

# City of Buffalo, Iowa

ORDINANCE NO. 580

## AN ORDINANCE AMENDING PEDDLER AND SOLICITOR REQUIREMENTS FOR THE CITY OF BUFFALO, IOWA

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WHEREAS, the City of Buffalo finds it necessary to update regulations governing peddlers and solicitors to ensure public safety, consumer protection, and orderly commerce;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUFFALO, IOWA:

### **7-1.0101 DEFINITIONS.**

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

1. **PEDDLER.** Any person carrying or transporting 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.** Any person who solicits, or attempts to solicit, from house to house or upon the public street an order for goods or merchandise to be delivered at a future date.
3. **TRANSIENT MERCHANT.** Any person, firm or corporation who engages in a temporary or itinerant merchandising business, intending to remain in business in the city for less than one year, 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*.

### **7-1.0102 LICENSE REQUIRED.**

It shall be unlawful for any person to engage in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as provided in this chapter.

### **7-1.0103 LICENSE - APPLICATION.**

An application for a license under this chapter shall be made with the City Police Chief, or his or her authorized representative, and shall give the following information:

- (A) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed it will be carried on in the city and the local address or addresses of such person or persons while engaged in such business;
- (B) The name and permanent address of the applicant; whether such person will act as proprietor, agent, consignee or employee and the credentials establishing such relationship; the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated;
- (C) The place or places in the city where it is proposed to carry on applicant's business and the length of time during which it is proposed said business shall be conducted;
- (D) A statement of the nature and character of the tangible personal property or service to be sold or offered for sale by the applicant in the city; whether the goods are new, damaged or rejects; whether the same are proposed to be sold from stock in possession or by sample, or at auction, or by direct sale, or by taking orders for future deliveries; where the goods or property proposed to be

sold are manufactured or produced and where such goods or products are located at the time said application is filed;

(E) The place or places other than the permanent place of business of the applicant, where applicant within three years preceding the date of said application peddled, solicited or conducted a transient business, stating the nature thereof and giving the post office box number and street address of any building or office in or from which said business was conducted;

(F) Whether or not the applicant or the person having management or supervision of the applicant's business has been convicted of a felony within the five years immediately preceding the date of the application or of the violation of any laws or ordinance relating to the same or similar business proposed to be conducted by the applicant, the nature of such offense and the punishment therefor;

(G) Whether the applicant has ever applied for a license under this chapter which has been denied;

(H) Whether the applicant has ever held a license under this chapter which has been revoked;

(I) A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes, social security number, driver's license number and state issued, a photograph of the applicant and the right thumbprint of the applicant; and

(J) (1) If the applicant's business is to be conducted through employees, the application shall include the information specified at divisions (E) through (I) above, inclusive, for each employee who will be conducting applicant's business in this city as well as the name and address of each such employee; and

(2) A non-refundable fee of \$5 shall be paid at the time of filing such application to cover the cost of investigating the facts set forth therein.

#### **7-1.0104 LICENSE - ISSUANCE.**

If the Chief of Police finds the application is made out in conformance with this chapter and the facts stated therein are correct, he or she shall issue, within ten days and upon the posting of a bond as required by this chapter, a license and charge a fee therefor, as determined by this chapter. The license issued hereunder shall not be transferrable. There shall be no refund of the license fee.

#### **7-1.0105 LICENSE - FEES.**

Before a license shall be issued, the applicant shall pay a license fee in accordance with the following schedule:

(A) For one day: \$10; for each additional day: \$2;

(B) For one month: \$50;

(C) For six months: \$100;

(D) For one year: \$150; and

(E) For duplicate license: \$2.

#### **7-1.0106 LICENSE - BOND.**

Before a license under this chapter shall be issued, each applicant shall post a bond of \$100 with the Chief of Police. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the city and the statutes of the state regulating and concerning the sale of goods, subscriptions, wares, merchandise or personal property of any nature, including foodstuffs, or for services, including advertising, and will pay all judgments rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against said applicant by any person or persons for damage growing out of any misrepresentation or deception practiced on any person who transacts such business

with the applicant, whether said misrepresentation or deception was made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this chapter and shall not be retired until after a lapse of one year from the expiration of each license.

#### **7-1.0107 DUPLICATE AND INDIVIDUAL LICENSES, WHEN REQUIRED.**

A license under this chapter may be issued to a person carrying on the business of solicitor, peddler or transient merchant in this city through employees. Such employees shall carry a duplicate license issued to the employee, which license shall be obtained at the office of the Chief of Police upon compliance with the requirements of the chapter. If the business of solicitor, peddler or transient merchant in this city is carried on through agents who are not employees, or by consignees, or by an unincorporated firm or association, each person so conducting the business in this city shall be required to have a separate license, but not post a separate bond if one is posted by the corporation.

#### **7-1.108 LICENSE - DISPLAY.**

Each solicitor or peddler shall, at all times while doing business in this city, keep in his or her possession the license provided for by this chapter 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 the license in his or her place of business.

