

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 or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “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.
3. “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 that 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 AND BOND REQUIRED.

1. 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.
2. No 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 or more license applicants.
 - A. Use of Bond. 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 to indemnify or reimburse any purchaser for damages recovered pursuant to a judgment of the court as a result of misrepresentation related to

the goods or services sold by a licensee, provided that the action by the purchaser must be commenced within three months from the date of purchase.

B. Release of Bond. 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 license for which the cash bond was provided. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any action in State or federal court seeking a judgment upon a claim eligible for payment from the bond.

122.04 APPLICATION FOR LICENSE.

1. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall be accompanied by a \$15.00 application fee and set forth the following information:

A. Applicant's name, e-mail address (if any), permanent and local addresses, and local phone number or cell phone number;

B. Business address, business e-mail address (if any), and business phone number (if any);

C. The nature of the applicant's business;

D. The last three places of such business;

E. The length of time sought to be covered by the license;

F. Applicant's Federal Identification Number and the Federal Identification Number of any business for which applicant claims to be peddling as an agent, employee, or otherwise;

G. An Iowa sales tax permit number or a letter from the Iowa Department of Revenue confirming a sales tax permit is not required;

H. A Department of Criminal Investigation criminal history report/record for applicant from the State of applicant's residence for the previous five years, including pending charges, dated no more than 30 days prior to the date of the application;

I. A criminal background check from the State of Iowa for applicant and any additional individuals listed on application, dated no more than one year prior to the date of the application;

J. Whether applicant has been listed on any sex offender registry within the last five years;

K. Whether applicant has had a peddlers license suspended, revoked, or denied by this or any other city in the last five years and the reasons therefore;

L. The dates of any previous peddlers licenses issued by the City Clerk; and

M. A list of any vehicles used in the business and the license plate number of any such vehicles.

2. Upon receipt of the application and accompanying criminal background check, the City Clerk shall conduct an investigation under the following procedures prior to issuing a license:

A. The City Clerk shall refer the application and criminal background check provided by the applicant to the Police Chief, who shall make an investigation of the character and reputation of the persons who will conduct business within the City, to the extent he believes necessary for the protection of the public welfare, except that prior misconduct cannot serve as a basis for denial of a license.

B. The Police Chief shall endorse the application with his approval or disapproval and forward such endorsed application to the City Clerk.

C. If the application has been approved by the Police Chief, the City Clerk may issue a license to the applicant upon the payment of all license and application fees, bonds, and compliance with all other conditions provided in this Code.

D. If the application has not been approved by the Police Chief, the City Clerk shall not issue a license unless and until the causes for such disapproval are eliminated.

E. When causes for disapproval are eliminated, the applicant may resubmit to the Clerk and the Clerk shall forward the amended application to the Police Chief for investigation in the same manner as submission of the initial application set forth herein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. For each person actually soliciting (principal or agent), a fee of \$100.00 per year.
2. Peddlers or Transient Merchants.
 - A. For one day.....\$ 50.00
 - B. For one week.....\$ 100.00
 - C. For up to six months.....\$ 200.00
 - D. For one year or any major part thereof.....\$ 300.00

122.06 BOND REQUIRED. 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*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

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 request, leave a copy of the license with each prospective customer with whom the peddler speaks while peddling 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. Any

misrepresentation in the displaying of licenses issued under this chapter shall subject the licensee to revocation in addition to any claim in State or federal court by an injured purchaser.

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 10:00 a.m. and 8:00 p.m.

122.11 REVOCATION OF LICENSE. The Clerk or the Police Chief or Police Chief's designee may summarily suspend or revoke any license issued under this chapter by issuance of personal service of the Notice of Revocation on the licensee or on an officer or employee of the licensee or, if personal service cannot be effected, by mailing the notice by certified mail, return receipt requested, to the licensee's last known mailing address for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter, including conduct prohibited by Section 122.20, or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health, or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The license shall stand revoked unless, within five days after receipt of the Notice of Revocation from the Clerk, the licensee files a written request for a public hearing on the revocation.

122.12 NOTICE. The Notice of Revocation sent to or served upon the licensee shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and advise that the time for requesting a hearing will expire within five days of the date of service or certified mail receipt of the notice. The license shall be suspended until such time as a hearing is held by the request of the licensee.

122.13 HEARING. If timely requested in accordance with Section 122.11, the Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, request a hearing and fail to appear without good cause, the Clerk may proceed to hold the decision to revoke the license as final and no appeal by the licensee will be heard in accordance with Section 122.15.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

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 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

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

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the North Polk School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. City sponsored and/or community events held on City property.
8. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 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 Section 122.15 of this chapter.

122.20 PROHIBITED ACTS.

1. No peddler shall conduct peddling with any person situated in a motor vehicle upon any public street, alley, driveway access, or public way.

2. No peddler shall conduct peddling upon any part of the public right-of-way along a parade route on the day of any permitted parade.
3. No peddler shall conduct peddling within 1,000 feet of the perimeter of a street closure, or inside such perimeter, for an event where a street use permit has been issued unless written permission from the street use permit holder has been obtained.
4. No peddler shall conduct peddling between the hours of 8:00 p.m. and 10:00 a.m.
5. No peddler shall do business or attempt to do business upon any property on which a notice is posted prohibiting peddling or soliciting.
6. No peddler shall harass, intimidate, coerce, annoy, disrespect, alarm, or threaten any individual to induce a sale.
7. No peddler shall 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.
8. No peddler shall conduct business in such a manner as to endanger the public health, welfare, or safety.

122.21 FIREWORKS LICENSE. Notwithstanding anything contained in this chapter, the sale of First-Class Consumer Fireworks and Second-Class Consumer Fireworks as defined by Section 727.2 of the *Code of Iowa* shall not be subject to this chapter.

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