

## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Definitions	122.09 Permit Fees
122.02 Exemptions	122.10 Display
122.03 Application	122.11 Transfer
122.04 Requirements	122.12 Revocation and Suspension
122.05 Hours of Solicitation	122.13 Hearing
122.06 Consumer Protection Law	122.14 Record and Determination
122.07 Bonds Required	122.15 Appeals to the City Council
122.08 Obstruction of Pedestrian or Vehicular Traffic	122.16 Penalty

**122.01 DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. A “peddler” is any person carrying or transporting 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. A “solicitor” is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date or who solicits or attempts to solicit money or property of any nature or description. For the purposes of this chapter, “solicitor” does not include a person who contacts another person at such person’s residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.
3. A “transient merchant” includes every merchant, whether an individual person, a firm, corporation, partnership or association, who brings or causes to be brought within the City any goods, wares or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader or auctioneer, does not exempt any such person, firm or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, or to persons running a huckster wagon, or selling or

distributing livestock feeds, fresh meats, fish, fruit or vegetables, or to persons selling their own work or production either by themselves or their employees.

**122.02 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 Scouts, Girl Scouts, 4-H Clubs, Future Farmers of America and similar organizations and youth groups.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own produce on private property.
4. Students. Students representing area schools 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. City sponsored and/or community events held on City property.

*(Ord. 3-2010 – May 10 Supp.)*

**122.03 APPLICATION.** Before any person engages in any of the practices defined herein, such person must comply with all applicable ordinances, and must also submit an application for a permit from the City Clerk in accordance with the provisions of Sections 122.04 and 122.05. A fee of fifty dollars (\$50.00) shall be paid at the time of application to cover the cost of investigation and issuance.

*(Ord. 2-2018 – Jun. 18 Supp.)*

**122.04 REQUIREMENTS.** Any applicant engaged in any activity described in 122.01 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses, email, company website and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.

4. A description of the type of goods or services to be offered for sale.
5. Name, address and email of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
6. The number of the Iowa retailers State tax permit and proof of authorization to do business in the State of Iowa.
7. Length of time for which the permit is desired.
8. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
9. Motor vehicle make, model, year, color and registration number, if a vehicle is to be used in the proposed solicitation.

*(Ord. 2-2018 – Jun. 18 Supp.)*

**122.05 HOURS OF SOLICITATION.** Solicitors and transient merchants may conduct those activities described in Section 122.01 between the hours of nine o'clock (9:00) a.m. and six o'clock (6:00) p.m. on each day.

*(Ord. 2-2018 – Jun. 18 Supp.)*

**122.06 CONSUMER PROTECTION LAW.** All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service, and comply with the other requirements of the law.

**122.07 BONDS REQUIRED.**

1. Transient Merchants. Before a permit 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. Surety Bond. Before a permit under this chapter is issued, each person subject to this chapter shall post with the City Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$100,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (a) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (b) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

*(Ord. 2-2018 – Jun. 18 Supp.)*

**122.08 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC.** No person, while engaged in any of the practices described in Section 122.01, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

**122.09 PERMIT FEES.** The permit fees shall be determined as follows and must be paid to the City Clerk prior to the issuance of any permit. Solicitors (for each person actually soliciting – principal or agent), peddlers or transient merchants.

- |    |                           |           |
|----|---------------------------|-----------|
| 1. | For one month             | \$ 100.00 |
| 2. | For each month thereafter | \$ 75.00  |

*(Ord. 2-2018 – Jun. 18 Supp.)*

**122.10 DISPLAY.** Any person subject to this chapter shall keep the permit or a duplicate permit in their possession or at their place of business and shall comply with any request to see the permit.

**122.11 TRANSFER.** Permits provided herein are not transferable and apply only to those persons appropriately designated thereon in accordance with the application.

**122.12 REVOCATION AND SUSPENSION.** The permit holder has the duty to satisfy all grounds for which the permit has been issued under this chapter at all times. Upon notice of grounds asserted for revocation and time and place of hearing and after hearing, opportunity to present evidence and be represented by counsel, the City Council may revoke a permit upon a showing by a preponderance of the evidence upon the record as a whole, that the permit holder in the application for the permit or in the course of conducting their business made false or incorrect statements, or has violated this chapter, or has otherwise conducted such business in an unlawful manner. The City Council may suspend a permit if it finds, upon evidence brought to its attention, at any time, that grounds for revocation are likely to exist and that the delay in providing a full revocation hearing before formal revocation will present a substantial risk to the public welfare. Suspension is effective upon actual or constructive notice to the permit holder. The Council shall forthwith send notice of a revocation hearing to the permit holder at the permit holder's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a permit. Such notice shall contain particulars of the

complaints against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Council shall conduct a hearing at which both the permit holder and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the permit holder or authorized representative fail to appear without good cause, the Council may proceed to a determination of the complaint.

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

**122.15 APPEALS TO THE CITY COUNCIL.** Any denial of a permit may be appealed to the City Council. Appeals shall be made in writing to the City Council within five (5) days after denial of issuance of a permit, by filing of such writing with the City Clerk. Such writing shall state specifically all grounds upon which the appeal is based, including all facts replied upon by the person appealing. 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 PENALTY.** Anyone person or entity who violates the provisions of this chapter shall, upon lack of proof of permit, be subject to a Municipal Infraction fine not exceeding seven hundred and fifty dollars (\$750.00) for the first offense. Each sale or solicitation of a sale made without a license or bond in violation of this chapter shall constitute a separate offense.

*(Ord. 2-2018 – Jun. 18 Supp.)*

[The next page is 701]