

CHAPTER 112: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

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§ 112.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BUSINESS." The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

"GOODS." Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

"ITINERANT MERCHANT." Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

"PEDDLER."

(1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.

A person who is a peddler is not an itinerant merchant.

"SOLICITOR." Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

A person who is a solicitor is not a peddler.

§ 112.02 PERMIT REQUIRED; EXCEPTIONS.

(A) No person, firm, or corporation shall engage in the business of an itinerant merchant, or of soliciting purchases or sales, peddling or hawking of merchandise or services within the city limits without first registering with the City Clerk-Treasurer and obtaining a license for such activities unless he shall have maintained a business with a fixed location within the city for a period of not less than six months which has been licensed by the city or unless he is an employee of such a business establishment.

(B) Nothing contained herein shall be construed to limit or interfere with the customary activities of ministers of the gospel or persons making collections or solicitations for a charitable activity by persons who receive no compensation for their actions, either directly or indirectly.

(Ord. 109, passed 10-2-67)

§ 112.03 APPLICATION.

(A) All applicants for licenses required by this chapter shall file a written, sworn application with the Clerk-Treasurer, and the Clerk-Treasurer shall maintain a register of application for such licenses. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. Applications should be made on forms available in the office of the Clerk-Treasurer. The application shall state:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense;

(8) The date of application;

(9) The name of the surety on his bond, if a bond is required.

(B) All applications for peddler or solicitor licenses shall state, in addition to statements required by division (A):

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application the following:

(1) Two letters of recommendation from any person residing or doing business in the city certifying the applicant's good moral character and business responsibility; or, in lieu of such letters, other evidence which may be used by the Clerk-Treasurer to satisfy his duties under § 112.04;

(2) If required by the Clerk-Treasurer, copies of all printed advertising proposed to be used in connection with the applicant's business;

(3) Credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

(E) Upon receipt of the application, the Clerk-Treasurer shall cause a set of applicant's fingerprints to be taken and attached to the application; he shall also cause a picture of the applicant to be taken and to be attached to the application.

(Ord. 109, passed 10-2-67) Penalty, see § 112.99

§ 112.04 STANDARDS FOR ISSUANCE.

(A) Immediately on receipt of an application, the City Clerk-Treasurer shall deliver the application to the Chief of Police who shall promptly cause an investigation to be made of the applicant's business reputation, the agency, firm, proprietorship, or corporation by whom he is employed, if he is so employed, and his moral character and integrity. The Chief of Police shall deliver a written report to the Clerk-Treasurer within 48 hours of receipt, Sundays and holidays excluded.

(B) On receipt of the report of the Chief of Police, the Clerk-Treasurer shall file the report with the application and approve the application unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare, in particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts; or
- (6) Has an unsatisfactory moral character

will constitute valid reasons for disapproval of an application;

(7) Has had previous complaints of the honesty, integrity, or activities of the applicant, if any, either with the city or any other place.

(C) The City Clerk-Treasurer shall then issue the license, if the report contains no derogatory information, and if the report shall contain derogatory information indicating that the best interest of the citizens would be served by a denial of the license, the Clerk-Treasurer shall refuse to issue the license unless the applicant shall file with the Clerk-Treasurer his bond to the city in the sum of \$1,000 conditioned that the applicant shall pay all judgments or valid claims against him arising out of his activities under authority of the license with one or more sureties owning property in Grant County, or a bonding company authorized to do business in the State of Kentucky. The Clerk-Treasurer shall at each regular meeting report to the City Council the name of each applicant and his action on the application. (Ord. 109, passed 10-2-67)

§ 112.05 FEES.

At the time of making such application the applicant shall pay to the Clerk-Treasurer the sum of \$10 for each original application and the sum of \$5 for each renewal to cover the cost of investigation of the applicant, the costs of the investigation of complaints arising out of such activities, and of maintaining necessary records and issuing permits.

(Ord. 109, passed 10-2-67)

§ 112.06 REVOCATION.

Any license or permit granted under this chapter may be revoked by the Clerk-Treasurer after notice and hearing, pursuant to the standards in § 112.07. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 112.07 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application; or

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or

(C) Any violation of this chapter; or

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 112.08 APPEAL.

(A) Any person aggrieved by a decision under §§ 112.04 or 112.07 of the City Clerk-Treasurer shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 112.06. The applicant may appear before the City Council at its next regular meeting and appeal the decision of the Clerk-Treasurer.

(B) The order of the City Council after the hearing shall be final.

(Ord. 109, passed 10-2-67)

§ 112.09 SERVICE OF PROCESS.

(A) Requirements of successful applicant.

(1) Upon receipt of notice of approval of his application, the applicant shall file with Clerk-Treasurer an instrument appointing the Clerk-Treasurer as his true and lawful agent with full power and authority to acknowledge service of process for and on behalf of applicant in respect to any matter arising under this chapter.

(2) Forms for the required statement are available at the Clerk-Treasurer's office. Such form or instrument shall contain recitals to the effect that the applicant consents and agrees that service of any notice or process may be made upon this agent, and when so made shall be taken and held to be as valid as if personally served upon the applicant, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment.

(B) Duty of Clerk-Treasurer. Immediately upon service of any process upon the Clerk-Treasurer under this chapter, the Clerk-Treasurer shall send, by registered mail, a copy of the process to the licensee at his last known address.

Penalty, see § 112.99

§ 112.10 EXHIBITION OF LICENSES AND BADGES.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Clerk-Treasurer shall issue a badge to each peddler or solicitor licensed under this chapter. The badge shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The badge shall be worn conspicuously by the licensee during such time as he is engaged in the business licensed.

(C) Peddlers or solicitors shall exhibit their license at the request of any citizen.

Penalty, see § 112.99

§ 112.11 HOURS OF OPERATION.

No person with or without a license shall enter on the private property of another in the city between the hours of 6:00 p.m. and 9:00 a.m., the following day for the purpose of soliciting sales or

purchases or hawking or peddling goods, wares, merchandise, or services unless he has been previously invited on the premises for that purpose by the owner or occupant of the premises by invitation in writing properly signed by the person making the request.

(Ord. 109, passed 10-2-67) Penalty, see § 112.99

§ 112.12 CONDITIONS FOR ACCEPTANCE OF PAYMENT.

No person, firm, or corporation, who having engaged in the business of soliciting purchases or sales of goods, wares, merchandise, or services, shall accept or receive from the purchaser in the city any money, evidence of debt, or other thing of value until he has first delivered to the purchaser the goods, wares, merchandise, or services or has delivered to the purchaser a receipt therefor signed by the person or an authorized officer of the firm or corporation to be charged with furnishing the goods, wares, merchandise, or services contracted for.

(Ord. 109, passed 10-2-67) Penalty, see § 112.99

§ 112.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500 or confined for not more than six months or both.

(Ord. 109, passed 10-2-67)