

Chapter 52—Peddlers and Solicitor

52.010 Purpose.

This Chapter is designed to:

- 1.** prevent undue annoyance of city residents by peddlers and solicitors,
- 2.** maximize the first amendment rights of peddlers and solicitors, as well as the rights of city residents to be secure in their homes,
- 3.** reduce the opportunity for crime within the City,
- 4.** attempt to provide some assurance to residents of the City that peddlers and solicitors are not burglars and criminals in disguise, and
- 5.** attempt to increase the physical safety of peddlers and solicitors who go from place to place within the City.

52.020. Peddlers & solicitors, defined.

For the purpose of this Chapter there shall be no difference to the rights, privileges and duties required of peddlers and solicitors, except that peddler shall be required to pay a fee for the identification card hereinafter required.

- 1.** A "peddler" is one who, for profit to himself or his principal, sells any goods or service, or seeks a donation for any cause of a profit-making or commercial character.
- 2.** A "solicitor" is one who solicits for a charitable, political, or religious purpose, even if incidental for such purpose there is the sale of some goods or service.

52.030. Presumption.

It shall be presumed that an individual is a peddler rather than a solicitor. This presumption may be overcome by:

- 1.** A showing that donations to the organization for which one wishes to solicit is exempt from federal income taxation under Section 503 of the Internal Revenue Code.
- 2.** A showing that the organization for which one wishes to solicit is an organization whose primary purpose is to influence public policy.

52.040. Identification card required.

No person shall engage in any act as a peddler or solicitor without first obtaining an identification card in accordance with the provisions herein. Any person who does so shall be guilty of a misdemeanor.

52.050. Fee.

- 1.** Any person desiring a peddlers identification card shall pay a fee of \$10.00 per card.
- 2.** There shall be no fee for a solicitor's identification card.

52.060. Application for card.

Any person or organization (formal or informal) may apply for one or more identification cards by completing an application form at the office of the city clerk.

52.070. Contents of application.

The applicant shall provide the following information:

1. Name of applicant.
2. The number of identification cards required.
3. A statement as to the type of cards requested.
4. If one or more solicitors' cards is requested, information required to overcome the presumption of Section 52.030 of this Chapter.
5. If one or more peddlers' cards is requested, the fee for each card as provided in Section 52.030 of this Chapter.
6. The name, and physical description (or in lieu thereof a photograph) of each person for which a card is requested. (The chief of police is directed to obtain an instant photographic camera, and to offer to any applicant to take photographs for which a reasonable fee not to exceed \$10.00 shall be charged. Instead of providing the physical description, or photograph, the applicant may exhibit a valid driver's license or similar identification for each person for whom a card is requested, and a photocopy of said identification shall be attached to said application.)
7. The permanent and (if any) local address of the applicant.
8. The permanent and (if any) local addresses of each person for whom a card is requested.
9. A brief description of the proposed activity subject to this identification card requirement.
10. A statement as to whether or not the applicant has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.
11. A statement as to each person for whom a card is requested as to whether that individual has been convicted of any crime, and if so, the nature of the offense and the penalty imposed.
12. The motor vehicle make, model, year, color and registration number of any vehicle which shall be used in the proposed activity.
13. The permanent name and address of the organization or person (with respect to a solicitors card) who can provide a prospective donor with more information about the charity for which funds are solicited, and from whom information can be obtained as to the disposition of all funds collected, or (with respect to a peddler's card) of the individual organization to whom complaints can be made for defective merchandise, who is responsible for any breach of warranty, and from whom additional merchandise can be ordered.
14. Name and address of person or organization which is intended to receive donations or profits.
15. Any other information the applicant wishes to provide.

52.080. Special requirements for peddler's card.

No person shall be issued a peddlers identification card unless, in addition to the requirements of the preceding section, until:

- 1.** He demonstrates that he (or in the case of an agent, his principal) has a valid retail sales license issued by the state director of revenue as required by RSMo 144.083.
- 2.** He, or his principal, deposits with the city clerk a bond in the amount of \$100.00 (cash or surety) per card to secure collection and payment to the state department of revenue all city sales taxes due and payable by reason of sales made within this City. Said bond shall be forfeited to the City, if applicant does not (within 90 days of the expiration or surrender of his peddler's card) demonstrate by affidavit or otherwise that said sales taxes have been paid.
- 3.** He demonstrates either
 - a.** That he is a licensed itinerant vendor within the meaning of RSMo 150.380, or
 - b.** That he is exempt from said requirement.
- 4.** He demonstrates either
 - a.** That he has a "peddler" license from the county and state as required by RSMo 150.470, or
 - b.** That he is exempt from said requirement.

52.090. Issuance of identification card.

Three working days after the application, or sooner if reasonably possible, the requested identification cards shall be issued, unless:

- 1.** The application is incomplete (in which case the city clerk will reject the application at the time of its tender or within 15 minutes thereafter).
- 2.** The required fee (if any) has not been paid.
- 3.** The applicant has been convicted of a felony.
- 4.** With respect to a particular card, if the individual for whom a card is requested has been convicted of a felony.
- 5.** If any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.
- 6.** If the applicant, or if the particular individual for whom an identification card is requested, has had a previous identification card revoked.
- 7.** If the applicant, or if a particular individual for whom an identification is requested, has made any false statement regarding the peddling of merchandise or the solicitation of persons under this Chapter of any other municipality.

