

TITLE XI: BUSINESS REGULATIONS

Chapter

110. CABLE TELEVISION

**111. TRANSIENT MERCHANTS, SOLICITORS, AND
PEDDLERS**

CHAPTER 110: CABLE TELEVISION

Section

- 110.01 Regulation by town; discrimination
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- 110.06 Powers and duties of Town Council

Cross-reference:

CATV franchises, see T.S.O., Table V

' 110.01 REGULATION BY TOWN; DISCRIMINATION.

The town shall regulate the providing of cable television services and equipment to the full extent permitted by applicable authority in a manner which shall not illegally discriminate and is in accordance with the requirements of due process.

(Ord. 1993-6, passed 11-3-1993)

' 110.02 ADOPTION OF FEDERAL COMMUNICATIONS COMMISSION RATE REGULATIONS.

(A) The town hereby adopts and shall hereafter follow Federal Communication Commission (FCC) regulations as prescribed in the *Report and Order in the Matter of Implementation of Sections of Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, MM Docket 92-266, FCC 93-177 (Released May 3, 1993), as those regulations are now in force, and as they may hereafter be amended, modified, and/or supplemented; and any provision of this chapter or this town=s regulations which are now or in the future not in compliance with the applicable regulations shall be deemed amended to the extent necessary to come within the requirements of that authority, which amendment shall not affect the validity or enforcement of the remainder of the chapter and/or regulations of the town.

(Ord. 1993-6, passed 11-3-1993)

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(B) The town will follow the FCC rate regulations in its regulation of the basic service rate and charges of the company and any other cable television system operating in the town, notwithstanding any different or inconsistent provisions in the franchise.

(C) In connection with this regulation the town will ensure a reasonable opportunity for consideration of the views of interested parties.

(D) The Clerk-Treasurer, or his or her designee, is authorized to:

(1) Execute on behalf of the town and file with the FCC the certification forms and/or other instruments as are now or may hereafter be required by or appropriate under the FCC rate regulations; and

(2) To do and cause to be done those things which are necessary, appropriate, related, and/or incidental to that process in order to enable the town to regulate basic service rates and charges.

(Res. 1993-9, passed 10-6-1993)

Editor=s Note:

Two copies of the provisions adopted by reference in this section are available for public inspection at the office of the Clerk-Treasurer during regular business hours.

▪ **110.03 PUBLIC HEARINGS.**

Before making a final decision on a matter which the Town Council believes to be of particular material consequence and general interest with regard to the regulation of cable television service with the town, the Town Council shall conduct a public hearing in accordance with the provisions of state law for the hearings. At the hearing a reasonable opportunity shall be provided for consideration of the views of interested parties.

(Ord. 1993-6, passed 11-3-1993)

▪ **110.04 DISCLOSURE OF INFORMATION CERTIFIED AS PROPRIETARY OR CONSTITUTING A TRADE SECRET.**

In requesting and utilizing information provided by a cable operator, the town shall not disclose to the public or others without a need to know as a part of this process, any of that information which that operator has certified in writing as proprietary or constituting a trade secret of that operator; provided, however, that the town reserves the right to require the operator to reasonably validate any claim of proprietary interest or trade secret. Such claims as are found to be without foundation by the town shall be considered by the town in evaluating whether that cable operator would misrepresent as to other matters.

(Ord. 1993-6, passed 11-3-1993)

' 110.05 CABLE TV ADMINISTRATOR.

The person who holds the position of Clerk-Treasurer from time to time is designated as the Cable TV Administrator. The Administrator is granted full authority to act as the authorized agent of the town to act for and on behalf of the town, and do all things the Administrator determines to be appropriate to implement cable TV regulation in accordance with applicable authority, excepting as herein expressly reserved pursuant to the following section of this chapter.

(Ord. 1993-6, passed 11-3-1993)

' 110.06 POWERS AND DUTIES OF TOWN COUNCIL.

