

REQUIRED DOCUMENTATION

1. Bond (State of Iowa) – Transient Merchant
2. Sales Tax Permit (State of Iowa) – All
3. Photo Identification - All
4. Site Plan with parking – Transient Merchant
5. Lease agreement with the property owner or a note of permission from the landlord if you are a tenant at the property. – Transient Merchant
6. Approval from Siouxland District Health if selling food/beverages (see below) – Transient Merchant
7. Hours of Operation – Transient Merchant
8. Application needs to be approved by City Council (meet 2nd Wednesday Monthly) / Special Council Meetings - \$250

SIOUXLAND DISTRICT HEALTH DEPARTMENT

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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 merchandising business and in the course of such business hires, leases or occupies any land outside of a permanent building or structure, 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.
4. "Farmer's market" means the sale of products, the majority of which have been produced in the State, including but not limited to, raw fresh vegetables, fruit, honey, herbs, flowers, plants, nuts, baked goods or handcrafted items which conform to all applicable City, County or

State health and safety provisions, particularly State Department of Agriculture regulations, and which are offered for sale by any person, persons, business, or organization on a portion of, or entirely on a public street, sidewalk, alley, park or public place during set hours, no more than two days per week within a one-year period.

5. "Event" means a planned public or noteworthy social occasion or activity.

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.

1. Peddlers and Solicitors. An application in writing shall be filed with the City Administrator for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license.

2. Transient Merchants. In addition to the above requirements, a transient merchant shall obtain a building permit, if applicable; file a site plan outlining required parking needed for the business, and file a request for the desired hours of operation. A copy of a sales tax permit, a copy of any food licenses (in the case of a merchant handling prepared food or beverages), and a copy of the agreement with the landowner outlining the lease arrangements shall accompany the application. Only one transient merchant shall be allowed for every seventy-five (75) feet of street frontage. Transient merchants shall not be allowed on City-owned property.

3. Festivals, Special Events, and Farmer's Markets. In the case of a festival, special event, and farmer's market the sponsoring organization may apply for a blanket permit addressing all of the above-listed requirements for transient merchants. Festivals, special events, and farmer's markets may, with the approval of the City Council, be held on designated City property (Lake Street, Park Avenue, and City parks).

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

1. One week (seven consecutive days).....\$ 50.00
2. Six (6) months\$ 250.00
3. Festivals & special functions on City property\$1,000.00 per day
4. Farmer's market.....\$1,000.00 per season

122.06 APPLICATION FEE. A non-refundable application fee of \$25 shall accompany each application. The application fee shall be received prior to City Council review of the application.

122.07 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, each applicant shall provide to the City Administrator evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.08 LICENSE ISSUED. If the City Administrator 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 in the case of a peddler or solicitor. In the case of a transient merchant, the license shall be issued through the City Administrator only after approval of the Council.

122.09 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.

122.10 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.

122.11 TIME RESTRICTION. Licenses for all peddlers and solicitors shall be in force and effect only between the hours of eight o'clock a.m. and six o'clock (6:00) p.m., Monday through Saturday. Transient merchants shall submit a schedule of hours to the City Administrator at the time of application, to be approved by the Council.

122.12 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. Students. Students representing the Okoboji Community School District conducting projects sponsored by organizations recognized by the school.
4. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.13 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 City Administrator 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 City Administrator finds that the organization is a bona fide charity or nonprofit organization the City Administrator shall issue, free of charge, a license containing the above information to the applicant. In the event the City Administrator 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.

122.14 LIGHTS AND NOISEMAKERS. No peddler, solicitor, or transient merchant, or anyone acting on the merchant's behalf, shall shout, make any outcry, blow a horn, or use any other sound making device, including loud speakers or amplifiers, or use bright or flashing lights for the purpose of attracting attention to any goods, wares or merchandise that the merchant offers for sale.

122.15 REVOCATION OF LICENSE. After notice and hearing, the City Administrator may revoke any license issued under this chapter 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 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.

122.16 NOTICE. The City Administrator shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.17 HEARING. The City Administrator 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, fail to appear without good cause, the City Administrator may proceed to a determination of the complaint.

122.18 RECORD AND DETERMINATION. The City Administrator 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 City Administrator finds clear and convincing evidence of substantial violation of this chapter or State law.

122.19 APPEAL. If the City Administrator revokes or refuses to issue a license, the City Administrator shall make a part of the record the reasons therefor. 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 City Administrator by a majority vote of the Council members present and the City Administrator shall carry out the decision of the Council.

122.20 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.

122.21 VIOLATIONS. Any violation of this chapter shall be considered a municipal infraction in addition to the provisions of revocation of license provided herein.

(Chapter 122 – Ord. 2023-01 – Feb. 23 Supp.)

9C.4 Bond required — applicability — forfeiture.

1. At the time and as part of filing the application, the applicant shall file with the secretary of state a bond, with sureties to be approved by the secretary of state, in a penal sum two times the value of the goods, wares or merchandise to be sold or offered for sale or the average inventory to be carried by such transient merchant engaged in or conducting an intermittent or temporary business as the case may be as shown by the application, running to the state of Iowa, for the use and benefit of any purchaser of any merchandise from such transient merchant who might have a cause of action of any nature arising from or out of such sale against the applicant or the owner of such merchandise if other than the applicant. The bond shall be conditioned on the payment by the applicant of all taxes that may be payable by, or due from, the applicant to the state of Iowa or any subdivision thereof, and shall be further conditioned for the payment of any fines that may be assessed by any court against the applicant for violation of the provision of this chapter, as well as for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale thereof, and arising from such sale. However, the aggregate liability of the surety for all such taxes, fines, and causes of action shall in no event exceed the principal sum of such bond.

2. In such bond the applicant and surety shall appoint the secretary of state, the agent of the applicant and surety for the service of process. In the event of such service, the agent upon whom such service is made shall within five days after the date of service, mail by ordinary mail a true copy of the process served upon the agent to each party for whom the agent is served, addressed to the last known address of such party. Failure to mail the copy shall not, however, affect the jurisdiction of the court.

3. Such bond shall contain the consent of the applicant and surety that the district court of the county in which the plaintiff may reside or Polk county, Iowa, shall have jurisdiction of all actions against the applicant or surety, or both, arising out of the sale. The state of Iowa, or any subdivision thereof, or any person having a cause of action against the applicant or surety arising out of said sale may join the applicant and surety on such bond in the same action, or may in such action sue either the applicant or the surety alone.

4. The requirements of this section also apply to transient merchants who are licensed in accordance with an ordinance of a city in the state of Iowa.

5. Notwithstanding subsections 1 through 4, the bond provided for in this section shall be forfeited to the state of Iowa upon the applicant's failure to pay the total of all taxes payable by or due from the applicant to the state which taxes are administered by the department of revenue. The department shall adopt administrative rules for the collection of the forfeiture. Notice shall be provided to the surety and to the applicant. Notice to the applicant shall be mailed to the applicant's last known address. The applicant or the surety shall have the opportunity to apply to the director of revenue for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the director finds that the applicant has failed to pay the total of all taxes payable and the bond is forfeited, the director shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section, "taxes payable" means all tax, penalties, interest, and fees that the department has previously determined to be due by assessment or in an appeal of an assessment.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §81A.4]

87 Acts, ch 60, §1

C93, §9C.4

2003 Acts, ch 145, §286; 2017 Acts, ch 29, §8

Section amended