or money or property.

Conveyance includes any public or privately owned vehicle, method or means of transporting people, bicycles, motorized or non-motorized vehicle, handcart, pushcart, lunch wagon or any other device or thing, whether or not mounted on wheels.

Department means the agency of the city authorized to enforce compliance with the City Civil Code or any of the agency's officials, officers or employees.

Goods, wares, merchandise shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

Motor vehicle means any vehicle used for displaying, storing, or transporting articles for sale by a vendor and which is required to be licensed and registered by the Department of Motor Vehicles of any state.

Peddler means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of

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the scheme to evade the provisions of this ordinance. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, goods or service that is offered to a resident for purchase at a location away from his/her residence or at a time different from the time of visit.

Peddling includes all activities ordinarily performed by a peddler as indicated under this definition.

Person means a natural person or any firm, corporation, association, club, society or other organization.

Public space includes all City-owned parks and City-owned property.

Public way means all areas legally open to public use such as public space, public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

Pushcart means any wheeled vehicle approved by the Department in accordance with this Chapter, designed for carrying property and for being pushed by a person without the assistance of a motor or motor vehicle.

Sidewalk means all that area legally open to public use as a pedestrian public way between the curb line and the legal building line of the abutting property.

Solicitor means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future.

Solicitation includes all activities ordinarily performed by a solicitor as indicated above.

Special event means any occasion including but not limited to fairs, shows, exhibitions, City-wide celebrations and festivals taking place within a specifically defined area of the City for a period of time not to exceed seven (7) days.

Stand means any showcase, table, bench, rack, handcart, pushcart, stall or any other fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise upon a sidewalk.

Street means all that area legally open to public use as public streets and sidewalks, roadways, highways, parkways, alleys and any other public way.

Vendor means any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the City. A "vendor" also includes any street vendor, hawker, huckster, itinerant merchant or transient vendor. This definition does not include a door-to-door peddler or solicitor.

Vending is doing any act as a vendor.

Vehicle means every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

ARTICLE I VENDORS

§ 90-2. License Required. [Amended 09-15-08 by HO-2008-08, Amended 12-5-16 by HO-2016-02]

It shall be unlawful for any person to engage in vending unless the person has first obtained a license from the Department. All licenses shall be issued according to regulations established by the Department.

§ 90-3. Application for License. [Amended 09-15-08 by HO-2008-08, Amended 12-5-16 by HO-2016-02]

A. The application for a vending license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

1. The applicant's full name, current address, telephone number and proof of identity, issued by the State of Maryland, or other recognized government;
2. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
3. The specific location, if any, in which the vendor intends to conduct business;
4. If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation;
5. If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle identification number and license number;
6. A complete listing of any other licenses or permits issued to the applicant by the City within the five (5) years immediately preceding the date of the application.

B. Food and Beverage Vendors.

1. Unless specifically allowed by the City for a special event, no license for food and/or beverage vendors shall be issued except for pre-packaged, pre-prepared food stuffs, soft serve ice cream/frozen yogurt or shaved ice or other frozen novelties. Food that needs to be prepared on or near the vending vehicle, whether by heating, mixing or any other means of cooking or preparation shall not be licensed or allowed except pursuant to this subsection.
2. Any application for a vending license to engage in the sale of food or beverages shall also be referred to the County and State Health Department for approval and issuance of a certificate of health inspection [or health permit] in addition to the regular vending license. The applicant's equipment shall be subject to inspections at the time of application and at periodic intervals thereafter. The City will not issue or renew a vending license until all required County or State licenses or permits have been issued and evidence of such, to the reasonable satisfaction of the department, has been demonstrated.

§ 90-4. Issuance of License. [Amended 09-15-08 by HO-2008-08]

A. The applicant shall be notified in writing by the Department of the City's decision to issue or deny the vending license not later than thirty (30) days after the applicant has filed a completed application with the Department. The Department can add such reasonable conditions or restrictions to the license as reasonably necessary to protect the public safety and the purposes of this Chapter.

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Any applicant for a license to sell food and beverages as a vendor can only be issued after the applicant receives the approval of the applicable state and/or county departments or agencies.

B. Each license shall show the name and address of the licensee, the type of license issued, the kind of goods to be sold, the amount of the license fee, the date of issuance, the license number, an identifying description of any vehicle or conveyance used by the licensee plus, where applicable, the motor vehicle identification number and a copy of any state issued photo identification. Each license shall also show the expiration date of the license and the vendor's permit number which is issued by the City and any conditions or restrictions.

