

## TITLE 5

### BUSINESS LICENSES AND REGULATIONS

#### Chapters:

- 5.04 Peddlers and Transient Merchants
- 5.08 Alcoholic Beverages

#### CHAPTER 5.04

#### PEDDLERS and TRANSIENT MERCHANTS

#### Sections:

- 5.04.010 Definitions.
- 5.04.020 Enforcement of Chapter.
- 5.04.030 Violation – Penalty.
- 5.04.040 Operation on private property.
- 5.04.050 Operation on streets and public ways.
- 5.04.060 Recordkeeping.
- 5.04.070 Licenses.
- 5.04.080 Food products.

#### **5.04.010** Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- A. *“Goods”* is defined as all things, including specially manufactured goods, which are movable, transferrable, or tangible at the time of sale;
- B. *“Peddler”* means any person, whether a resident of this city or not, who travels by foot, motor vehicle or any other conveyance, from place to place, from house to house, or street to street, carrying, offering or exposing goods, wares, products, merchandise, services, or food products for sale, or taking or soliciting orders for goods, wares, products, merchandise, services, or food products for future delivery, whether the person collects advance payments for such sales or not; or who, without traveling from place to place, sells or offers for sale from a wagon, motor vehicle, temporary stand or other conveyance stationed upon public or private property, goods, wares, services, merchandise, or food products;
- C. *“Person”* includes an individual person, a firm, corporation, partnership or association, whether owner, agent, bailee, consignee, or employee; and
- D. *“Transient Merchant”* shall mean any person, whether a resident of this city or not, who engages in the exhibition or selling of goods, wares, merchandise, services, or products for a period of sixty (60) days or less, who hires, leases or occupies any building, structure or space of any kind for the purpose of carrying on a business.

#### **5.04.020** Enforcement of Chapter.

- A. It shall be the duty of any peace officer to enforce the provisions of this Chapter.
- B. It shall be unlawful for any person to refuse to exhibit his or her license, upon request, to any private citizen or peace officer.

#### **5.04.030** Violation – Penalty.

A violation of this Chapter is a municipal infraction and any person violating any of the provisions of this Chapter shall be punished as provided in Chapter 1.12, in the discretion of the court.

**5.04.040      Operation on streets and public ways.**

- A. No peddler shall have any exclusive right to any location in the public streets, nor shall he or she be permitted a stationary location.
- B. It shall be unlawful for any peddler to operate in a congested area where his or her operations might impede traffic or inconvenience the public.

**5.04.050      Operation on private property.**

Any person licensed by this Chapter shall immediately remove themselves from private property when requested to do so by the owner or occupant thereof and, while offering or exposing items for sale on said private property, shall not in any manner conduct themselves in such a manner as to violate any provision of this Code or this Chapter.

**5.04.060      Recordkeeping.**

The city clerk shall maintain a record of each license issued under this Chapter and shall indicate therein all reports of violations.

**5.04.070      Licenses.**

- A. Required; exemptions.
  - 1. It shall be unlawful for any person to engage in business as a peddler or transient merchant without first having obtained a license from the city clerk. No license shall be granted except upon approval of the chief of police.
  - 2. No person or agent having control of private property within the city limits shall knowingly permit another person to engage in business on or about that property as a peddler or transient merchant, without first requiring that person to obtain a license therefor and pay the prescribed fee as provided in this Chapter.
  - 3. A group license shall be obtained by a sponsoring entity or organizer for peddlers or transient merchants participating in any organized celebration, promotion, festival, activity, or event for a period no longer than seven (7) days at a specific location. At the time of procuring a group license, the sponsoring entity or organizer shall provide the city clerk with the date(s) of the event and the location. The sponsoring entity or organizer shall also provide the clerk with the name, permanent residence address, social security number, trade name (if any), and Iowa sales tax number of each peddler or transient merchant present, on or before the event, or within ten (10) days following the event.
  - 4. The provisions of this Chapter do not apply to the following:
    - a. Delivery of newspapers;
    - b. Delivery of dairy products;
    - c. A producer, raiser, or grower selling their own farm products;
    - d. Persons selling exclusively at wholesale to business establishments, professional offices or institutions;
    - e. Persons selling their own art or handicrafts;

- f. Students of any school in the city selling or soliciting on behalf of his or her school;
- g. Persons who call prospective clients by appointment only; or
- h. Sales made by sheriffs, constables, marshals, executors, guardians, assignees of insolvent debtors or bankrupts, or any other person required by law to sell real or personal property.
- i. The Wapello County Fair Association and the Gothic Area Tourism of Eldon corporation, as well as any merchant(s) duly authorized by those entities.

