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Ankeny, IA, Iowa Code of Ordinances

CHAPTER 132

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

132.01 Purpose	132.12 Revocation of License
132.02 Definitions	132.13 Notice
132.03 License Required	132.14 Hearing
132.04 Application for License	132.15 Record and Determination
132.05 License Fees	132.16 Appeal
132.06 Bond Required	132.17 Effect of Revocation
132.07 License Issued	132.18 License Exemptions
132.08 License Denied	132.19 Charitable and Nonprofit Organizations
132.09 Display of License	132.20 Street Vendors
132.10 License Not Transferable	132.21 Fireworks License
132.11 Time Restriction	

132.01 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.

132.02 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. The definition of "solicitor" also includes any person engaged in the business of bill posting.
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 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.

132.03 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.

132.04 APPLICATION FOR LICENSE.

1. Application. Application for a license pursuant to this chapter shall be in writing on forms furnished by the City Clerk. The application shall contain the following information:

A. The full 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, a list of any vehicles used in the business and license plate number of any such vehicle and the length of time sought to be covered by the license. The applicant shall submit a copy of current photo ID or photo driver's license, to be retained by the City Clerk.

B. Any person who applies for, or seeks a peddler, solicitor or transient merchant license must first obtain, at their own expense, his or her current DCI criminal history report, dated within one year of license application, through the state Department of Public Safety; and, if such person is engaging in soliciting by operating out of a vehicle shall provide a certified copy of his or her current driving record. If a new applicant resided outside of Iowa anytime during the five years before applying, the person must also obtain, at their own expense, a copy of his or her current criminal history report and certified copy of driving record from each state of residence during the prior five years. Any person whose license has been suspended or revoked, or has expired for more than 30 days, will be required to obtain a current criminal history report and certified driving record in the same manner as a new applicant.

C. A list of all convictions (convicted of, pled guilty to or stipulated to the facts of a criminal offense) for criminal offenses, other than traffic offenses, during the ten years immediately preceding the date of application. A list of all convictions for traffic violations for which the applicant's license was suspended, revoked or barred during the five years immediately preceding the date of application.

D. A statement that the contents of the completed application are true.

E. The date the application is filed.

F. Further information as the City Clerk may require.

G. \$20 non-refundable application fee.

At the time an application is filed, the applicant shall pay to the City Clerk the application fees in the amount set forth.

2. Qualifications of Applicant. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

A. Good driving record, for the purpose of engaging in soliciting by operating out of a vehicle, means all of the following:

(1) The applicant has not, within the preceding five years, been convicted of any moving traffic violation which resulted in automatic suspension or revocation of an operators or chauffeurs license under I.C. Ch. 321, 321A or 321J.

(2) The applicant's operators or chauffeurs license has not been suspended or revoked for any single moving traffic violation or combination of moving traffic violations within the preceding five years.

(3) The applicant has not, within the preceding one year, been convicted of three or more moving traffic violations.

(4) The applicant has not, within the preceding one year, been involved in more than one traffic accident in which applicant was at fault.

B. Person of good moral character means any person who:

(1) Has such good reputation as will satisfy the licensing authority that he or she will comply with this chapter and all other laws, ordinances and regulations applicable to the performance of his or her duties.

(2) Has not been convicted of, pled guilty to or stipulated to the facts of an offense involving moral turpitude within the preceding ten years.

(3) Has not been convicted of, pled guilty to or stipulated to the facts of an offense which is a simple misdemeanor, other than those listed in paragraph B.4., below, within the preceding five years.

(4) Has not been convicted of, pled guilty to or stipulated to the facts of an offense involving theft, assault, drugs, public exposure, harassment or fraud within the preceding ten years, whether the offense is a misdemeanor or a felony.

(5) Has not been convicted of, pled guilty to or stipulated to the facts of an offense which is a felony other than a forcible felony within the preceding ten years.

(6) Has not been convicted of, pled guilty to or stipulated to the facts of any forcible felony, including any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree or burglary in the first degree, or any sexual motivated crime.

