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CITY of NOVI CITY COUNCIL

Agenda Item 1

April 18, 2011

SUBJECT: Consideration of adoption of an ordinance to amend the Code of Ordinances of the City of Novi, Chapter 26, "Peddlers, Solicitors and Transient Merchants," in order to change the title of the Chapter to include commercial handbills, to include standards for the distribution of commercial handbills, and to provide additional regulations for "no soliciting/no handbill" signs.
SECOND READING.

SUBMITTING DEPARTMENT: Police Department *JCS*

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

City Council held first reading of some minor revisions to the Peddler/Solicitor Ordinance at its March 21, 2011 meeting. The changes had been reviewed by the Ordinance Review Committee and primarily consisted of adding a definition of "commercial handbill" and some related regulations on the placement of commercial handbills throughout the City.

There was discussion at the meeting of various other possible regulations, including a ban on commercial handbilling and the possibility of subdivision-wide or condominium-wide "no soliciting"/"no handbill" signs. City administration was directed to bring back some additional language for consideration.

Three separate options are presented for Council consideration.

Option A. This is the ordinance essentially as it was presented at First Reading.

Option B. This version contains a number of revisions, including:

- Added definitions for peddle/peddling and solicitor, as well as a new reference to "parent organization," since many solicitors/peddlers are soliciting/peddling on behalf of companies.
- With regard to the subdivision/condo association signage, an expanded provision at Section 26-10(3) [now (c)] to show sample language for subdivision/condominium entrance signs. If this is included there ought to be an exemption written into the sign ordinance for these sorts of signs. The appropriate place would be in Section 28-7(a). It can be a one sentence reference to "Security/No Solicitation" signs, or some similar term. If this option is chosen, we would prepare a text amendment for City council's review and adoption. This could be done as soon as this ordinance option is effective, or if there are other changes that Council or staff is contemplating to the sign ordinance, it could be done in the next "group" of those amendments..
- Minor changes in items such as sign size and times of soliciting/peddling.
- A "Purpose and Intent" clause to clarify the reasons for enacting the ordinance.

Option C. This version is the same as Option B, except that it includes more stringent standards for getting a peddler's license (peddlers for purposes of the City's ordinances are those who engage in what is recognizable as "commercial" solicitation, selling services, magazines, vacuums, etc.)

RECOMMENDED ACTION: Consider adoption of an ordinance to amend the Code of Ordinances of the City of Novi, Chapter 26, "Peddlers, Solicitors and Transient Merchants," in order to change the title of the Chapter to include commercial handbills, to include standards for the distribution of commercial handbills, and to provide additional regulations for "no soliciting/no handbill" signs. **SECOND READING.**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

**“OPTION A” – SAME AS FIRST READING/NO CHANGES EXCEPT
FORMATTING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF NOVI, CHAPTER 26, “PEDDLERS,
SOLICITORS AND TRANSIENT MERCHANTS,” IN ORDER
TO CHANGE THE TITLE OF THE CHAPTER TO INCLUDE
COMMERCIAL HANDBILLS AND TO INCLUDE
STANDARDS FOR THE DISTRIBUTION OF COMMERCIAL
HANDBILLS.**

THE CITY OF NOVI HEREBY ORDAINS

Part I. That the title of City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to “Peddlers, Solicitors, Commercial Handbills.”

Part II. That the City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to read as follows, in its entirety:

Sec. 26-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial Handbill means any printed or written matter, and any sample or device, dodger, circular, leaflet, booklet, pamphlet, sheet, or other kind of printed matter or literature of any kind that (1) advertises for sale any merchandise, product, commodity or thing; (2) directs attention to any business or mercantile or commercial establishment or other activity for the purpose of promoting the interests thereof by sales; or (3) is predominantly and essentially an advertisement. A newspaper or a sign is not a commercial handbill.

Non-commercial solicitation means the request of money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, will be used for a charitable,

religious, patriotic, civic, educational, or philanthropic purpose. The said words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription, or other thing, whether of value or not, on the plea or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose.

Peddler means any person traveling by foot, wagon, automotive vehicle, or other conveyance, from place to place, from house to house, or from street to street (1) carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale; (2) making sales and delivering articles to purchasers; (3) who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Peddler shall not include a person who conducts such activities at a social gathering within a home at the invitation of the occupant of the home. The word "peddler" shall be synonymous with the phrase "transient merchant."

Sec. 26-2. Permit/license required for peddling and soliciting.

(a) No person shall solicit or peddle for any cause whatsoever, except as otherwise provided in this chapter, within the City of Novi without having secured a permit or license from the city clerk authorizing such solicitation or peddling. The permit or license issued hereunder shall be carried by the peddler or solicitor at all times when peddling or soliciting, and shall be exhibited upon request to any person solicited or to whom any goods or materials described in this provision are peddled and to any police officer or public official authorized to issue civil infraction citations. A minor soliciting or peddling under a group minor permit or license shall display in plain view a copy of such permit or license.

(b) Notwithstanding the provisions of subsection 26-2(a), no permit or license shall be required for minors when engaged in solicitation or peddling for civic, charitable, philanthropic, religious, educational, or athletic purposes, or when the minor is either accompanied by an adult or there is compliance with the provisions relating to group minor permits and licenses contained within subsections 26-2(c)—(e).

(c) An adult may obtain a minor group solicitation permit or a minor group peddling license in accordance with this subsection. Minors covered by such group permits or licenses may solicit or peddle without being accompanied by an adult, provided there is compliance with the provisions of subsections 26-2(c)—(e).

(d) In addition to the information required in sections 26-3 and 26-4, an applicant for a minor group permit or license shall provide the following information:

(1) For each minor who is to solicit or peddle:

- a. Name.
- b. Address.
- c. The name, address and telephone number of a parent or guardian that may be contacted in the case of an emergency regarding the minor.
- d. Evidence that any work permit required pursuant to MCL 409.104; MSA 17.731(4), has been obtained.

(2) A telephone number(s) or pager number(s) of the applicant which enable contact to be made with the applicant at all times when solicitation or peddling by a minor or minors is taking place.

The information pertaining to the minors soliciting or peddling shall be updated as additional minors are employed to solicit or peddle. No minor shall solicit or peddle under a minor group permit or license until such information pertaining to the minor has been provided to the City of Novi Police Department.