#### **7-1.109 CHARITABLE AND NON-PROFIT ORGANIZATIONS.**

(A) Resident school, Girl Scout, Boy Scout and other such organizations shall be exempt from the application of this chapter.

(B) (1) A religious, charitable, patriotic, social service, civic or political non-profit organization, other than those set forth in division (A) above, shall receive a license for activities regulated under this chapter where its authorized representative volunteers to undertake such activities without remuneration and where the entire proceeds of the activities will go to the organization and not for private profit.

(2) The organization shall file the information required for a license under this chapter in the office of the Chief of Police. The Chief of Police shall issue, free of charge and without bond, a license for the requested activity which shall be valid for a period of one year and may be renewed on or before the expiration date.

#### **7-1.110 EXEMPTIONS.**

Persons engaged in the following described activities are exempt from the duty of applying for a license under this chapter:

- (A) Persons selling at wholesale to merchants for the purpose of resale;
- (B) Persons selling or distributing newspapers;
- (C) Persons selling tangible personal property or services to business enterprises;
- (D) Persons who sell, at their permanent residence in the city, works of art or craft made or created by such person or a member of each such person's immediate family;
- (E) Persons licensed by the state to sell real estate or insurance or licensed as transient vendors of drugs;

- (F) Persons selling or distributing livestock feeds, as defined by the laws of the state;
- (G) Persons selling or delivering tangible personal property or services through a permanent business licensed through the city;
- (H) Persons selling or distributing fresh fruit or vegetables cultivated by such person;
- (I) Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved and such sales are made on the premises where the event is to be conducted;
- (J) Persons selling tangible personal property at a garage, basement or yard sale held at one of the persons' premises; and
- (K) Persons selling food and beverages at a food establishment regulated pursuant to the Iowa Code.

#### **7-1.111.00 DENIAL OR REVOCATION OF LICENSE - PROCEDURE.**

(A) *Denial of license.* The Chief of Police may deny, within ten days, a license to any applicant who has:

- (1) Held a license under this chapter that has been revoked within two years of the date of the present application;
- (2) Failed to make a complete, truthful application; and
- (3) During the past two years, a history of:
  - (a) Fraudulent applications of similar licenses;
  - (b) Misrepresentation of the quality of merchandise or services offered for sale; and
  - (c) Crimes involving anything the Police Chief deems inappropriate.

(B) *Revocation of license.* The Chief of Police may revoke any license issued under the provisions of this chapter by sending a notice of revocation by certified mail to the holder at his or her last known address, return receipt requested, or by personal service on the license holder or its officers for any of the following causes:

- (1) Information showing the license was erroneously issued initially;
- (2) For any violation of the provisions of this chapter;
- (3) For any violation of any city or state law regulating the sales activities of the license holder; and
- (4) For making any fraudulent statement in connection with the application for a license under this chapter.

(C) *Hearings.*

(1) The license shall stand denied or revoked, unless, within five days after denial or receipt of the notice of revocation from the Chief of Police, the license applicant or holder files a written request for a public hearing on the Police Chief's action. The public hearing shall be conducted before the Public Safety Committee of the City Council which shall forward to the full City Council a recommendation on whether a license should be denied, reinstated or revoked, as the case may be. The City Council may order the license issued or reinstated either conditionally or unconditionally, or revoke the license.

(2) Ten days' notice of the time and place of the public hearing shall be given to the license applicant or holder, who shall have an opportunity to appear before the Committee and present any evidence or arguments he or she may have why the action taken by the Chief of Police should not be approved by the City Council.

#### **7-1.112.00 SALES REGULATIONS.**

(A) No person shall engage in activities regulated under this chapter on public property without first procuring special authorization from the City Council.

(B) No person shall shout or use any sound device upon any of the public places of the city or upon any private premises in said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard from the public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.

(C) No person shall engage in business under this chapter in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or are not invited.

(D) No person shall engage in the activities regulated under this chapter from door-to-door, prior to 9:00 a.m. or after 8:00 p.m. on any weekday or Saturday, or at any time on a Sunday or on a state or national holiday.

(E) A written receipt for all orders taken within the city shall be given to the customer, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods, wares, merchandise or service or services ordered; the total purchase price thereof; and the amount of the down payment received from the purchaser.

#### **7-1.113.00 PENALTY.**

(A) Anyone violating the provisions of this chapter shall, upon conviction, be subject to imprisonment not to exceed 30 days, or a fine not exceeding \$100.

(B) Each sale or solicitation of a sale made without a license or bond in violation of this chapter shall constitute a separate offense.

This ordinance shall become effective upon passage, approval, and publication as provided by law.

#### **Repealer Clause**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

#### **Severability Clause**

If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

#### **Approval Process**

- **First Reading:** June 9, 2025
- **Second Reading:** Waived
- **Third Reading:** Waived

Passed by the City Council of the City of Buffalo, Iowa, this 09 day of June, 2025.

**Mayor, Sally Rodriguez:** \_\_\_\_\_

**Attest: City Clerk, Tanna Leonard:** \_\_\_\_\_