

CHAPTER 2

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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5-2-1: **PURPOSE:** The purpose of this Chapter is to protect the residents of the City against fraud, unfair competition and intrusion into the privacy of residents' homes by licensing and regulating peddlers, solicitors and transient merchants. (1992 Code)

5-2-2: **DEFINITIONS:** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto:

PEDDLER: Any person who travels within the City or has a temporary location in the City for the conduct of his or her business and who has no permanent place of business in the City, but offers or exposes for sale goods, wares or merchandise, or who makes sales and delivers articles to purchasers.

SOLICITOR: Any person who travels within the City, or has a temporary location for the conduct of his or her business, who solicits or takes or attempts to take orders for sale or purchase of goods, wares or merchandise, including magazines, books, periodicals, real or personal property of any nature whatsoever for future delivery or for services to be performed or for the donation of money or financial assistance, whether or not such individual has, carries or exposes for sale a sample of the subject or such order or whether or not he is collecting advance payment on such orders. Such definition includes, but is not limited to, any person who, for himself, or for another person, firm or

corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the City for the primary purpose of exhibiting samples and taking orders for future delivery.

TRANSIENT MERCHANT:

Includes any person, firm or corporation, whether as owner, agent or consignee, who engages in a temporary business of selling and delivering goods, wares, property, services and merchandise within said City, and who, in furtherance of said purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel, motel, or lodging house room, apartment, shop, street, alley, or other place within the City, for the exhibition or sale of such goods, wares, services and merchandise, either privately or at public auction.

The person, firm or corporation so engaged is not relieved from complying with the provisions of this Chapter by reason of associating temporarily with any local dealer, traders, merchant or auctioneer; provided, however, that if all sales made by such person, firm or corporation of goods, wares, merchandise or services shall be reported for sales tax collection purposes as made by such local dealer, trader, merchant or auctioneer, and all monies derived from such sales shall be collected by such local dealer, trader, merchant or auctioneer, then such transient merchant shall be exempt from the provisions of this Chapter. Only one such transient business shall be allowed to associate temporarily with any local dealer, trader, merchant or auctioneer as a part of or in the name of any local dealer, trader, merchant or auctioneer at any one time. A resident of the City conducting a yard sale shall not be considered to be a transient merchant until he or she has conducted such sale for a total of four (4) days within one calendar year. After conduct of such sales for four (4) days in any one calendar year, the person conducting said sale shall be considered to be a transient merchant. (1992 Code)

5-2-3: LICENSE REQUIRED; FOOD AND HEALTH REGULATIONS:

A. It is unlawful for any peddler, solicitor, or transient merchant to engage in any such businesses within the City without first obtaining a license therefor in compliance with the provisions of this Chapter; provided, however, that the City Council, by resolution, may either:

1. Exempt from licensing peddlers, solicitors, or transient merchants selling at locations approved in said resolution during an event declared to be of City-wide interest upon the

condition that the sponsor of such exempted event shall file with the City Clerk prior to such event a list of the names, social security numbers, and addresses of any participating peddler, solicitor, or transient merchant, along with a copy of a current sales tax license; or,

2. Limit the area or areas for which a peddler, solicitor, or transient merchant license may be issued as provided in Section 5-5-15 of this Title. (1992 Code; amd. Ord. 434, 7-18-95, eff. 1-1-96)

- B. All peddlers, solicitors or transient merchants shall comply with all applicable State food and health rules and regulations. (1992 Code)

5-2-4: **APPLICATION OF PROVISIONS:** The terms of this Chapter do not apply to persons engaged wholly in selling personal property at wholesale to dealers in such articles, nor to the acts of merchants having a permanent place of business in the City or their employees in delivering goods in the regular course of business, nor shall it include the following professions or businesses: newsboys, any public utility and its employees franchised to do business within the City, auto salesmen, and any dissemination of information without solicitation of money or other consideration. Nothing contained in this Chapter prohibits any sales required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law. (1992 Code)

5-2-5: **APPLICATION FOR LICENSE, CONTENTS, FEE:** Applicants for a license under this Chapter shall file with the Police Department a sworn application in writing on a form to be furnished by the Police Department, a copy of which is found at the end of this Section, which shall give the following information. At the time of filing said application, fingerprints will be taken:

- A. Name, proof of identity, photograph and social security number of applicant.
- B. Complete permanent business, home and local address of the applicant, and in the case of the transient merchants, the local address from which proposed sales will be made.
- C. A brief description of the nature of the business and the goods to be sold by such applicant.
- D. If employed, the name and address of the employer, together with credentials there from establishing the exact relationship.
- E. The length of time for which the right to do business is desired.
- F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- G. At the time of filing the application, a nonrefundable fee of twenty five dollars (\$25.00) shall be paid to the Police Department to cover the cost of investigation of the facts stated therein. There shall be no application fee for renewals within one year of the initial licensing period.