To the full extent permitted by applicable law the Town Council shall:

(A) Adopt, and from time to time thereafter modify regulations governing charges for basic cable equipment and service for the town;

(B) Conduct the public hearings required by ' 110.03 of this chapter and other applicable authority;

(C) Finally approve or disapprove of cable television franchise agreements and proposed modifications thereof;

(D) Finally approve or disapprove of the rates and charges of franchised cable TV operators within the town;

(E) Order rate reductions and/or rollbacks where appropriate;

(F) Authorize and direct filings and proceedings before the Federal Communications Commission (FCC) in the name of the town as may be appropriate;

(G) Authorize and direct enforcement of applicable customer service standards of cable TV operators before courts or other third-party decision makers; and

(H) Perform all other acts which, as a matter of law, may not be delegated by the Council.
(Ord. 1993-6, passed 11-3-1993)

CHAPTER 111: TRANSIENT MERCHANTS, SOLICITORS, AND PEDDLERS

Section

- 111.01 Definitions
- 111.02 Registration certificate required for transient merchants, solicitors, distributors, and peddlers
- 111.03 Local wholesaler, retailer, or merchant; nonapplicability
- 111.04 Breach of peace

- 111.99 Penalty

' 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXEMPT PERSONS. The registration requirements of ' 111.02(A) do not apply to the following:

- (1) An auctioneer who is licensed under I.C. 25-6.1;
- (2) Children under the age of 18 years who are students in a public or private school and who conduct door-to-door solicitations for donations for school activities who are residents of the town;
- (3) Members of religious organizations soliciting donations, encouraging participation, or distributing literature;
- (4) Newspaper, periodicals, fuel, dairy products, or bakery goods delivery people;
- (5) Farmers and gardeners offering for sale agricultural perishable products that were raised or cultivated by them;
- (6) Public officers, political organizations, or political candidates encouraging participation, distributing literature, or soliciting financial donations;

(7) Residents of the town conducting activities involving craft fairs, flea markets and yard sales; provided that such activities will not be held on more than 4 days in any 12-month period. Further, a permit must be obtained at no cost, and the activity must comply with the provisions of ' 111.02(E); and

(8) Persons conducting sales pursuant to a court order.

PEDDLER. One who goes from place to place seeking sales to potential customers, whether carrying merchandise for concurrent sale and delivery or soliciting orders from individuals (not dealers) for future delivery.

TRANSIENT MERCHANTS. All persons, firms, limited liability companies, and corporations, both as principals, and agents, who engage in, do, or transact any temporary or transient business for profit in this state, whether locally or in traveling from place to place in this state, offering for sale or selling foods, wares, or merchandise, and those who, for the purpose of carrying on this business, hire, lease, or occupy any permanent, or mobile building, structure, or real estate for the exhibition by means of samples, catalogues, photographs, and price lists or sale of goods, wares, or merchandise.
(Ord. 2008-5, passed 11-19-2008)

' 111.02 REGISTRATION CERTIFICATE REQUIRED FOR TRANSIENT MERCHANTS, SOLICITORS, DISTRIBUTORS, AND PEDDLERS.

(A) *Registration certificate.* No person, without a proper license issued by the Town Council of the town, under this chapter, except for those persons exempt under ' ' 111.01 or 111.03 of this chapter, shall travel from place to place within the town offering the sale of property that he or she carries with him or her, who goes from place to place within the town soliciting orders for services or goods to be provided in the future, or who engages in, at a fixed location within the town, a temporary business of selling property or services at that location in the town.

(B) *Applications for registration permit.* All persons not exempt under ' ' 111.01 or 111.03 must report to the Clerk-Treasurer, Town Marshal, or appointed officers within the town prior to conducting, soliciting, or contracting for goods or services.

(1) An applicant for a registration certificate required by division (A) of this section shall execute a written application form, sworn to and signed by the applicant, with at least 1 signature of an official as defined within of this division. The application form shall require, among other things, the following information:

(a) Applicant/Agent(s)'s name, home address, date of birth, sex, weight, eye color, and hair color.

(b) A copy of photo identification shall accompany the application.

(c) The name and address or principal office of the person, firm, organization, or corporation, if any, for or through whom or under whose auspices the applicant is authorized to conduct the activities.

(d) A description of the vehicle used in the sale of items.

(e) A general description of the property or services to be offered for sale.

(2) The applicant and any other person subject to this chapter shall be subject to the following: No person shall be issued or reissued a certificate who has failed to properly and fully complete and submit to the Town Official the application form as developed and provided by the town.

(C) *Issuance of registration certificate; grounds for refusal.*

(1) Upon compliance of the applicant with the provisions of division (A) of this section, the Town Official shall issue to the applicant a registration certificate, valid for the dates stated within the certificate. The merchant's copy of the certificate will contain the following information:

(a) The names of approved individuals;

(b) The name of organization/company;

(c) Date issued/expires; and

(d) Signature of Town Official.