(e) An applicant granted a minor group permit or license shall be responsible for the conduct of those minors covered by the permit or license. A minor group permit or license shall be revoked by the chief of police, or his designee, upon violation by the grantee, or any covered minor, of any provision of this chapter or of Chapter 22 of the Novi Code of Ordinances. Such revocation shall be effective upon verbal notification by means of the telephone and/or pager numbers provided pursuant to subpart 26-2(d)(2), or by written notification addressed to the grantee's address as provided with grantee's application. The grantee, upon request, shall be provided a hearing before the chief of police, or his designee, for the consideration of reinstatement of the permit or license. Such hearing shall be during the business hours of 9:00 a.m. to 5:00 p.m., and, if requested by the grantee, shall be within twenty-four (24) hours of the revocation. A license or permit shall be restored upon demonstration by the grantee that measures have been taken to prevent further code violations.

Sec. 26-3. Non-commercial solicitation permit; application.

(~~1~~a) Applications for permits for non-commercial solicitation shall be filed with the city clerk upon forms to be furnished by the city. Such applications for permit to solicit shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the permit is desired to commence. The application shall contain the following information:

(~~a~~1) Name, address, telephone number, and headquarters of the person applying for the permit.

(b) If the applicant is not an individual, the names and addresses of the applicant and the principal officers and managers..

(~~e~~3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.

~~(d4)~~ The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations. The names and addresses of the person, or persons, who will participate in the solicitations.

~~(e5)~~ An outline of the method, or methods, to be used in conducting the solicitations.

~~(f6)~~ If the applicant intends to conduct solicitations while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection, the specific location(s) of such solicitation.

~~(g7)~~ The time when solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.

~~(h8)~~ A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.

(2b) A permit for non-commercial solicitation shall be issued upon receipt of the completed application, and receipt of a permit application fee in an amount set by resolution of the city council. A permit for solicitation within the city limits shall remain valid for a period of ninety (90) days; provided, however, that a permit allowing solicitation while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, shall be valid for a period of ten (10) consecutive days only, for each applicant. No applicant shall receive more than two (2) such permits for solicitation in any one (1) calendar year. No permit for solicitation within a public right-of-way shall authorize such solicitation at more than four (4) separate street corner or intersection locations within the City on the same day.

Sec. 26-4. Peddling license; application.

~~(1a)~~ An application for a peddling license shall be filed with the city clerk upon forms to be furnished by the city clerk. Such applications for a peddling license shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the license is desired to commence. The application shall contain the following information:

~~(a1)~~ Name and description of applicant;

~~(b2)~~ Permanent home address and full local address of the applicant;

~~(e3)~~ A photocopy of the person's drivers' license or State of Michigan identification card. The actual license or identification card shall be produced at the time of submittal of the application. The city clerk shall have the Novi Police Department verify that the identification is bona fide;

~~(d4)~~ A brief description of the nature of the business and the goods to be sold;

~~(e)~~5) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

~~(f)~~6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;

~~(g)~~7) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.

~~(2)~~b) A peddling license application shall be accompanied by an application fee in an amount set by resolution of the city council.

~~(3)~~c) Peddling licenses shall remain valid for a period of ninety (90) days.

Sec. 26-5. Investigation of application; grant or denial.

~~(4)~~a) The city clerk shall examine all applications filed under this chapter and shall make or cause to be made such further investigation of the application or applicant as the clerk shall deem necessary. If the clerk finds the application to be satisfactory, the clerk shall approve the permit and issue it upon payment of any applicable fee. The clerk shall not issue more than one permit to conduct solicitations while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, for the same specific location(s) on the same date(s). If the clerk receives more than one application for a permit to conduct solicitations in the same location(s) on the same date(s), the clerk shall give priority to the first application received, unless before the permit is issued an application for a permit in the same location(s) and on the same date(s) is filed by an applicant affiliated with or representing a national, statewide, or area-wide organization conducting a coordinated solicitation campaign on the same date(s).

~~(2)~~b) The clerk shall not issue a license if he or she finds:

~~(b)~~1) That the applicant failed to truthfully provide the information required in this chapter;

~~(2)~~ That the applicant has engaged in a fraudulent transaction or enterprise;

~~(e)~~3) That the applicant has a bad business reputation or a reputation for dishonesty;

~~(d)~~4) That the applicant has been convicted within the past five (5) years of a violation of federal, state, or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

~~(e)~~(5) That the applicant has had a license to conduct peddling or soliciting revoked within the past five (5) years;

~~(f)~~(6) That a permit has been granted to another individual or entity for solicitation within the public right-of-way at the same street corner or intersection for the date described in the application.

Sec. 26-6. Written notice of suspension, revocation.

Written notice of suspension or revocation, of a license issued pursuant to this chapter stating the cause therefor, shall be delivered to the licensee personally or by certified or registered mail return receipt requested to the address as shown on the application for license.

Sec. 26-7. Right to hearing following denial, suspension, revocation.

Any person whose license issued pursuant to this chapter is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the council, provided a written request therefor is filed with the city clerk within ten (10) days following the personal delivery or the date of mailing of the notice of revocation or suspension or within ten (10) days following the denial of the application for a license.

Sec. 26-8. False application.

It shall be a violation of this chapter for any person knowingly to file or to cause to be filed an application containing one or more false statements.

Sec. 26-9. Permit/license contents; transfer.

(1a) Permits and licenses issued under this chapter shall bear the name and address of the person by whom the solicitation is made, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the city of the purpose of the solicitation or of the person or group conducting the solicitation. All permits and licenses shall be signed by the city clerk.

(2b) Any permit or license approved and issued under this chapter shall be nontransferable. Solicitors and peddlers shall be required to obtain and carry permits irrespective of whether employed by another permittee.

Sec. 26-10. Hours of peddling/solicitation; additional requirements.

(1a) No peddling or solicitation may be conducted after 9:00 p.m. or dusk (whichever is earlier) or before 9:00 a.m., prevailing time.

(2b) No person under the age of fourteen (14) shall solicit after 7:00 p.m., prevailing time, unless accompanied by an adult. No minor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection.

(3) ~~No peddler or solicitor shall enter into property which has posted a "No solicitation" sign, or its equivalent. No peddler or solicitor shall enter into property which has posted a "No solicitationSolicitation," "No Trespassing," "No Peddlers or Agents," "No Advertisements," sign, or its equivalent, of at least sixteen (16) square inches in a conspicuous and prominent location.~~

(4d) No peddling of goods or services shall be permitted within a public right-of-way, including any street corner or intersection, or on other public property.

