

ORDINANCE 243

**AN ORDINANCE AMENDING ORDINANCE 198, REGULATING THE CONDUCT OF
PEDDLERS, SOLICITORS, PROFESSIONAL FUNDRAISERS, AND TRANSIENT
VENDORS WITHIN THE CITY OF ARLINGTON**

WHEREAS, to promote the public safety, health and welfare of the City of Arlington;

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA, DOES ORDAIN AS
FOLLOWS:

Ordinance 198 is amended in its entirety to read as follows:

SECTION 1. 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 ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. NON-COMMERICAL DOOR-TO-DOOR ADVOCATE.** A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs, including door-to-door canvassing and pamphleteering.

- B. 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 for 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. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

- C. PERSON.** Any natural individual, group, organization, corporation, partnership, or similar association.

- D. PROFESSIONAL FUNDRAISER.** Any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, politician, social, or other charitable organization.

- E. 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.

F. TRANSIENT VENDOR. 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 in any one location for more than fourteen (14) consecutive days.

SECTION 2. PROHIBITED ACTIVITY.

The action of any person of going in and upon private residences in the said City of Arlington, by peddlers, professional fundraisers, solicitors, and transient vendors of merchandise, not having received an advance request or invitation to do so by an owner or adult occupant of said private residence, for the purpose of direct sales or soliciting orders for the sale of goods, services, wares, produce or merchandise is hereby declared to be a nuisance and is prohibited. A professional fundraiser working on behalf of an otherwise exempt group or person as defined in Section 6 below shall not be exempt from the prohibitions of this ordinance.

SECTION 3. DISTRIBUTION OF ADVERTISING.

This ordinance does not prohibit the distribution of informational or advertising flyers or brochures on to the doorsteps or doors of private residences, but such distribution right shall not be used as a subterfuge to obtain the prohibited face to face contact with any owner or occupant of a personal residence. Therefore, anyone distributing any such advertising or informational flyer or brochure shall not attempt to physically hand such material to any owner or occupant of a personal residence, and shall not knock on the structure, ring the doorbell, or make any other physical attempt to alert any owner or occupant of a personal residence that the delivery of the flyer or brochure is being made, it being considered that any such physical activity is a deliberate attempt to achieve the physical contact with the owner or occupant which is prohibited under this ordinance.

SECTION 4. SALES ON PUBLIC PROPERTY BY PERMIT ONLY.

The practice of selling goods, services, wares, produce or merchandise on city streets, boulevards, rights of way, city parks or any other public property is hereby prohibited, unless a permit to conduct such activity has been issued by the City of Arlington, it being in the public interest to avoid the traffic hazards, parking congestion and health hazards that such practices create if unlicensed. The decision to issue any such permits shall be in the sole discretion of the city, in keeping with the health, safety and welfare of the citizens of Arlington, and the rights and expectations of the citizens to use said public property unencumbered by any physical barriers, congestion or unwanted solicitations that such private business enterprises may create. Permits for such temporary sales locations on public property may be obtained upon application to the City Administrator. Forms and fees for such permits shall be set from time to time by the City Council.

SECTION 5. PERMITS FOR SPECIAL EVENTS.

As an exception to the permit process set out in Section 4 above, the City of Arlington in its sole discretion may issue event permits to Arlington organizations sponsoring special events. Such organizations include, but are not limited to, the Arlington Area Chamber of Commerce, Arlington-based fraternal, religious, and other non-profit organizations, and special interest clubs. Such an event permit would be issued to the organization sponsoring the event, and would cover all vendors of merchandise or services invited by the sponsoring organization to participate in such event. It would be the responsibility of the permitted sponsoring organization to screen and supervise the participating vendors, to include the requirement that said vendors provide proof that they are properly licensed and insured as required by government regulations. Any such event permit would cover only a specific time frame and a clearly defined area of public property. Only those vendors invited to participate in the event by the sponsoring organization will be covered by such permit, and only for the time frame and location specified in the permit. If the city decides to grant such an event permit, it may do so with conditions, which may include requirements for crowd and traffic control, defined parking areas, and refuse disposal. Forms and fees for such permits shall be set from time to time by the City Council.

SECTION 6. EXCEPTIONS TO ORDINANCE.

The restrictions set out in this ordinance shall not apply to any of the following persons:

- A. Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. No person is prohibited from going house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would reasonably be considered to be primarily a commercial activity.
- B. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- C. 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 or milk.
- D. Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- E. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- F. Any person conducting the type of sale commonly known as garage sales, rummage

sales, or estate sales. However, this exemption shall apply only if the sale is conducted on the premises of the primary residence of said person.

- G. Any person participating in an organized multi-person bazaar or flea market. However, this exemption shall apply only if the sale is conducted on the premises of the primary residence of one of the persons participating in said event, and the other persons participating in the event are all either residents of the City of Arlington, or relatives of city residents.
- H. Any person conducting an auction as a properly licensed auctioneer.
- I. Any officer of the court conducting a court-ordered sale.

SECTION 7. PROHIBITED CONDUCT.

No peddler, professional fund raiser, solicitor, transient vendor, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

- A. Calling attention to his or her business or the 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 audible within an enclosed structure.
- B. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, 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 specific individual or the general public.
- D. Failing to provide proof of identification when requested by city staff or law enforcement officers.
- E. Using the identification, permit or license of another person.
- F. Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, professional fund raiser, solicitor, or transient vendor shall claim to have the endorsement of the city solely based on the city having issued a permit to that person.
- G. Remaining on the property of another when requested to leave.
- H. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

SECTION 8. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 9.

Any violation of this ordinance shall be considered a misdemeanor, punishable by a jail term and/or monetary fine as set out for misdemeanors under state law from time to time.

This ordinance shall become effective immediately upon passage and publication.

For City of Arlington:

By James R. Kreft
It's Mayor

By Matthew Jaunich
It's Administrator

First Reading: May 18, 2009
Second Reading: June 1, 2009
Adopted: June 1, 2009
Publication: June 11, 2009