C. All licenses, permits and/or identification badges issued under this Section are valid for one (1) year unless suspended or revoked and shall be both non-assignable and non-transferable

§ 90-5. Special Events. [Amended 09-15-08 by HO-2008-08]

Any vendor wishing to conduct business at a special event shall apply to the Department for a temporary vending permit. Application for such a permit must be made at least five (5) days prior to the beginning of the event for which the permit is sought. The permit shall be valid only for the duration of the special event. Fees for such permit shall be as specified in Section 90-6 of this Chapter. Any vendor to whom a temporary permit is granted shall be subject to the same operating regulations as all other vendors, except where otherwise specified. Vending at special events without a temporary vending permit is prohibited.

§ 90-6. License Fees. [Added 09-15-08 by HO-2008-08]

Any vendor granted a vending license under this Chapter shall pay an annual license fee of fifty dollars (\$50.00) or such other fee as set by the City Budget Ordinance. Any vendor granted a temporary vending permit for special events shall pay a fee as set by the City.

§ 90-7. Display of Identification Badges and Other Permits. [Added 09-15-08 by HO-2008-08]

A. Any person obtaining or doing work under a permit or license or trade shall exhibit the permit or license as well as any government-issued photo ID when requested to do so by any prospective customer or any department employee or police officer. Certificates of health inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

B. A certificate of health inspection shall be deemed to be properly displayed when attached to the vending pushcart, vehicle, stand or other conveyance, and clearly visible to the public and law enforcement officials.

§ 90-8. Notification of Name or Address Change. [Added 09-15-08 by HO-2008-08]

All vendors shall assure that a current and correct name, residence address and mailing address are on file with the Department. Whenever either the name or address provided by a licensed vendor on his application for a vending license changes, the licensee shall notify the Department in writing within fifteen (15) days of such change and provide the same with the name change or address change.

§ 90-9. Exemptions. [Added 09-15-08 by HO-2008-08]

The provisions of this Chapter do not apply to:

A. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;

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B. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books; or

C. The distribution of free samples of goods, wares and merchandise by any individual from his person.

§ 90-10. Claims of Exemption. [Added 09-15-08 by HO-2008-08]

Any person claiming to be legally exempt from the regulations set forth in this Chapter, or from the payment of a license fee, shall cite to the Department the statute or other legal authority under which exemption is claimed and shall present to the Department proof of qualification for such exemption.

§ 90-11. Hours of Operation. [Added 09-15-08 by HO-2008-08]

Unless the license specifically provides otherwise, vendors shall be allowed to engage in the business of vending only between the hours of 9:00 a.m. and 8:00 p.m. for no more than fifteen (15) minutes at a single stop after which the vendor must move the vending station or conveyance and other related items a minimum of 1,000 feet from the previous location. A vendor may not return to within one thousand feet (1,000') of a previous location for twenty four (24) hours. No vending station, conveyance or other items related to the operation of a vending business shall be located on any City sidewalk or other public way during non-vending hours.

§ 90-12. Littering and Trash Removal. [Added 09-15-08 by HO-2008-08]

A. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their businesses. All trash or debris accumulating within twenty five (25) feet of any vending stand shall be collected by the vendor and deposited in a trash container.

B. Persons engaged in food vending shall affix to their vending station, vehicle, pushcart or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

§ 90-13. Vending Restrictions. [Added 09-15-08 by HO-2008-08]

Absent an explicit authorization by the City for a special event or circumstance, no vendor shall be permitted to operate:

A. On any public space, within twenty-five (25) feet of any street, intersection or pedestrian crosswalk.

B. Within twenty-five (25) feet of any, loading zone or bus stop, intersection or pedestrian crosswalk.

C. Within two hundred (200) feet of another vending location assigned to another vendor on a public sidewalk.

D. In any area within one hundred (100) feet of a building entrance or exit or, in the case of a hotel or motel, within two hundred fifty (250) feet of building entrances or exits.

E. On the median strip of a divided roadway.

F. Within fifty (50) feet of display windows of fixed location businesses.

G. Any area within one thousand (1,000) feet of a hospital, college, university, elementary school, middle school or high school.

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H. Within twenty-five (25) feet of any fire hydrant or fire escape.

I. Within twenty-five (25) feet of any parking space or access ramp designated for persons with disabilities.

§ 90-14. Prohibited Conduct. [Added 09-15-08 by HO-2008-08]

No person engaged in the business of vending under this Chapter shall do any of the following:

A. Obstruct pedestrian or motor vehicle traffic flow, except for no more than two (2) minutes to load and unload vending stations and/or vending merchandise.

B. Obstruct traffic signals or regulatory signs.

C. Stop, stand or park any vehicle, pushcart or conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.

D. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public space overnight.

E. Use a handcart or pushcart whose dimensions exceed six feet (6') in width, six feet (6') feet in length, and five feet (5') in height.

F. Use any stand or other fixed-location conveyance whose dimensions exceed six feet (6') feet in width, six feet (6') feet in length, and three feet (3') feet in height.