(5e) No peddler or solicitor shall obstruct the free flow of vehicular or pedestrian traffic on any street, lane, sidewalk, or driveway.

(6f) No peddler or solicitor shall engage in such activity in any public right-of-way or on any street, sidewalk, or other public place after being ordered to leave or desist by a police officer or public official or employee authorized to issue civil infraction violation notices.

(7g) No peddler or solicitor shall threaten or harass any resident of the city in the course of their activities or in any way engage in any conduct that would tend to threaten the health and safety of another or cause a nuisance, including, but not limited to, shouting, crying out, blowing horns, or ringing bells or similar devices designed to attract the attention of the public so as to be audible within an enclosed structure.

(8h) No solicitor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner, or intersection, unless he or she is wearing a reflective safety vest or other apparel identifying the individual as a solicitor or representative of the individual or entity on whose behalf the solicitor is acting.

(i) No peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises

Sec. 26-11. Distribution of commercial handbills.

(a) It shall be unlawful for any person to deposit, place, throw, scatter, or cast any commercial handbill in or upon any public place within the City.

(b) It shall be unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial handbill upon any premises if requested by anyone thereon not to do so or if there is placed on the premises in a conspicuous position (near the entrance and, where feasible, visible from the public right-of-way), a legible and conspicuous notice of at least sixteen (16) square inches in area bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements," "No Handbills," or any similar notice, indicating in any manner that the occupants of the premises do not desire to have their privacy disturbed or to have any such handbills left upon such premises.

(c) It shall be unlawful for any person to distribute any handbill in or upon any property unless the handbill is properly placed, secured, or deposited such that it will not be blown or drifted about the property or elsewhere, eliminating the hazards of randomly scattered litter. No handbill

shall be secured in such a manner that will prevent a door or gate from properly closing, latching, or locking.

(d) No commercial handbills may be distributed after 9:00 p.m. or dusk (whichever is earlier) or before 9:00 a.m., prevailing time. No person under the age of fourteen (14) shall distribute commercial handbills after 7:00 p.m., prevailing time, unless accompanied by an adult.

(e) The provisions of this Section shall not apply to:

(1) Distribution of a handbill to any person who is willing to accept the same;

(2) Distribution of a handbill for which consideration has been paid by the person receiving such handbill; or

(3) Distribution of a handbill made by a duly-authorized public official or employee of or contractor acting with the authority of a governmental agency.

(f) There shall be a rebuttable presumption that any person whose message is displayed on the handbill, or who benefits from the message displayed on the handbill is the party responsible for the distribution.

Part III. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Part IV. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

Part V. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Part V. Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2011.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

1579886v7

**“OPTION B” – SOME CHANGES, INCLUDING ADDED DEFINITIONS,
SUBDIVISION-WIDE SIGNS, MINOR REGULATORY CHANGES, AND A
PURPOSE AND INTENT CLAUSE**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF NOVI, CHAPTER 26, “PEDDLERS,
SOLICITORS AND TRANSIENT MERCHANTS,” IN ORDER
TO CHANGE THE TITLE OF THE CHAPTER TO INCLUDE
COMMERCIAL HANDBILLS, TO INCLUDE STANDARDS
FOR THE DISTRIBUTION OF COMMERCIAL HANDBILLS,
AND TO ALLOW POSTING OF “NO SOLICITATION” SIGNS
AT THE ENTRANCE OF A SUBDIVISION OR SIMILAR
AREA.**

THE CITY OF NOVI HEREBY ORDAINS

Part I. That the title of City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to “Peddlers, Solicitors, Commercial Handbills.”

Part II. That the City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to read as follows, in its entirety:

Sec. 26-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial Handbill means any printed or written matter, and any sample or device, dodger, circular, leaflet, booklet, pamphlet, sheet, or other kind of printed matter or literature of any kind that (1) advertises for sale any merchandise, product, commodity or thing; (2) directs attention to any business or mercantile or commercial establishment or other activity for the purpose of promoting the interests thereof by sales; or (3) is predominantly and essentially an advertisement. A newspaper or a sign is not a commercial handbill.

Non-commercial solicitation means the request of money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, will be used for a charitable,

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religious, patriotic, civic, educational, or philanthropic purpose. The said words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription, or other thing, whether of value or not, on the plea or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose.

Parent organization means: (1) the person or organization that a peddler is employed by or represents in the course of peddling, the principal manufacturer and distributor of goods being peddled, or the principal provider of services being peddled; or (2) a charitable, religious or political organization that a solicitor is employed by or represents in the course of soliciting in the City, or such an organization that registers and sends multiple solicitors for purposes of canvassing areas of the City on its behalf.

Peddle and Peddling mean: (1) carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale; (2) making sales and delivering articles to purchasers; (3) who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

Peddler means any person traveling by foot, wagon, automotive vehicle, or other conveyance, from place to place, from house to house, or from street to street (1) carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale; (2) making sales and delivering articles to purchasers; (3) who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Peddler shall not include a person who conducts such activities at a social gathering within a home at the invitation of the occupant of the home. The word "peddler" shall be synonymous with the phrase "transient merchant."

Solicitor means any person who, traveling by foot, wagon, automotive vehicle or other conveyance from place to place, from house to house, or from street to street, engages in the act of soliciting on behalf of a charitable, religious or political organization, or who, on foot, engages in street and curb soliciting on behalf of a charitable, religious or political organization.

Sec. 26-2. Permit/license required for peddling and soliciting.

(a) No person shall solicit or peddle for any cause whatsoever, except as otherwise provided in this chapter, within the City of Novi without having secured a permit or license from the city clerk authorizing such solicitation or peddling. The permit or license issued hereunder shall be carried by the peddler or solicitor at all times when peddling or soliciting, and shall be exhibited upon request to any person solicited or to whom any goods or materials described in this provision

are peddled and to any police officer or public official authorized to issue civil infraction citations. A minor soliciting or peddling under a group minor permit or license shall display in plain view a copy of such permit or license.

(b) Notwithstanding the provisions of subsection 26-2(a), no permit or license shall be required for minors when engaged in solicitation or peddling for civic, charitable, philanthropic, religious, educational, or athletic purposes, or when the minor is either accompanied by an adult or there is compliance with the provisions relating to group minor permits and licenses contained within subsections 26-2(c)—(e).