C. Each applicant for a peddler, solicitor or transient merchant license must meet the requirements of this subsection before a license may be issued. The applicant shall:

(1) Have a good driving record.

(2) Be a person of good moral character.

(3) Be at least 18 years of age.

(4) Not currently on probation or parole.

3. Prior to issuance of a license, a background investigation of the applicant shall be conducted by the Police Department.

(Ord. 1797 – Apr. 14 Supp.)

132.05 LICENSE FEES.

The following license fees shall be paid to the City Clerk prior to the issuance of any license for solicitors (for each person actually soliciting – principal or agent), peddler or transient merchants.

1. For one day \$ 20.00

2. For one week \$ 30.00

3. For one month \$ 50.00
4. For one month to six months \$ 100.00

(Ord. 1797 – Apr. 14 Supp.)

132.06 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*.

132.07 LICENSE ISSUED.

If the City 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.

132.08 LICENSE DENIED.

The license shall be denied if the Clerk finds any of the following:

1. Applicant does not meet the requirements pursuant to Section 132.04 (2).
2. Applicant falsified information on the application.
3. Applicant has been denied a license or has had a license revoked under this chapter within the last year, unless the applicant can show that the reasons for denial or revocation no longer exist.

(Ord. 1797 – Apr. 14 Supp.)

132.09 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.

132.10 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.

132.11 TIME RESTRICTION.

All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday, excluding national holidays.

132.12 REVOCATION OF LICENSE.

After notice and hearing, the City Clerk or the Police Department 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.

132.13 NOTICE.

The City Clerk 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.

132.14 HEARING.

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

132.15 RECORD AND DETERMINATION.

The City 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 City Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

132.16 APPEAL.

If the City Clerk revokes or refuses to issue a license, the City Clerk 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 Clerk by a majority vote of the Council members present and the City Clerk shall carry out the decision of the Council.

132.17 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.

132.18 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 produce on private property.

4. Students. Students representing the Ankeny 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.

132.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 132.02 and 132.05. All such organizations are required to submit in writing to the City Clerk the name and purpose of the cause for which such activities are sought, the name of each representative of the organization, names and addresses of the officers and directors of the organization, a list of any vehicles used and the license plate number of any such vehicles, 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 Clerk finds that the organization is a bona fide charity or nonprofit organization the City Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the City Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 132.16 of this chapter.

(Ord. 1812 – July 14 Supp.)

132.20 STREET VENDORS. 9

No person shall sell or offer for sale upon the public right-of-way any goods or merchandise for immediate delivery unless such vendor complies with the conditions set forth in this section.

1. Hours of Sales. All sales made by such vendors must be made only between 9:00 a.m. and one hour before sundown, and may only be made from a vehicle which is parked in a driveway or other off-street parking area.
2. Oscillating Light Required on Vehicle. Any such vehicle must be equipped with a yellow or amber oscillating light, mounted to the top thereof, which light shall be in operation during all times that sales are being conducted.
3. Stopping for Delivery Prohibited; Sales on Streets or in Park Prohibited. No person operating such a vehicle may stop the same for the purpose of delivering goods or merchandise on the paved portion of the public right-of-way, and in no event shall sales be permitted on any collector or arterial street within the City or within any public park.
4. Peddler's License Required. No person shall sell or offer for sale goods and merchandise, under the provisions of this section, without first obtaining a peddler's license under the provisions of this chapter.
5. Applicability of Provisions. The requirements of this section shall not be deemed to apply to the delivery of goods or merchandise by route salesmen if such goods or merchandise are delivered to the dwelling of the customer.

132.21 FIREWORKS LICENSE.

Notwithstanding anything contained in this Chapter 132, the sale of First-class Consumer Fireworks and Second-class Consumer Fireworks as defined in Iowa Code Section 727.2 shall not be subject to this Chapter but shall be in accordance with Ankeny Municipal Code Sections 192.13.

(Ord. 1925 - Nov. 17 Supp.)

Notes

9 † **EDITOR'S NOTE:** See also Section 42.07

