

CHAPTER 122 SOLICITORS

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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 solicitors.

122.02 DEFINITIONS. As used in this chapter, the following terms are defined:

Solicitor: Any person who represents themselves, any business, organization, or group soliciting or attempting to solicit from residences, or upon the public right of way or street, monies, contributions or orders for goods, subscriptions, services or merchandise to be delivered immediately or at a future date.

122.03 LICENSE REQUIRED; FEES. Any person or organization engaging in solicitation in the City shall first obtain a license as provided in this chapter.

A. Application and License Fees:

- i. At the time of license application, the applicant shall pay \$25.00 to the city clerk for each person making application for a solicitor's license.
- ii. At the time of license issuance, each licensee shall pay \$25.00 to the city clerk for a 90-day solicitor's license.
- iii. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

122.04 EXEMPTIONS. The following exemptions are to be permitted:

A. Newspaper carriers.

B. Members of local boy scout, girl scout, campfire or 4-H clubs, Future Farmers of America and similar nonprofit organizations, if the sales are to benefit the parent organization in its recognized operation and programs.

C. Farmers who offer for sale products of their own raising.

D. Students representing local schools conducting projects sponsored by organizations recognized by the schools.

E. Persons who make regularly scheduled route deliveries in residential areas of goods or services, e.g., lawn services, cable television service, dairy product delivery service.

122.05 CHARITABLE AND NONPROFIT ORGANIZATIONS:

- A. Representatives of charitable organizations exempt from federal taxation and/or nonprofit organizations shall be subject to the requirements of this chapter except that they shall not be required to submit permit or application fees.
- B. If the clerk shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license free of charge.

122.06 PEDESTRIAN USE OF THE ROADWAY FOR THE PURPOSE OF SOLICITING CHARITABLE CONTRIBUTIONS, DONATIONS, OR BUSINESS

- A. No person shall stand in a street as defined in *Iowa Code* §321.1, including the roadway medians, curbs, traffic islands, shoulders, sidewalks or crosswalks for the purpose of soliciting contributions, donations, or business from any person, without first meeting the requirements specified in this Ordinance.
- B. Solicitation on public right of way or street shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right of way.

122.07 APPLICATION FOR LICENSE.

An application for a solicitor's license shall be filed with the city clerk. At the time of application, the applicant shall pay to the city clerk the non-refundable sum of twenty-five dollars (\$25.00) to cover administrative costs. The application shall contain the following information:

- A. Name, permanent and local address, and local phone number for solicitor;
- B. Date of birth and physical description for solicitor;
- C. Company name and address;
- D. Make, year, color and license plate information of any vehicle(s) to be used by the solicitor.
- E. Description of merchandise;
- F. Last three (3) places of business;
- G. Solicitor's supervisor or manager, phone number and his/her local address;
- H. A list of all convictions for criminal offenses (excluding traffic offenses) during the five (5) years prior to application, including any charges currently pending;
- I. An Iowa Division of Criminal Investigation criminal history report to be supplied by each solicitor which is dated no more than thirty (30) days prior to the application.

122.08 PHOTOGRAPHING OF APPLICANT:

Each solicitor is required to be photographed and a photo kept on file as well as placed on the solicitor's license.

122.09 ISSUANCE OF LICENSE:

The city clerk, upon review of said license application request with the assistance police department and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than three (3) working days from date of application shall be in effect to provide sufficient time for the city clerk's decision making process. In making his/her decision, the clerk shall consider the following factors:

- A. The information in the application is found to be correct.
- B. The applicant has not been convicted of a felony or any offense involving theft or fraud, or sexual abuse and/or a crime requiring sex offender registration or any crime involving force or violence, moral turpitude or any violation of any law relating to the act of soliciting.

122.10 DISPLAY OF LICENSE. Each seller shall at all times while doing business in the City display the license provided for in this chapter.

122.11 TIME RESTRICTION. All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.

122.12 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 or organization to whom issued.

122.13 UNLAWFUL ACTS:

- A. **Fraudulent Representation/Harassment:** No licensee shall falsely or fraudulently misrepresent themselves, the business they represent, the quality, character or quantity of any article, item or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce or threaten any individual to induce a sale.
- B. **Prohibited Soliciting:** No solicitor shall do business or attempt to do business upon any property on which is posted notice that peddling and/or soliciting is prohibited.
- C. **Soliciting Without A License:** It shall be unlawful to solicit without a valid license except as permitted in 122.04 of this ordinance.
- D. **Supervisor or Employer:** No person supervising or employing another to solicit shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this section. Each such unlawful act by each employee or supervised person may be charged as a separate offense. There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer or employee of the city clerk's office gives notice to the supervisor or employer of such unlawful acts and, subsequently, further unlawful acts are committed by the employee or person supervised.
- E. **Solicitation on public right of way or street** shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right of way.
- F. Each seller shall at all times while doing business in the City display the license provided for in this chapter.

- G. All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.

122.14 REBATES ON LICENSE. No rebate shall be made upon revocation or upon surrender of any license before the expiration of the period for which it was issued.

122.15 SUSPENSION OR REVOCATION OF LICENSE:

A. Grounds; Notice:

- i. The city clerk may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:
 1. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 2. The licensee has violated this chapter or any other chapter of this code, *Iowa Code*, or has otherwise conducted his/her business in an unlawful manner.
 3. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order or morals.
 4. The city clerk has received and investigated three (3) or more written complaints during the licensed period from residents of the city who are dissatisfied with the manner in which the licensee is conducting business.
- ii. The city clerk shall immediately serve notice to the licensee either in person or by regular mail to the licensee's local address of the license suspension, the specific reason(s) for such action, and date and time of hearing with the city clerk to review the particulars of the suspension.

B. Hearing: A hearing shall be conducted by the city clerk, with the assistance of the Chief of Police or his/her designee, not more than three (3) days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the city clerk may proceed to a conclusion.

C. Revocation: After the city clerk has reviewed the facts, he/she shall revoke a license if he/she finds that a violation of this chapter has occurred. The revocation shall be effective immediately.

D. Appeal: If the city clerk revokes or refuses to issue a license the 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 City 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.

Effect of Revocation or Denial: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of at least one (1) year from the date of the revocation or denial. If the reason for revocation involves repeated offenses or a criminal offense, the revocation period may become permanent.

122.16: PENALTY:

Commission of any act declared unlawful under section 122.13 of this chapter is a simple misdemeanor punishable as provided Iowa Code section 903.1.

122.17 EXPIRATION OF LICENSE. All licenses granted under this chapter shall expire at 7:00 p.m. on the last day for which the license was issued.

PAULA DIERENFELD, MAYOR

ATTEST:

CYNDEE RHAMES, CITY CLERK

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