

CHAPTER 122
PEDDLERS, SOLICITORS AND TRANSIENT
MERCHANTS

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122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

122.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Peddler” means any person carrying goods, merchandise or offering services who sells or offers for sale such goods, merchandise, or services from house to house or upon the public streets including any person who takes orders house to house for goods, merchandise or services for later delivery.
2. “Peddling” means the selling or offering for sale services, goods or merchandise which are carried by a person from house to house or upon the public streets including the taking of orders house to house for goods, merchandise, or services for later delivery.
3. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
4. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed in person with the City Clerk for a license required under this chapter. The applicant shall provide the following information:

1. Applicant's name, email address, if any, and local phone number or cell phone number;
2. Permanent and local address, business address, business email address and phone number, if any;
3. Physical description and a government-issued photo identification card;
4. Applicant's employer, if any, and the employer's address, email address and phone number;
5. The nature of the applicant's business;
6. The last three places of such business;
7. The length of time sought to be covered by the license;
8. Applicant's Federal identification number and the Federal identification number for any business applicant is peddling under as an agent, employee or otherwise;
9. An Iowa sales tax permit number or a letter from the Iowa Department of Revenue confirming a sales tax permit is not required;
10. A Department of Criminal Investigation criminal history report/record for applicant from the state of applicant's residence for the previous five (5) years to include pending charges; such report or record must be dated no more than 30 days prior to the application;
11. Whether applicant has been listed on any sex offender registry within the last five (5) years;
12. Whether applicant has had a peddler's, solicitor's, or transient merchant's license suspended, revoked or denied by this or any other city in the last five (5) years and the reasons therefor;
13. The dates of any previous peddlers' licenses issued by the City Clerk.

122.05 ISSUANCE OF LICENSE; FEES. The City Clerk, upon review of the license application with the police department and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than three (3) business days from the date of the application shall be in effect to provide sufficient time for the City Clerk's fact gathering process to be completed in a reasonable period. In making his/her decision, the Clerk shall consider the following factors:

1. The information in the application is found to be correct;
2. All information required has been provided and the application is complete;
3. The required bond is paid;
4. Applicant does not have a transient merchant, solicitor, or peddler license under suspension or revocation under this chapter.

Upon the City Clerk deciding the factors have been satisfied by the applicant, a license shall be issued upon payment of the bond and the non-refundable fee in advance as set in the schedule of fees adopted by the City Council by resolution annually.

122.06 BOND REQUIRED.

1. Transient Merchant. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

2. Peddlers. No peddler's license shall be issued until the applicant has delivered to the City Clerk a cash bond for no less than \$200.00 per license or \$1,000.00 for an employer employing a group of five (5) or more license applicants.

A. The bond shall be held to indemnify and pay the City any penalties or costs incurred in the enforcement of any of the sections of this chapter and indemnify or reimburse any purchaser of services, goods, wares, merchandise or stock for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such services, goods, wares, merchandise or stock, whether the misrepresentations were made by the owner or by his or her servants, agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such stock of goods, wares, merchandise, services or any part thereof.

B. The balance of the bond shall be released by the City Clerk and returned to the applicant or employer upon request by the applicant or employer at any time more than four months after expiration of the peddler's license(s) for which the cash bond was provided, unless the City Clerk has received notice of appending action in the State or Federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any such action.

122.07 REPEALED; RESERVED FOR LATER USE.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 SUSPENSION, REVOCATION OR DENIAL OF LICENSE. Any license issued pursuant to this chapter shall be either summarily suspended or revoked by the City Clerk for violation of this chapter, conducting business in an otherwise unlawful manner, misrepresentation of facts in the application, failing to meet the factors set forth in this chapter

including Section 122.05, and/or conducting business in such a manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. A summary suspension, revocation or denial shall be promptly communicated to the applicant or the applicant's representative by phone at the phone number provided in the application. Written notice shall also be mailed by U.S. mail to the applicant at the business address identified in the application informing the applicant of the suspension, revocation or denial, the reasons therefor, and the applicant's right to appeal to a hearing before the City Council. The only issue on the appeal to the Council shall be whether the suspension, revocation or denial is supported by a preponderance of the evidence.

122.13 HEARING; APPEAL. Upon receipt of the applicant's suspension, revocation or denial of license, the applicant or applicant's representative may request in writing a hearing before the Council within 30 days of receiving notice of the suspension, revocation or denial. The Council shall convene a hearing at its next regularly scheduled meeting following receipt of applicant's request for a hearing.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law at the hearing and shall carry out the decision of the Council.

122.15 REPEALED; RESERVED FOR LATER USE.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Persons making door-to-door sales for the purpose of a community improvement of benefit approved by the City Council on behalf of non-profit, tax-exempt corporations.
2. Club Members. Members of local civic and service clubs, including, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Students. Students representing the Adel-DeSoto-Minburn School District conducting projects sponsored by organizations recognized by the school.
4. Route Sales. Route delivery persons who deliver and sell goods, services, or merchandise to established customers and who only incidentally solicit additional business.
5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the

organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in this chapter.

122.19 PROHIBITED ACTS. No solicitor or peddler shall conduct any soliciting or peddling in the following manner:

1. With any person situated in a motor vehicle upon any public street, alley, driveway access, or public way;
2. Upon any part of the public right of way along a parade route on the day of any permitted parade;
3. Within one thousand (1,000) feet of the perimeter of a street closure, or inside such perimeter, for an event where a street use permit/special event permit has been issued unless written permission is obtained for the permit holder;
4. Conduct soliciting or peddling between the hours of 7:00 p.m. and 8:00 a.m.;
5. Conduct business or attempt to conduct business upon any property on which has a posted notice prohibiting soliciting or peddling;
6. Harass, intimidate, coerce or threaten any individual to induce a sale;
7. Falsely or fraudulently misrepresent the quality, character or quantity of any article, item or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs.

(Ch. 122 – Ord. 294 – Sep. 13 Supp.)