B. Application; contents.

- 1. Application for a license shall be filed with the city clerk in the form and manner required by him or her. Such application shall contain, among other things, the following information:
  - a. The name and description of the applicant;
  - b. Both the permanent and temporary address of the applicant;
  - c. A brief description of the nature of the business and the goods to be sold;
  - d. If the applicant is employed, the name and address of his or her employer, together with credentials establishing such relationship, and the name, address, and phone number of his or her immediate supervisor/manager;
  - e. The length of time for which a license is desired;
  - f. The make, model, year, license plate number, and state of registration of any vehicle being used in connection with said business; and
  - g. The name of the most recent previous community in which he or she was licensed or operated.

C. Investigation of applicant; issuance.

- 1. The city clerk shall forward such application to the chief of police, who shall, within five (5) working days, cause an investigation to be made of the applicant's reputation, character, and license application content. After such investigation, the chief of police shall endorse upon such application his or her approval or disapproval and return the application to the city clerk.
- 2. Whenever the chief of police shall be satisfied that the applicant will comply with the provisions of this Chapter and Code, and that the results of the investigation indicate that the reputation, character, and business responsibility of the applicant justify the granting of such license, he or she shall return the application to the city clerk with instructions that a license be issued.
- 3. Upon receipt of such instructions, and upon payment of the fee required under this Chapter, the city clerk shall issue to the applicant a peddler's license.

D. Fees; Veteran's exemption; juvenile exemption.

- 1. Before any license shall be issued, the applicant shall pay to the city clerk the appropriate licensing fee:

- a. Ten (10) dollars per day;
  - b. Fifty (50) dollars per year
2. Any honorably discharged member of the Coast Guard, Army, Navy or Marine Corps of the United States, who is a resident of the state and a veteran of any war in which the United States of America has been or shall be a participant, shall have the right to hawk, vend or peddle his or her own goods, wares and merchandise within the city by procuring a license therefor as prescribed in this division. Application for such license shall be made to the city clerk in the form and manner prescribed in this Chapter and, upon presentation to the city clerk of a certificate of honorable discharge from the Coast Guard, Army, Navy or Marine Corps of the United States, which certificate shall show that the applicant is a veteran of any war in which the United States has been or shall be a participant, a veteran's license shall be issued to the applicant without cost.
  3. The city council may waive the license fee for any peddler or helper under the age of 19.
- E. Non-Transferable.
1. No license issued under the provisions of this Chapter shall be used at any time by any person other than the licensee.
- F. Effective hours of license.
1. No person shall engage in the activities described in Section 5.04.010 between the time of sunset and sunrise, without written approval from the mayor.
- G. Denial and revocation – causes enumerated; notice; appeal; effect.
1. A license may be denied for any applicant and any license may be revoked by the city council for any of the following causes:
    - a. Fraud, misrepresentation or false statement contained in the application;
    - b. Fraud, misrepresentation or false statement made when engaging in business as a peddler;
    - c. Any violation of this Chapter or Code;
    - d. Any violation of any federal, state, or local law;
    - e. Conviction of any crime or misdemeanor involving moral turpitude; and/or
    - f. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
  2. Whenever the city clerk shall deny or revoke any license, a notice specifying the cause of such denial or revocation shall be given to the applicant or licensee.
  3. Any person deeming himself aggrieved by the city clerk in the denial or revocation of a license may, within ten (10) days of the date of the notice, file a written request for a hearing with the city clerk. The city council shall set a time and place for a hearing and notice shall be given to the appellant. Upon such hearing, the city council shall determine whether the license should be denied or revoked, and such determination shall be final and conclusive.

4. If the city council denies or revokes a license, such decision may be appealed to the Iowa District Court as provided by law.
5. Effect of revocation.
  - a. 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 revocation.

**5.04.080 Food products.**

- A. Examination of food products.
  1. All food products to be sold or offered for sale under this Chapter may be inspected and examined by the city administrator or his or her designee. This inspection shall apply to the quantity, weight, measure, and sanitation of the product offered for sale. Unwholesome, rotten, or decayed food products shall not be sold or offered for sale and it is the duty of the city administrator or his or her designee to condemn such food products, wherever found.
  2. The city administrator or his or her designee may require persons offering farm products for sale to produce satisfactory evidence that they are bona fide producers, raisers, or growers of the farm products or are employees of such bona fide producers, raisers, or growers.
- B. Sanitation of food product containers; vehicles.

The containers and/or vehicles in which food products are handled or carried shall be clean and sanitary, protected by proper covers or screens against filth, dust, flies, and other contaminating substances.

## **Chapter 5.08**

### **Alcoholic Beverages**

- 5.08.010 Purpose
- 5.08.020 Required Obedience to Provisions
- 5.08.030 Action by Council
- 5.08.040 Transfers

**5.08.010 Purpose**

The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

**5.08.020 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW**

The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors from Licensee or Permittee
3. 123.22 State Monopoly

4. 123.28 Restrictions on Transportation
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited
15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test- Notifications - Exoneration
16. 123.47 Persons under The Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

**5.08.030      ACTION BY COUNCIL**

The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law. (Code of Iowa, Sec. 123.32(2))

**5.08.040      TRANSFERS**

The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.  
(Code of Iowa, Sec. 123.38)