(2) Any person aggrieved by the action of the Town Official, in regard to the denial of an application for registration certificate required by division (A) of this section, or in connection with the revocation of a registration certificate as provided in division (F) of this section, shall have the right of appeal to the Town Council. The appeal shall be taken by filing an appeal with the Town Council within 14 days after the notice of the decision by the Town Official. The Town Council shall set the time and place for the hearing on the appeal, and notice of the hearing shall be given to the person in the same manner, as provided in division (F) of this section for notice of hearing on revocation. The order of the Town Council on the appeal shall be final.

(D) *Duration and expiration of registration certificate.* The certificates issued under division (C) of this section shall be for a period of no less than 1 day and no more than 1 week. The certificate shall expire on the date specified in the certificate.

(E) *Conditions of registration certificate.* All certificates issued pursuant to division (C) of this section shall be nontransferable and shall entitle the holder thereof to sell, distribute, or circulate the type

of literary material described in the certificate or to canvass or solicit orders or subscriptions therefor within the town, subject, however, to the following conditions:

(1) The holder shall have the certificate in his or her possession at all times and shall exhibit the same at any time upon request by any police officer, town official, purchaser or distribute;

(2) The holder shall not enter in or upon any house, building, or other structure on any land or property, without the prior consent of the owner or occupant thereof;

(a) It is hereby declared to be the policy of the town that the occupants of the residences shall make the determination of whether solicitors and/or distributors shall be, or shall not be, invited to their respective residences; and

(b) No transient merchants shall call at any residential dwelling or other place in the town where a sign bearing the words "No Peddlers (Solicitation)" or similar words appears at the doors of the dwelling or other place.

(3) The holder of a certificate shall make no false statements or misrepresentation of fact in the course of carrying on the activity for which the certificate is granted, and shall conduct himself or herself at all times in an orderly and lawful manner;

(4) The holder of a certificate who takes orders for the future delivery of any type of literary material set forth in division (A) of this section shall give a written receipt to the purchaser for what was ordered, the total purchase price thereof and the amount of the payment, if any, received by the holder from the purchaser;

(5) The sales and collections may begin after 10:00 a.m. and must conclude by sunset, Monday through Saturday, inclusive, unless otherwise by express permission of the owner of the premises visited.

(F) *Revocation of registration certificate; notice.*

(1) Any certificate issued under the provisions of this chapter may be revoked by a Town Official, after notice and hearing, for any fraud, misrepresentation, or false statement contained in the application; for failure to correct any statements on the application as required by division (A) of this section; for failure to observe the conditions of the certificate as set forth in any part of division (A) of this section; or upon any subsequent conviction of any felony or misdemeanor.

(2) Notice of the hearing for revocation of a certificate shall be in writing, setting forth the specific reason for the hearing and the time and place thereof. The notice shall be given to the holder of the certificate at least 3 days in advance if by personal service, and at least 5 days in advance if by mail, postage prepaid, addressed to the holder's last known address, or if none, his or her home address, prior to the stated date for the hearing.

(Ord. 2008-5, passed 11-19-2008) Penalty, see ' 111.99

' 111.03 LOCAL WHOLESALER, RETAILER, OR MERCHANT; NONAPPLICABILITY.

(A) The provisions of ' 111.02 shall not apply to any wholesaler or retailer who has a regularly established place of business in the town, to any merchants who have a regularly established place of business in the town, to commercial travelers, or selling agents calling on dealers and businesses in the town.

(B) No person shall be relieved from complying with the provisions of ' ' 111.02, 111.04, and 111.99, by reason of associating temporarily with any local dealer, trader, or merchant, or by conducting business with, as a part of, or in the name of any local dealer, trader, or merchant.
(Ord. 2008-5, passed 11-19-2008)

' 111.04 BREACH OF THE PEACE.

It shall be a breach of the peace for a distributor, transient merchant, peddler, solicitor, or collector to enter the private property of any citizen of the town over the objection of anyone in attendance therein, or to enter the private property of any citizen under posted "No Solicitors" or the like, or to fail to leave the premises upon request or demand, or to molest any person on the public thoroughfares of the town.
(Ord. 2008-5, passed 11-19-2008) Penalty, see ' 111.99

' 111.99 PENALTY.

Any distributor, transient merchant, peddler, hawker, solicitor, or collector, violating any provisions of this chapter either as principal or agent, who shall transact business or collection without having first obtained a license as herein provided, shall be deemed guilty of an infraction and shall, upon conviction thereof, be fined in any sum not less than \$25 and not more than \$50 for their first offense, and not less than \$50 and not more than \$100 for each offense following.
(Ord. 2008-5, passed 11-19-2008)