52.100. Investigation.

During the period of time following the application for issuance of one or more identification cards and its issuance, the chief of police shall make diligent investigation, as to him seems necessary, to determine that the applicant is entitled to the identification as hereinabove stated. The chief of police shall cooperate with the applicant, shall inform the applicant of the progress of his investigation, and shall use due diligence in conducting his investigation. In all cases, the chief of police shall work as expeditiously as is reasonably possible to complete his investigation in a minimum amount of time. If the chief of police has not completed his investigation with the working days that is provided in Section 52.080, the identification will nonetheless be issued.

52.110. Denial.

If the city clerk denies the identification card to one or more persons he shall prepare promptly (and in no event later than two working days after the denial) a written report of the reason for his denial which shall immediately be made available to the applicant. The applicant shall be entitled to correct in writing any deficiencies so noted in the report, which corrections or changes when filed shall be treated as a new application.

52.120. Applicant's rights upon denial of an identification card.

If an identification card is denied to an applicant, the applicant shall have the option of an immediate hearing in front of any of three tribunals at the applicant's option. At such a hearing the city attorney on behalf of the city clerk shall be required to demonstrate by the preponderance of the evidence that the applicant is not entitled to an identification card under this Chapter. The applicant may choose to take his case before any of the following tribunals:

- 1.** The City Council, at its next regular meeting, or if the next regular meeting is more than 10 days from the denial of the identification card, at a special meeting to be held within that ten-day period.
- 2.** Before the municipal court of the City, provided that such a hearing will be scheduled within ten days of the request, or
- 3.** Before the circuit court of Johnson County within the regularly scheduled procedures of the circuit court.

52.130. Hearing on applicant's denial of identification card, procedure.

If the applicant requests a hearing under Section 52.120 (1), the said hearing shall be held in accordance with the administrative procedure act of the State of Missouri, and review from the decision shall be had to the Circuit Court of Johnson County, Missouri on the record. Should applicant decide to forego the administrative hearings, the remedy will be an injunction or declaratory judgment action against the City.

52.140. Display of identification card.

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the peddler or solicitor, so as to be reasonably visible to any person who might be approached by said peddler or solicitor.

52.150. Validity of identification card.

An identification card should be valid within the meaning of this Chapter for a period of twelve months from its date of issuance; thereafter, it shall

expire. An applicant with an expired identification card shall be considered as having no identification card whatsoever and will be required to apply for a new card if he wishes to peddle or solicit within the City.

52.160. Revocation of card.

Any identification card granted hereunder may be revoked by the municipal court after the filing of Information by the Prosecuting Attorney and a hearing thereon for any of the following causes:

- 1.** Any violation of this Chapter by applicant or the person for whom the particular card was issued.
- 2.** Fraud, misrepresentation, or incorrect statement made in the course of carrying on the activity.
- 3.** Conviction of a felony.
- 4.** Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

52.170. General prohibitions.

No person having a solicitor or peddler card shall:

1. Enter or remain on private property where he has reason to believe that the residents thereof have indicated the solicitor or peddler is not welcome.
2. Make an uninvited entry into a resident's home.
3. Refuse to discontinue his message when requested by a hearer to do so, when on private property occupied by the hearer.
4. Enter upon any private property, knowing or having reason to believe that the owner or occupants do not desire to receive messages from any solicitor or peddler, either by a posted sign or otherwise.

52.180. City responsibilities.

Any resident of the City may list his property with the city clerk, and direct that his property is not to be entered by any solicitor or peddler. This list shall be available for public inspection. Upon the issuance of any solicitor or peddler's license, a copy of the list shall be provided with each card. No card holder may enter the private property nor contact any person so listed. (Such listing shall continue for two years, unless listee requests sooner removal, at which time the listing shall be removed, unless the listee shall request the same be continued an additional two years.)

52.190. Time limits.

No person shall solicit or peddle within the corporate limits of this City except within the time limits prescribed in the Section:

1. From 9:00 a.m. until 9:00 p.m. Monday through Friday, and from 10:00 a.m. until 10:00 p.m. on Saturday and Sunday.
2. Notwithstanding subparagraph 1 above, no person shall peddle or solicit at any time after sunset on any day unless:

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- a. Is dressed in light colored or reflective clothing.
- b. Has notified the chief of police of his intention to solicit after dark.

52.200. Special restrictions on peddlers.

No person having a peddlers identification card shall peddle or solicit merchandise:

1. At any place except within the business district of the City as defined by its zoning ordinances, or within 25 feet to any nonconforming commercial establishment.
2. Outside of the area provided in subsection 1 above unless he has a specific oral or written invitation to approach the dwelling.
3. This Chapter shall not apply to any person who solicits individuals on real estate in which the person or his principal has an ownership or leasehold interest.

52.210. General penalty.

Whenever in this Chapter or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Chapter or of any ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the city or county jail not exceeding ninety days or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a statute of the state the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the city prison or workhouse instead of the county jail.

52.220. Severability.

It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase, clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clause, sentences, paragraphs or sections of this Chapter since the same would have been enacted by the City Council without the incorporation in this Chapter of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

52.230. Each day is an offense.

Every day any violation of this Chapter or of any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.