

CHAPTER 46**PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

46.01 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 an order for goods, subscriptions or merchandise to be delivered at a future date.
3. "Transient Merchant": means any person, firm, corporation, partnership or association 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. 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 shall not exempt any person, firm or corporation from being considered a transient merchant.

46.02 LICENSE REQUIRED. No person shall engage in peddling, soliciting or in the business of a transient merchant in this City without obtaining a license as herein provided and any person who engages in any such conduct without obtaining a license shall be in violation of this Chapter.

46.03 LICENSE EXEMPTIONS. The following are excluded from the application of this Chapter.

1. Newspapers. Individuals delivering newspapers.
2. Club Members. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. Farmers. Farmers who offer for sale products of their own raising.
4. Students. Students representing area schools or school districts conducting projects sponsored by organizations recognized by the schools.
5. Milk and Food Delivery. Milk and food 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.

46.04 RELIGIOUS AND CHARITABLE ORGANIZATIONS. Representatives of religious organizations or charitable organizations which are exempt from taxation under Section 501(c) (3) of the United States Internal Revenue Code desiring to solicit money from the public or to distribute literature to the public shall be exempt from the operation of Section 46.05 through 46.11 of this Chapter. All such representatives shall be required to submit in writing to the City Clerk his/her name and address, the name or identity and address of the religious organization or charitable organization represented, the activity being conducted and the period of time during which all such activity is to be conducted. Further, the activity of the representative(s) shall only be conducted between 9:00 AM and sunset.

46.05 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this Chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, and a right thumb print. 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. The Clerk may upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and the business reputation for license to such extent as s/he deems necessary. For such investigation, the Clerk may enlist the aid of the Chief of Police. An application fee per person shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. All license application fees under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license application fee, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license application fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

46.06 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license under this Chapter.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), an annual fee for the principal shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such principal fee, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective principal fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.
2. Peddlers or Transient Merchants. All license fees under this Chapter shall

be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees, may from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided that any such subdivision or categorization shall be included in the resolution authorized by this Section.

46.07 BOND REQUIRED. At the time of filing of the application and as a part thereof, the applicant shall file with the Clerk a bond, with sureties to be approved by the Clerk, in a penal sum of Five Thousand Dollars (\$5,000.00) running to the City of Windsor Heights, 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 his employer. The bond is to be further conditioned for the payment of any fines that may be assessed by any court against the applicant for a violation of this Chapter, and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale of any merchandise. The aggregate liability of the surety for all fines and causes of action shall not exceed the principal sum of the bond.

46.08 LICENSE ISSUED. If the Clerk finds the application conforms with Section 46.05 and the facts stated in the application are found to be correct and the license fee paid and the bond filed pursuant to Section 46.07 of this Chapter, a license shall be issued immediately.

46.09 DISPLAY OF LICENSE. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the license provided for in Section 46.08 of this Chapter, and shall, upon the request of prospective customers, exhibit the license as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly his or her license in his or her place of business.

46.10 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.

46.11 TIME RESTRICTION. All peddlers' and solicitors' licenses shall provide that said licenses shall be in force and effect only between the hours of nine (9) o'clock a.m. and five (5) o'clock p.m.

46.12 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this Chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made untrue or fraudulent statements in his or her application for the license or in the conduct of his or her business.
2. **Violation of Law.** The licensee has violated any provision of this Chapter or has otherwise conducted his or her business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted his or her business in such manner as to endanger the public welfare, safety, order or health.

46.13 NOTICE. The license holder shall be served with written notice containing particulars of any complaint against him or her, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

46.14 HEARING. The Clerk, with the assistance of the City Attorney, 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 the licensee's authorized representative, fail to appear without good cause, the Clerk may proceed to determination of the complaint.

46.15 RECORD AND DETERMINATION. The Clerk, with the advice of the City Attorney, shall make and record findings of fact and conclusion of law, and shall revoke a license only when upon review of the entire record, the Clerk finds substantial evidence of a violation of this Chapter or law.

46.16 APPEAL. If the 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 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.

46.17 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 (1) year from the date of the revocation.

46.18 REBATES. No licensee shall be entitled to a rebate of any part of the fee he or she has paid if the licensee surrenders his or her license before it expires.