

CHAPTER 122

PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS AND VENDORS

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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” any person, firm, or corporation, as principal or agent, or both, which is not a regular retail or wholesale merchant with a fixed and permanent retail place of business in the city, but rather one who displays samples and/ or sells, goods, wares, merchandise or food in any temporary location, whether fixed or mobile, for immediate or future delivery.
4. “Vendor” means any person selling or causing to be sold any of the following items: food product, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a vehicle or movable stand.

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. An application in writing shall be filed with the City Clerk or Finance Officer for a license under this chapter. Such application shall set forth the applicant’s name, social security number, 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 the license

plate number of any such vehicles and the length of time sought to be covered by the license. This application shall be accompanied by a nonrefundable application fee and proof that all required State Licenses and permits have been applied for or obtained. Each applicant shall undergo a background check by the Perry Police Department. The Police Department shall respond to the City Clerk or Finance Officer within 72 hours excluding weekends and holidays, upon the submittal of the application by the City Clerk or Finance Officer. Application fees for Peddlers, Solicitors, Transient Merchants and Vendors licenses shall be as provided by resolution approved by the Perry City Council.

122.05 LICENSE FEES. A license fee shall be paid to the City Clerk or Finance Officer prior to the issuance of any license for the duration of six (6) months. Renewals are processed in the same manner with the exception of the application fee. Application fee will apply if the previous permit has expired for more than six (6) months, or has been revoked for violation of this chapter. All renewals must be submitted no later than five (5) business days prior to the expiration date for permitted peddlers, solicitors and transient merchants who operate on a continuous year-round basis. License fees for Peddlers, Solicitors, Transient Merchants and Vendors licenses shall be as provided by resolution approved by the Perry City Council

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the City Clerk or Finance Officer evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the City Clerk or Finance Officer 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 is paid, a license shall be issued immediately. The applicant may be subject to a yearly background check by the Perry Police Department.

122.08 LICENSE DENIED. The license shall be denied if the City Clerk or Finance Officer finds any of the following:

1. Applicant has been convicted of a felony, misdemeanor or other crime involving force, violence, moral turpitude, deceit, fraud or the violation of any law relating to the act of soliciting;
2. Applicant falsified information on the application;
3. Applicant has been denied a license or had a license revoked under this chapter within the last year, unless the applicant can show that the reasons for denial no longer exist. Upon denial, the reason for denial shall be noted on the application. The applicant shall be notified of denial by mail to the applicant at the address set out on the application.

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 LOCATION AND TIME RESTRICTION. Issued Licenses permits the sale of goods, services, subscriptions or merchandise throughout the City of Perry corporate limits with the following restrictions;

1. All Residential Zoning Districts- Only permissible between the hours of 9:00am and 6:00pm, Monday through Saturday, excluding national holidays.
2. Other Zoning Districts- Hours of operation must be consistent of surrounding area.
3. Public Property- No person shall provide or sell any item upon any publicly-owned city property to the public within the city including but not limited to streets, sidewalks, parks, right-of-way, parking lots and other public grounds owned by the city, unless one of the following conditions apply;
 - A. The person is a vendor at an event located on city owned public property that has had prior approval of the City Administrator.
 - B. The person is a vendor with a valid permit and has had prior approval of the location by City Administrator.
4. Any vendor selling on publicly owned property will be required to supply their own electric and other utility needs unless a pre-arranged purchase of such utilities from the City of Perry is agreed upon at a minimum monthly charge of seventy-five(\$75) if available.
5. The location of vending carts equipped with LP gas or a grill must be approved by the Fire Chief.
6. The Vendor must comply with the Iowa Department of Health rules and regulations governing the sale of food for consumption on the premises.
7. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any motor vehicle or private or public property without the permission of the owner.

122.12 OBSTRUCTION OF TRAFFIC PROHIBITED. It is unlawful for any permitted vendor to conduct business at any location, private or public, in such a manner as to hinder or obstruct the free passage or sight of pedestrian or vehicular traffic.

122.13 REVOCATION OF LICENSE. After notice and hearing, the City Clerk or Finance Officer 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.

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.

122.14 NOTICE. The City Clerk shall send a notice to the licensee at the licensee's local address, not less than ten 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.

122.15 HEARING. The City Clerk and the two Council Members appointed to Public Safety 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.

122.16 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.

122.17 APPEAL. If the City Clerk revokes or refuses to issue a license, the City Clerk shall make as a part of the record the reasons therefore. 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.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Civic/Service Clubs. Boy Scouts, Girl Scouts, 4-H Clubs, Future Farmers of America and similar organizations and youth groups from Perry, Rippey, Dawson, Bouton or Minburn.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own produce on private property.
4. Students. Students representing the Perry, ADM or Woodward Granger School Districts or DMACC Van Kirk Career Academy 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. Churches. Church sponsored events that take place on the participating church's property.

8. City Sponsored. City sponsored and/or community events held on City property.

122.19 PENALTY. Anyone violating the provisions of this chapter shall, upon lack of licensing proof, be subject to a Municipal Infraction fine not exceeding one hundred and twenty-five dollars (\$125.00) 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. *(Ch. 122 – Ord. 812 – Mar. 04 Supp.)*