(c) An adult may obtain a minor group solicitation permit or a minor group peddling license in accordance with this subsection. Minors covered by such group permits or licenses may solicit or peddle without being accompanied by an adult, provided there is compliance with the provisions of subsections 26-2(c)—(e).

(d) In addition to the information required in sections 26-3 and 26-4, an applicant for a minor group permit or license shall provide the following information:

- (1) For each minor who is to solicit or peddle:
 - a. Name.
 - b. Address.
 - c. The name, address and telephone number of a parent or guardian that may be contacted in the case of an emergency regarding the minor.
 - d. Evidence that any work permit required pursuant to MCL 409.104; MSA 17.731(4), has been obtained.

(2) A telephone number(s) or pager number(s) of the applicant which enable contact to be made with the applicant at all times when solicitation or peddling by a minor or minors is taking place.

The information pertaining to the minors soliciting or peddling shall be updated as additional minors are employed to solicit or peddle. No minor shall solicit or peddle under a minor group permit or license until such information pertaining to the minor has been provided to the City of Novi Police Department.

(e) An applicant granted a minor group permit or license shall be responsible for the conduct of those minors covered by the permit or license. A minor group permit or license shall be revoked by the chief of police, or his designee, upon violation by the grantee, or any covered minor, of any provision of this chapter or of Chapter 22 of the Novi Code of Ordinances. Such revocation shall be effective upon verbal notification by means of the telephone and/or pager numbers provided pursuant to subpart 26-2(d)(2), or by written notification addressed to the grantee's address as provided with grantee's application. The grantee, upon request, shall be provided a hearing before the chief of police, or his designee, for the consideration of reinstatement of the permit or license. Such hearing shall be during the business hours of 9:00 a.m. to 5:00 p.m., and, if requested by the grantee, shall be within twenty-four (24) hours of the revocation. A license or permit shall be

restored upon demonstration by the grantee that measures have been taken to prevent further code violations.

Sec. 26-3. Non-commercial solicitation permit; application.

(4a) Applications for permits for non-commercial solicitation shall be filed with the city clerk upon forms to be furnished by the city. Such applications for permit to solicit shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the permit is desired to commence. The application shall contain the following information:

(a1) Name, address, telephone number, and headquarters of the person applying for the permit.

(b2) If the applicant ~~is not an individual, the names and addresses of the applicant and the principal officers and managers.~~ is soliciting on behalf of a parent organization, (i) the complete formal name of the parent organization, its business street address, website address (if any) and telephone number; (ii) the names of the parent organization's officers and directors; (iii) the name, home street address and drivers license number of the person who will be in direct charge of conducting the soliciting activities in the City; and (iv) the names, home street addresses and drivers license numbers of each individual solicitor who will participate in the soliciting on behalf of the parent organization in the City.

(e3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.

(e4) The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations. The names and addresses of the person, or persons, who will participate in the solicitations.

(e5) An outline of the method, or methods, to be used in conducting the solicitations.

(f6) If the applicant intends to conduct solicitations while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection, the specific location(s) of such solicitation.

(g7) The time when solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.

(h8) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.

(2b) A permit for non-commercial solicitation shall be issued upon receipt of the completed application, and receipt of a permit application fee in an amount set by resolution of the

city council. A permit for solicitation within the city limits shall remain valid for a period of ninety (90) days; provided, however, that a permit allowing solicitation while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, shall be valid for a period of ten (10) consecutive days only, for each applicant. No applicant shall receive more than two (2) such permits for solicitation in any one (1) calendar year. No permit for solicitation within a public right-of-way shall authorize such solicitation at more than four (4) separate street corner or intersection locations within the City on the same day.

Sec. 26-4. Peddling license; application.

(1a) An application for a peddling license shall be filed with the city clerk upon forms to be furnished by the city clerk. Such applications for a peddling license shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the license is desired to commence. The application shall contain the following information:

(a1) Name and description of applicant, and permanent home address and full local address of the applicant;

(b2) ~~Permanent home address and full local address of the applicant; If the applicant is applying on behalf of a parent organization, (i) the complete formal name of the parent organization, its business street address, website address (if any) and telephone number; (ii) the names of the parent organization's officers and directors; (iii) the name, home street address and drivers license number of the person who will be in direct charge of conducting the peddling activities in the City; and (iv) the names, home street addresses and drivers license numbers of each individual peddler who will participate in the peddling on behalf of the parent organization in the City.~~

(e3) A photocopy of the person's drivers' license or State of Michigan identification card. The actual license or identification card shall be produced at the time of submittal of the application. The city clerk shall have the Novi Police Department verify that the identification is bona fide;

(d4) A brief description of the nature of the business and the goods to be sold;

(e5) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(f6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;

(g7) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.

(2b) A peddling license application shall be accompanied by an application fee in an amount set by resolution of the city council.

~~(3)~~c) Peddling licenses shall remain valid for a period of ninety (90) days.

Sec. 26-5. Investigation of application; grant or denial.

~~(1)~~a) The city clerk shall examine all applications filed under this chapter and shall make or cause to be made such further investigation of the application or applicant as the clerk shall deem necessary. If the clerk finds the application to be satisfactory, the clerk shall approve the permit and issue it upon payment of any applicable fee. The clerk shall not issue more than one permit to conduct solicitations while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, for the same specific location(s) on the same date(s). If the clerk receives more than one application for a permit to conduct solicitations in the same location(s) on the same date(s), the clerk shall give priority to the first application received, unless before the permit is issued an application for a permit in the same location(s) and on the same date(s) is filed by an applicant affiliated with or representing a national, statewide, or area-wide organization conducting a coordinated solicitation campaign on the same date(s).

~~(2)~~b) The clerk shall not issue a license if he or she finds:

~~(b)~~1) That the applicant failed to truthfully provide the information required in this chapter;

~~(2)~~ That the applicant has engaged in a fraudulent transaction or enterprise;

~~(e)~~3) That the applicant has a bad business reputation or a reputation for dishonesty;

~~(d)~~4) That the applicant has been convicted within the past five (5) years of a violation of federal, state, or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

~~(e)~~5) That the applicant has had a license to conduct peddling or soliciting revoked within the past five (5) years;

~~(f)~~6) That a permit has been granted to another individual or entity for solicitation within the public right-of-way at the same street corner or intersection for the date described in the application.

Sec. 26-6. Written notice of suspension, revocation.