G. Use any conveyance that when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee, his employee, or an attendant.

H. Sell any goods, wares or merchandise on public space unless the location has been or shall be hereafter so designated by the City Council for vending.

I. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention, or otherwise violate the City's noise ordinance or the Transportation Article of the Maryland Code §22-401 and 22-401.1, as amended.

J. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

K. Fail to obey the lawful order of the Department, or a police officer.

L. Operate in violation of the terms and conditions of the City permit or in violation of the vending restrictions above.

M. Operate in violation of the hours and times outlined in §90-11 above.

§ 90-15. Penalties. [Added 09-15-08 by HO-2008-08]

Violation of this Chapter shall be a municipal infraction. The penalty for violating a provision of this Chapter or any other applicable section of the City Code shall be a fine not exceeding two hundred fifty dollars (\$250.00) for a first offense together with revocation or suspension of the vendor's license for a time period not to exceed ninety (90) days for such first offense. Subsequent violations shall have a fine not exceeding five hundred dollars (\$500.00) with revocation or suspension of the vendor's license for a time period not to exceed 120 days.

§ 90-16. Suspension and Revocation of License. [Added 09-15-08 by HO-2008-08]

A. In addition to the penalties contained above, any license issued under this Chapter may be suspended or revoked for any of the following reasons:

1. Fraud, misrepresentation or knowingly false statement contained in the application for the license;
2. Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;
3. Conducting the business of vending in any manner contrary to the conditions of the license or to a direct order by the Department or the police;
4. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or
5. Cancellation or suspension of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations or cancellation or suspension of a required County or State license or permit.

B. The Department shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of his right to appeal. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested.

C. If the City revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this Section may not apply for a new license for a period of one (1) year from the date that the revocation took effect.

§ 90-17. Appeals. [Added 09-15-08 by HO-2008-08]

A. If the Department denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the Department's decision to the City Administrator pursuant to Section 68-5 of this Chapter. The City Administrator shall either hear the appeal or appoint the Hearing Officer to hear the appeal.

B. The filing of an appeal ordinarily stays the action of the Department in suspending or revoking a license or permit or any part of the business operation being conducted under such license or permit until the Hearing Officer makes a final decision. However if the Department or Hearing Officer determines that continued operation of the vending business constitutes an imminent and serious threat to the public health or safety, he/she may order that the appeal does not stay the suspension or revocation, and shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation or order.

§ 90-18. Renewals. [Added 09-15-08 by HO-2008-08]

A vending license may be renewed, provided an application for renewal and license fees are received by the City no later than the expiration date of the current license. Any application received after that date shall be processed as a new application. The Department shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of this Chapter and all applicable City, County and State Codes and Regulations, shall issue a new license.

§ 90-19. Construction. [Added 09-15-08 by HO-2008-08]

A. No part of this Chapter or the Chapter itself shall be construed to be an amplification or derogation of the rights or responsibilities of abutting property owners. Any remedies, rights or obligations provided to such property owners or their successors in interest under the law of real property or the laws of the State of shall be in addition to the remedies, rights, obligations or penalties provided hereunder.

B. If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have adopted this Chapter and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

ARTICLE II
DOOR TO DOOR PEDDLERS/SOLICITORS

§ 90-20. Permit Requirements and Exemptions.

It shall be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of Hyattsville without first obtaining a permit issued by the department, provided, however, that the following are exempted from the permit provisions of this Article:

- (A) A “canvasser” as defined in section 90-1.
- (B) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
- (C) Any communication by an organization soliciting contributions solely from persons who are members of the organizations at the time of such solicitation;
- (D) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person; or
- (E) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.

§ 90-21. Permit Application.

Every person not exempted under section 10-20 above who is subject to the provisions of this ordinance shall file with the department an application in writing on a form to be furnished by the department, which shall provide the following information:

- (A) Proof of age, address and identification of the applicant, to be provided through the applicant’s driver’s license, articles of incorporation (for sponsors), or other legally recognized form of identification;
- (B) A brief description of the business or activity to be conducted;
- (C) The hours and location for which the right to peddle or solicit is desired;

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(D) If employed, the name, address and telephone number of the employer, or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;

(E) A statement or background check acceptable to the department as to the applicant including whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;

(F) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this ordinance; and

(F) A photograph of the applicant.

§ 90-22. Fees.

At the time the application is filed with the department, the applicant shall pay a reasonable fee to cover the cost to the city of processing the application and investigating the facts stated therein. In addition, the permit fee shall be fifteen dollars (\$15.00) for each solicitor or peddler.

§ 90-23. Application Review and permit insurance issuance.

A. Upon receipt of an application and other required documents, the department shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.

B. If the department finds the application to be satisfactory, the head of the department shall endorse his or her approval on the application and shall, upon payment of the prescribed costs and fee, deliver the required permit to the applicant.