5-2-6: **INVESTIGATION OF APPLICANT:**

- A. Upon receipt of such application, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this Section within seventy two (72) hours, excluding weekends and holidays, after it has been filed.
- B. If, as a result of such investigation, the applicant's business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and shall notify the applicant that his application is disapproved and that no license shall be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police, or his designated officer, shall endorse on the application their approval, and shall deliver the application to the City Clerk for issuance of the license. Such license shall show the name and address of said licensee, the kinds of goods to be sold thereunder, and contain the following wording: "The City of Pella, Iowa, does not endorse the products of licensee", the amount of fee paid, the date of issuance and the length of time the same shall be valid. Each peddler, solicitor, or transient merchant shall secure a personal license. The City Clerk shall keep a permanent record of all licenses issued hereunder. (1992 Code)

5-2-7: **LICENSE FEE:** Every applicant for a license under the provisions of this Chapter shall pay the following fee upon the issuance of the license:

- A. For a one-day license, a fee of five dollars (\$5.00).
- B. For a one week license, Monday through Saturday, a fee of fifteen dollars (\$15.00).
- C. For a thirty (30) day license, a fee of thirty dollars (\$30.00). (1992 Code)

5-2-8: **APPLICANT TO FILE SALES TAX RETURNS:** Every applicant for a license hereunder shall file all required sales tax returns. (1992 Code)

5-2-9: **LICENSE EXPIRATION:** All licenses issued hereunder shall expire at five o'clock (5:00) P.M. of the last day for which the license is issued, except when the license expires on Thursday, at which time, the license shall expire at nine o'clock (9:00) P.M. (1992 Code)

5-2-10: **SOLICITATION; APPROVAL BY CHIEF OF POLICE:**

- A. Any person or organization desiring to solicit donations of money or property, including solicitation by selling literature or merchandise from door to door or in any public place within the City, for charitable purposes, shall apply for approval to the Chief of Police who shall within seventy two (72) hours after being contacted by the said person or organization either approve or disapprove of the solicitation. If the Chief of Police disapproves of the solicitation, he shall state in writing the reason for his disapproval and he shall notify the person or organization of his disapproval and no solicitation shall be allowed. Any nonlocal, nonprofit, charitable organization desiring to solicit donations within the City for charitable purposes shall comply with the licensing procedures set forth in this Chapter; however payment of a license fee shall not be required.

- B. If the Chief of Police approves of the solicitation, he shall within seventy two (72) hours after being contacted by said person or organization, state in writing his approval and shall so notify the said person or organization that they may so solicit.
- C. The term "charitable purposes" shall mean any organization, campaign or project which:
 - 1. Has as its primary purpose the furtherance of science, education, philanthropy, religion, the arts or any political campaign; and
 - 2. Which is not conducted for personal gain; and
 - 3. No portion of the net proceeds of solicitation will inure to the benefit of any individual or shareholder.

Any organization to which contributions are deductible for Federal income tax purposes shall conclusively be deemed to be within this definition. (1992 Code)

5-2-11: **OBSTRUCTION OF TRAFFIC PROHIBITED:** It shall be unlawful for any licensee to conduct his business at any location, private or public, in such a manner as to hinder or obstruct the free passage of pedestrian or vehicular traffic. (1992 Code)

5-2-12: **EXHIBITING LICENSE:** All licensees shall be required to exhibit their license at the time of initial introduction to any person in this City for the purpose of negotiating any transaction covered by this Chapter. Further, it shall be the duty of the police of the City to require any person peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, and the person of whom the request is made, to produce his license and to enforce the provisions of this Chapter against any person found to be violating the same. (1992 Code)

5-2-13: **REVOCAION OR SUSPENSION OF LICENSE:**

- A. Licenses issued under the provisions of this Chapter may be revoked or suspended by the Chief of Police, after notice and hearing, and for any of the following causes:
 - 1. Fraud, misrepresentation, or incorrect statement contained in the application for license, or made in the course of carrying on any business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
 - 2. Any violation of this Chapter.
 - 3. Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given by the Chief of Police in writing, setting forth specifically the grounds or complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1992 Code)

5-2-14: **APPEALS:** Any person aggrieved by the action of the Chief of Police or the Chief of Police in the denial of a license may appeal to the City Council. Such appeal shall be taken by filing with the

Chief of Police, within fourteen (14) days after the notice of the action complained of, a written statement setting forth fully the grounds for such appeal. The Chief of Police shall forthwith transmit such notice of appeal to the City Clerk, who shall set a time and place for hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided hereinabove for notice of hearing on revocation. (1992 Code)

5-2-15: **PENALTY:** Any person violating the provisions of this Chapter shall be deemed guilty of a simple misdemeanor and subject to penalty in accordance with Iowa law. (1992 Code)