Written notice of suspension or revocation, of a license issued pursuant to this chapter stating the cause therefor, shall be delivered to the licensee personally or by certified or registered mail return receipt requested to the address as shown on the application for license.

Sec. 26-7. Right to hearing following denial, suspension, revocation.

Any person whose license issued pursuant to this chapter is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the council, provided a written request therefor is filed with the city clerk within ten (10) days following the personal delivery or the date of mailing of the notice of revocation or suspension or within ten (10) days following the denial of the application for a license.

Sec. 26-8. False application.

It shall be a violation of this chapter for any person knowingly to file or to cause to be filed an application containing one or more false statements.

Sec. 26-9. Permit/license contents; transfer.

(1a) Permits and licenses issued under this chapter shall bear the name and address of the person by whom the solicitation is made, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the city of the purpose of the solicitation or of the person or group conducting the solicitation. All permits and licenses shall be signed by the city clerk.

(2b) Any permit or license approved and issued under this chapter shall be nontransferable. Solicitors and peddlers shall be required to obtain and carry permits irrespective of whether employed by another permittee.

Sec. 26-10. Hours of peddling/solicitation; additional requirements.

(1a) No peddling or solicitation may be conducted after 98:00 p.m. or dusk (whichever is earlier) or before 910:00 a.m., prevailing time.

(2b) No person under the age of fourteen (14) shall solicit after 7:00 p.m., prevailing time, unless accompanied by an adult. No minor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection.

(3c) ~~No soliciting or peddling on posted properties. No peddler or solicitor shall enter into property which has posted a "No solicitation" sign, or its equivalent.~~

(1) No peddler or solicitor shall enter into or upon any property that has posted a "no peddling," "no solicitation," "no soliciting," or "no trespassing" sign, or similar notice, indicating in any manner that the occupants of the premises do not desire to have their privacy disturbed in accordance with subsection (3), below;

(2) No peddler or solicitor shall engage in peddling or soliciting in any residential subdivision, condominium or other neighborhood that has posted a "no peddling," "no solicitation," "no soliciting," or "no trespassing" sign, or similar notice at each entrance to the subdivision, condominium or other neighborhood, in accordance with subsection (3), below

(3) A sign posted under subsection (1), above, must be a weatherproof sign measuring a minimum of sixteen (16) square inches and a maximum of 36 square inches. The letters must be at least one-half inch in height, and the sign must be exhibited upon or near a main entrance door to the main structure, building or residence on the property. A sign posted under subsection (2), above, must be a weatherproof sign measuring a minimum of two (2) square feet and a maximum of four (4) square feet. The letters on the sign must be at least two-inches in height, and the sign must be exhibited in a location visible to the drivers of vehicles at each entrance to the subdivision, condominium, or other neighborhood. There shall be a presumption that, if the sign is posted at the entrance to the subdivision, condominium, or other neighborhood as set forth herein, authority exists for such posting.

(4d) No peddling of goods or services shall be permitted within a public right-of-way, including any street corner or intersection, or on other public property.

(5e) No peddler or solicitor shall obstruct the free flow of vehicular or pedestrian traffic on any street, lane, sidewalk, or driveway.

(6f) No peddler or solicitor shall engage in such activity in any public right-of-way or on any street, sidewalk, or other public place after being ordered to leave or desist by a police officer or public official or employee authorized to issue civil infraction violation notices.

(7g) No peddler or solicitor shall threaten or harass any resident of the city in the course of their activities or in any way engage in any conduct that would tend to threaten the health and safety of another or cause a nuisance, including, but not limited to, shouting, crying out, blowing horns, or ringing bells or similar devices designed to attract the attention of the public so as to be audible within an enclosed structure.

(8h) No solicitor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner, or intersection, unless he or she is wearing a reflective safety vest or other apparel identifying the individual as a solicitor or representative of the individual or entity on whose behalf the solicitor is acting.

(i) No peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises

Sec. 26-11. Distribution of commercial handbills.

(a) It shall be unlawful for any person to deposit, place, throw, scatter, or cast any commercial handbill in or upon any public place within the City,

(b) It shall be unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial handbill upon any premises if requested by anyone thereon not to do so or if there is placed on the premises in a conspicuous position upon or near a main entrance door to the main structure, building or residence, a legible and conspicuous notice of a minimum sixteen (16) square inches and a maximum of 36 square inches in area bearing the words: "No Trespassing," "No

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Peddlers or Agents," "No Advertisements," "No Handbills," or any similar notice, indicating in any manner that the occupants of the premises do not desire to have their privacy disturbed or to have any such handbills left upon such premises.

(c) It shall be unlawful for any person to distribute any handbill in or upon any property unless the handbill is properly placed, secured, or deposited such that it will not be blown or drifted about the property or elsewhere, eliminating the hazards of randomly scattered litter. No handbill shall be secured in such a manner that will prevent a door or gate from properly closing, latching, or locking.

(d) No commercial handbills may be distributed after 8:00 p.m. or dusk (whichever is earlier) or before 10:00 a.m., prevailing time. No person under the age of fourteen (14) shall distribute commercial handbills after 7:00 p.m., prevailing time, unless accompanied by an adult.

(e) The provisions of this Section shall not apply to:

(1) Distribution of a handbill to any person who is willing to accept the same;

(2) Distribution of a handbill for which consideration has been paid by the person receiving such handbill; or

(3) Distribution of a handbill made by a duly-authorized public official or employee of or contractor acting with the authority of a governmental agency.

(f) There shall be a rebuttable presumption that any person whose message is displayed on the handbill, or who benefits from the message displayed on the handbill is the party responsible for the distribution.

Sec. 26-12. Purpose and Intent

The purpose of this chapter is to protect citizens and community members from unwanted harassment from peddlers and solicitors, and from peddlers and solicitors having criminal backgrounds who may pose a threat to persons or property, while also protecting the constitutional rights of peddlers and solicitors. It does so by establishing a system of licensing and registering for the different types of peddlers and solicitors defined herein, and to establish certain regulations concerning the conduct of peddling and soliciting in the City of Novi, in order to prevent fraud, crime, undue and unwanted annoyance and harassment and to protect the peace, privacy, safety, health and welfare of the residents, businesses and persons in the City, while also respecting the speech rights of those involved in these activities. Standards are also established for the distribution of commercial handbills in residential areas. These regulations are also designed to protect the privacy of citizens and community members and to prevent litter and blight in a manner that does not unnecessarily infringe upon speech rights.