C. The permit shall show the name, address and photograph of the permittee, the class of permit issued the kind of goods or services to be sold or delivered, the date of issuance and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.

D. A record of all permits issued shall be maintained by the department for a period of five (5) years.

§ 90-24. Denial of Permit.

A. Upon review of the application, the department head may refuse to issue a permit to the applicant for any of the following reasons:

1. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;

2. An investigation reveals that the applicant falsified information on the application, or on previous applications within the past three (3) years;

3. The applicant has been convicted of a felony or crime involving a sex offense, an act of moral turpitude, trafficking in controlled substances (not simple possession), or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;

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4. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;
5. There is no proof as to the authority of the applicant to serve as an agent to the principal; or
6. Within the immediate past three (3) years the applicant has been denied a permit under this ordinance or had such permit revoked, unless the applicant can and does show to the satisfaction of the department that the reasons for such earlier denial no longer exist.
7. The applicant has within the past three (3) years disregarded oral or written warnings regarding violations of this Article.
8. Such other extraordinary circumstances exist that the issuance of the permit would represent a danger to the applicant or the public.

B. The department's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that the application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

§ 90-25. Permit Expiration.

All permits issued under the provisions of this ordinance shall expire sixty (60) days from the date of issuance, unless an earlier expiration date is noted on the permit.

§ 90-26. Permit Exhibition.

Every person obtaining or acting under a permit under this Article shall exhibit the permit as well as any government issued photo id when requested to do so by any prospective customer or department employee or police officer.

§ 90-27. Transfer Prohibited.

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under this Article.

§ 90-28. Entry upon Premises Unlawful.

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a peddler or solicitor to enter upon any residential premises in the City where the owner, occupant or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "no peddlers," "no solicitors" or words of similar import.

§ 90-29. Hours of Solicitation.

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 7:00 p.m. and 9:00 a.m.

§ 90-30. Revocation.

Any permit issued may be temporarily suspended upon oral or written order of the department for up to fourteen (14) days. A permit may be revoked by the department, after notice of the right to a hearing, for any of the following reasons:

- A. Fraud, misrepresentation or false statement contained in the application for a permit;

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- B. Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
- C. Conducting peddling or solicitation activities contrary to the provisions contained in the permit;
- D. Conviction for any crime involving moral turpitude; or
- E. Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace, or endanger the health, safety or general welfare of the public.

§ 90-31. Notice and Hearing.

Notice of a hearing for revocation of a permit issued under this ordinance shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee. The head of the department or designee will preside at the hearing.

§ 90-32. Appeals.

- A. Any person aggrieved by the action or decision of the department to deny, suspend or revoke a permit applied for under the provisions of this ordinance shall have the right to appeal such action or decision to the city administrator within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or to his last known address.
- B. An appeal shall be taken by filing with the department a written statement setting forth the grounds for the appeal.
- C. The department shall transmit the written statement to the city administrator within ten (10) days of its receipt and the city administrator shall set a time and place for a hearing on the appeal.
- D. A hearing shall be set no later than twenty (20) days from the date of receipt of the appellant's written statement.
- E. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- F. The decision of the city administrator on the appeal shall be final and binding on all parties concerned.

§ 90-33. Claims of Exemption. [Amended 12-5-16 by HO-2016-02]

Any person claiming to be legally exempt from the regulations set forth in this ordinance, or from the payment of a permit fee, shall cite the statute or other legal authority under which exemption is claimed and shall present proof of qualification for such exemption.

§ 90-34. Violations and Penalty.

- A. Violation of any of the provisions of this Article shall be treated as a municipal infraction, and shall, upon conviction, be punishable by a fine of one hundred dollars (\$100.00) for the first offense and five hundred dollars (\$500.00) for each subsequent offense.
- B. Any person violating this Article II after he, she, they have within the previous twenty-four (24) months had a permit under this Article denied or revoked or been ordered to cease and desist shall be guilty of a misdemeanor punishable by a one thousand dollars (\$1,000.00) fine and/or imprisonment for thirty (30) days.
- C. Cease and desist orders:

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1. Whenever any person or entity is engaging in any conduct in violation of this Article, the department may order the person(s) or entity to cease and desist all or part of the activity until the violation is corrected. An oral cease and desist order shall be followed by a written cease and desist order within twenty-four (24) hours (excluding Saturday, Sunday or holidays).
2. It shall be unlawful to carry on any business or solicitation in violation of a cease and desist order except as necessary to prevent injury to persons or property or to correct the violation.
3. A cease and desist order shall contain a written notice indicating that there is a right to a hearing before the city administrator pursuant to this Article.

§ 90-35. Severability.

The provisions of this Article II are declared to be severable. If any section, sentence, clause or phrase shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect; it being the legislative intent that this ordinance shall remain in effect notwithstanding the validity of any part.

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