Part III. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Part IV. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

Part V. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Part V. Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2011.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

1579886v8

**“OPTION C” – SOME CHANGES, INCLUDING ADDED DEFINITIONS,
SUBDIVISION-WIDE SIGNS, MINOR REGULATORY CHANGES, A
PURPOSE AND INTENT CLAUSE AND MORE STRINGENT PEDDLER
LICENSE REGULATIONS**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF NOVI, CHAPTER 26, “PEDDLERS,
SOLICITORS AND TRANSIENT MERCHANTS,” IN ORDER
TO CHANGE THE TITLE OF THE CHAPTER TO INCLUDE
COMMERCIAL HANDBILLS, TO INCLUDE STANDARDS
FOR THE DISTRIBUTION OF COMMERCIAL HANDBILLS,
AND TO ALLOW POSTING OF “NO SOLICITATION” SIGNS
AT THE ENTRANCE OF A SUBDIVISION OR SIMILAR
AREA.**

THE CITY OF NOVI HEREBY ORDAINS

Part I. That the title of City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to “Peddlers, Solicitors, Commercial Handbills.”

Part II. That the City of Novi Code of Ordinances, Chapter 26, “Peddlers, Solicitors, and Transient Merchants,” is hereby amended to read as follows, in its entirety:

Sec. 26-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial Handbill means any printed or written matter, and any sample or device, dodger, circular, leaflet, booklet, pamphlet, sheet, or other kind of printed matter or literature of any kind that (1) advertises for sale any merchandise, product, commodity or thing; (2) directs attention to any business or mercantile or commercial establishment or other activity for the purpose of promoting the interests thereof by sales; or (3) is predominantly and essentially an advertisement. A newspaper or a sign is not a commercial handbill.

Non-commercial solicitation means the request of money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property,

financial assistance, or other thing of value, or any part thereof, will be used for a charitable, religious, patriotic, civic, educational, or philanthropic purpose. The said words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription, or other thing, whether of value or not, on the pleas or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose.

Parent organization means: (1) the person or organization that a peddler is employed by or represents in the course of peddling, the principal manufacturer and distributor of goods being peddled, or the principal provider of services being peddled; or (2) a charitable, religious or political organization that a solicitor is employed by or represents in the course of soliciting in the City, or such an organization that registers and sends multiple solicitors for purposes of canvassing areas of the City on its behalf.

Peddle and Peddling mean: (1) carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale; (2) making sales and delivering articles to purchasers; (3) who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

Peddler means any person traveling by foot, wagon, automotive vehicle, or other conveyance, from place to place, from house to house, or from street to street (1) carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale; (2) making sales and delivering articles to purchasers; (3) who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Peddler shall not include a person who conducts such activities at a social gathering within a home at the invitation of the occupant of the home. The word "peddler" shall be synonymous with the phrase "transient merchant."

Solicitor means any person who, traveling by foot, wagon, automotive vehicle or other conveyance from place to place, from house to house, or from street to street, engages in the act of soliciting on behalf of a charitable, religious or political organization, or who, on foot, engages in street and curb soliciting on behalf of a charitable, religious or political organization.

Sec. 26-2. Permit/license required for peddling and soliciting.

(a) No person shall solicit or peddle for any cause whatsoever, except as otherwise provided in this chapter, within the City of Novi without having secured a permit or license from the city clerk authorizing such solicitation or peddling. The permit or license issued hereunder shall be carried by the peddler or solicitor at all times when peddling or soliciting, and shall be exhibited

upon request to any person solicited or to whom any goods or materials described in this provision are peddled and to any police officer or public official authorized to issue civil infraction citations. A minor soliciting or peddling under a group minor permit or license shall display in plain view a copy of such permit or license.

(b) Notwithstanding the provisions of subsection 26-2(a), no permit or license shall be required for minors when engaged in solicitation or peddling for civic, charitable, philanthropic, religious, educational, or athletic purposes, or when the minor is either accompanied by an adult or there is compliance with the provisions relating to group minor permits and licenses contained within subsections 26-2(c)—(e).

(c) An adult may obtain a minor group solicitation permit or a minor group peddling license in accordance with this subsection. Minors covered by such group permits or licenses may solicit or peddle without being accompanied by an adult, provided there is compliance with the provisions of subsections 26-2(c)—(e).

(d) In addition to the information required in sections 26-3 and 26-4, an applicant for a minor group permit or license shall provide the following information:

- (1) For each minor who is to solicit or peddle:
 - a. Name.
 - b. Address.
 - c. The name, address and telephone number of a parent or guardian that may be contacted in the case of an emergency regarding the minor.
 - d. Evidence that any work permit required pursuant to MCL 409.104; MSA 17.731(4), has been obtained.

(2) A telephone number(s) or pager number(s) of the applicant which enable contact to be made with the applicant at all times when solicitation or peddling by a minor or minors is taking place.

The information pertaining to the minors soliciting or peddling shall be updated as additional minors are employed to solicit or peddle. No minor shall solicit or peddle under a minor group permit or license until such information pertaining to the minor has been provided to the City of Novi Police Department.

(e) An applicant granted a minor group permit or license shall be responsible for the conduct of those minors covered by the permit or license. A minor group permit or license shall be revoked by the chief of police, or his designee, upon violation by the grantee, or any covered minor, of any provision of this chapter or of Chapter 22 of the Novi Code of Ordinances. Such revocation shall be effective upon verbal notification by means of the telephone and/or pager numbers provided pursuant to subpart 26-2(d)(2), or by written notification addressed to the grantee's address as provided with grantee's application. The grantee, upon request, shall be provided a hearing before the chief of police, or his designee, for the consideration of reinstatement of the permit or license. Such hearing shall be during the business hours of 9:00 a.m. to 5:00 p.m., and, if requested by the

grantee, shall be within twenty-four (24) hours of the revocation. A license or permit shall be restored upon demonstration by the grantee that measures have been taken to prevent further code violations.

Sec. 26-3. Non-commercial solicitation permit; application.

(1a) Applications for permits for non-commercial solicitation shall be filed with the city clerk upon forms to be furnished by the city. Such applications for permit to solicit shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the permit is desired to commence. The application shall contain the following information:

(a1) Name, address, telephone number, and headquarters of the person applying for the permit.

(b2) If the applicant ~~is not an individual, the names and addresses of the applicant and the principal officers and managers~~ is soliciting on behalf of a parent organization, (i) the complete formal name of the parent organization, its business street address, website address (if any) and telephone number; (ii) the names of the parent organization's officers and directors; (iii) the name, home street address and drivers license number of the person who will be in direct charge of conducting the soliciting activities in the City; and (iv) the names, home street addresses and drivers license numbers of each individual solicitor who will participate in the soliciting on behalf of the parent organization in the City.

(e3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.

(e4) The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations. The names and addresses of the person, or persons, who will participate in the solicitations.

(e5) An outline of the method, or methods, to be used in conducting the solicitations.

(f6) If the applicant intends to conduct solicitations while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection, the specific location(s) of such solicitation.

(g7) The time when solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.

(h8) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.

(2b) A permit for non-commercial solicitation shall be issued upon receipt of the completed application, and receipt of a permit application fee in an amount set by resolution of the city council. A permit for solicitation within the city limits shall remain valid for a period of ninety (90) days; provided, however, that a permit allowing solicitation while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, shall be valid for a period of ten (10) consecutive days only, for each applicant. No applicant shall receive more than two (2) such permits for solicitation in any one (1) calendar year. No permit for solicitation within a public right-of-way shall authorize such solicitation at more than four (4) separate street corner or intersection locations within the City on the same day.

Sec. 26-4. Peddling license; application.

~~(1) An application for a peddling license shall be filed with the city clerk upon forms to be furnished by the city clerk. Such applications for a peddling license shall be sworn to and filed with the city clerk not less than fourteen (14) days, nor more than sixty (60) days, prior to the time when the license is desired to commence. The application shall contain the following information:~~

~~(a) Name and description of applicant;~~

~~(b) Permanent home address and full local address of the applicant;~~

~~(c) A photocopy of the person's drivers' license or State of Michigan identification card. The actual license or identification card shall be produced at the time of submittal of the application. The city clerk shall have the Novi Police Department verify that the identification is bona fide;~~

~~(d) A brief description of the nature of the business and the goods to be sold;~~

~~(e) If employed, the name and address of the employer, together with credentials establishing the exact relationship;~~

~~(f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;~~

~~(g) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor.~~

~~(2) A peddling license application shall be accompanied by an application fee in an amount set by resolution of the city council.~~

~~(3) Peddling licenses shall remain valid for a period of ninety (90) days.~~

(a) No person shall be a peddler or engage in peddling in the City without first obtaining a peddler license from the city clerk.

(b) In order to obtain a peddler license required by this chapter, a peddler shall apply for said license upon forms prescribed and furnished by the city clerk. The application shall include all of the following information:

(1) The name of the applicant who proposes to peddle within the City, including his or her business street address, website address (if any) and telephone number, and the applicant's home address and telephone number, driver's license number and physical description including height, weight, and color of hair and eyes.

(2) The complete name, street address, website address (if any) and telephone number of the parent organization and where and when the parent organization was established or incorporated and the form of its organization.

(3) A detailed description of the type of peddling to be undertaken and the method to be used in conducting the peddling.

(4) The dates and times when and locations where peddling will occur, giving the proposed dates for the beginning and ending of such peddling and the hours of the days thereof.

(5) The types of goods, wares, merchandise and services to be sold or for which the peddling will be made.

(6) Whether the applicant or parent organization has ever been denied a license for peddling, had a license for peddling suspended or revoked, or been prohibited from peddling in the City of Novi or in any other community.

(7) Whether the applicant or any officer, partner, member or director of the parent organization has been convicted of a felony or any misdemeanor involving moral turpitude, and if so, a brief description of the crime, including its location and date, and an explanation of the reason therefore.

(8) Two (2) color photographs of the applicant, one being a photograph taken within sixty (60) days prior to the date of filing of the application and the other photograph being from the applicant's driver's license, a copy of such driver's license to be attached to the applicant's application. The photograph that is not from the applicant's driver's license shall be at least two inches by two inches (2" x 2") and shall show the head and shoulders of the applicant in a clear and distinguishing manner. In the event that the applicant has not been issued a driver's license or it has been revoked, then the applicant shall submit a second separate photograph with the application, such photograph being at least two inches by two inches (2" x 2") and shall show the head and shoulders of the applicant in a clear and distinguishing manner.

(9) The social security number or federal employer identification number of the applicant and the parent organization.

(10) The applicant's (or parent organization's) state of Michigan sales tax license number, or, if exempt, the basis upon which the exemption is established.

(11) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report and the report must be dated within 30 days of the date of the application.

(12) The administrative processing and license fee for the application as determined pursuant to subsection (c), below.

(13) Any other documentation or information deemed necessary by the city clerk or police chief.

(c) Peddling licenses shall remain valid for a period of ninety (90) days.

Sec. 26-5. Investigation of application; grant or denial.

~~(+a)~~ The city clerk shall examine all applications filed under this chapter and shall make or cause to be made such further investigation of the application or applicant as the clerk shall deem necessary. If the clerk finds the application to be satisfactory, the clerk shall approve the permit and issue it upon payment of any applicable fee. The clerk shall not issue more than one permit to conduct solicitations while remaining in a fixed or limited area within a public right-of-way within the city, including a street corner or intersection, for the same specific location(s) on the same date(s). If the clerk receives more than one application for a permit to conduct solicitations in the same location(s) on the same date(s), the clerk shall give priority to the first application received, unless before the permit is issued an application for a permit in the same location(s) and on the same date(s) is filed by an applicant affiliated with or representing a national, statewide, or area-wide organization conducting a coordinated solicitation campaign on the same date(s).

~~(2)(b)~~ The clerk shall not issue a license if he or she finds:

~~(b)(1)~~ That the applicant failed to truthfully provide the information required in this chapter;

~~(2)~~ That the applicant has engaged in a fraudulent transaction or enterprise;

~~(e)(3)~~ That the applicant has a bad business reputation or a reputation for dishonesty;

~~(d)(4)~~ That the applicant has been convicted within the past five (5) years of a violation of federal, state, or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

~~(e)~~(5) That the applicant has had a license to conduct peddling or soliciting revoked within the past five (5) years;

~~(f)~~(6) That a permit has been granted to another individual or entity for solicitation within the public right-of-way at the same street corner or intersection for the date described in the application.

Sec. 26-6. Written notice of suspension, revocation.

Written notice of suspension or revocation, of a license issued pursuant to this chapter stating the cause therefor, shall be delivered to the licensee personally or by certified or registered mail return receipt requested to the address as shown on the application for license.

Sec. 26-7. Right to hearing following denial, suspension, revocation.

Any person whose license issued pursuant to this chapter is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the council, provided a written request therefor is filed with the city clerk within ten (10) days following the personal delivery or the date of mailing of the notice of revocation or suspension or within ten (10) days following the denial of the application for a license.

Sec. 26-8. False application.

It shall be a violation of this chapter for any person knowingly to file or to cause to be filed an application containing one or more false statements.

Sec. 26-9. Permit/license contents; transfer.

(1a) Permits and licenses issued under this chapter shall bear the name and address of the person by whom the solicitation is made, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the city of the purpose of the solicitation or of the person or group conducting the solicitation. All permits and licenses shall be signed by the city clerk.

(2b) Any permit or license approved and issued under this chapter shall be nontransferable. Solicitors and peddlers shall be required to obtain and carry permits irrespective of whether employed by another permittee.

Sec. 26-10. Hours of peddling/solicitation; additional requirements.

(1a) No peddling or solicitation may be conducted after 98:00 p.m. or dusk (whichever is earlier) or before 910:00 a.m., prevailing time.

(2b) No person under the age of fourteen (14) shall solicit after 7:00 p.m., prevailing time, unless accompanied by an adult. No minor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner or intersection.

~~(3c) No soliciting or peddling on posted properties. No peddler or solicitor shall enter into property which has posted a "No solicitation" sign, or its equivalent.~~

(1) No peddler or solicitor shall enter into or upon any property that has posted a "no peddling," "no solicitation," "no soliciting," or "no trespassing" sign, or similar notice, indicating in any manner that the occupants of the premises do not desire to have their privacy disturbed in accordance with subsection (3), below;

(2) No peddler or solicitor shall engage in peddling or soliciting in any residential subdivision, condominium or other neighborhood that has posted a "no peddling," "no solicitation," "no soliciting," or "no trespassing" sign, or similar notice at each entrance to the subdivision, condominium or other neighborhood, in accordance with subsection (3), below

(3) A sign posted under subsection (1), above, must be a weatherproof sign measuring a minimum of sixteen (16) square inches and a maximum of 36 square inches. The letters must be at least one-half inch in height, and the sign must be exhibited upon or near a main entrance door to the main structure, building or residence on the property. A sign posted under subsection (2), above, must be a weatherproof sign measuring a minimum of two (2) square feet and a maximum of four (4) square feet. The letters on the sign must be at least two-inches in height, and the sign must be exhibited in a location visible to the drivers of vehicles at each entrance to the subdivision, condominium, or other neighborhood. There shall be a presumption that, if the sign is posted at the entrance to the subdivision, condominium, or other neighborhood as set forth herein, authority exists for such posting.

(4d) No peddling of goods or services shall be permitted within a public right-of-way, including any street corner or intersection, or on other public property.

(5e) No peddler or solicitor shall obstruct the free flow of vehicular or pedestrian traffic on any street, lane, sidewalk, or driveway.

(6f) No peddler or solicitor shall engage in such activity in any public right-of-way or on any street, sidewalk, or other public place after being ordered to leave or desist by a police officer or public official or employee authorized to issue civil infraction violation notices.

(7g) No peddler or solicitor shall threaten or harass any resident of the city in the course of their activities or in any way engage in any conduct that would tend to threaten the health and safety of another or cause a nuisance, including, but not limited to, shouting, crying out, blowing horns, or ringing bells or similar devices designed to attract the attention of the public so as to be audible within an enclosed structure.

(8h) No solicitor shall engage in solicitation while remaining in a fixed or limited area within a public right-of-way, including a street corner, or intersection, unless he or she is wearing a reflective safety vest or other apparel identifying the individual as a solicitor or representative of the individual or entity on whose behalf the solicitor is acting.

(i) No peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises

Sec. 26-11. Distribution of commercial handbills.

(a) It shall be unlawful for any person to deposit, place, throw, scatter, or cast any commercial handbill in or upon any public place within the City.

(b) It shall be unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial handbill upon any premises if requested by anyone thereon not to do so or if there is placed on the premises in a conspicuous position upon or near a main entrance door to the main structure, building or residence, a legible and conspicuous notice of a minimum sixteen (16) square inches and a maximum of 36 square inches in area bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements," "No Handbills," or any similar notice, indicating in any manner that the occupants of the premises do not desire to have their privacy disturbed or to have any such handbills left upon such premises.

(c) It shall be unlawful for any person to distribute any handbill in or upon any property unless the handbill is properly placed, secured, or deposited such that it will not be blown or drifted about the property or elsewhere, eliminating the hazards of randomly scattered litter. No handbill shall be secured in such a manner that will prevent a door or gate from properly closing, latching, or locking.

(d) No commercial handbills may be distributed after 8:00 p.m. or dusk (whichever is earlier) or before 10:00 a.m., prevailing time. No person under the age of fourteen (14) shall distribute commercial handbills after 7:00 p.m., prevailing time, unless accompanied by an adult.

(e) The provisions of this Section shall not apply to:

(1) Distribution of a handbill to any person who is willing to accept the same;

(2) Distribution of a handbill for which consideration has been paid by the person receiving such handbill; or

(3) Distribution of a handbill made by a duly-authorized public official or employee of or contractor acting with the authority of a governmental agency.

(f) There shall be a rebuttable presumption that any person whose message is displayed on the handbill, or who benefits from the message displayed on the handbill is the party responsible for the distribution.

Sec. 26-12. Purpose and Intent

The purpose of this chapter is to protect citizens and community members from unwanted harassment from peddlers and solicitors, and from peddlers and solicitors having criminal backgrounds who may pose a threat to persons or property, while also protecting the constitutional

rights of peddlers and solicitors. It does so by establishing a system of licensing and registering for the different types of peddlers and solicitors defined herein, and to establish certain regulations concerning the conduct of peddling and soliciting in the City of Novi, in order to prevent fraud, crime, undue and unwanted annoyance and harassment and to protect the peace, privacy, safety, health and welfare of the residents, businesses and persons in the City, while also respecting the speech rights of those involved in these activities. Standards are also established for the distribution of commercial handbills in residential areas. These regulations are also designed to protect the privacy of citizens and community members and to prevent litter and blight in a manner that does not unnecessarily infringe upon speech rights.

Part III. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Part IV. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

Part V. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Part V. Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2011.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

1579886v9