

CHAPTER 114. PEDDLERS AND SOLICITORS

Sec. 114.01. Definitions.

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

Business means the business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

Goods means merchandise of any description whatsoever, and includes but is not restricted to wares and foodstuffs.

Itinerant merchant means 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, making sales, 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.
- (3) A person who is a peddler is not an itinerant merchant.

Solicitor means 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.

Push cart means any rubber-wheeled vehicle or portable cart. The design and appearance is subject to review and approval by the town manager or his or her designee. Push carts shall be used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle, or trailer) which may be moved without the assistance of a motor and which does not require registration by the state department of motor vehicles, and from which prepared food, fruit, merchandise, drink, and flowers may be sold.

Mobile food unit means any vehicle, other than a pushcart, from which is vended prepared food, drink, and fresh fruit.

Vendor means any person who operates a push cart or mobile food unit.

Special event means an event, during which one or more streets may be closed to vehicular traffic within the event area, if applicable.

Sec. 114.02. License requirement.

- (a) Any person who is an itinerant merchant, peddler, solicitor, or vendor shall obtain a license before engaging in such activity within the city.
- (b) The fee for the license required by this chapter shall be as follows:
 - (1) \$5.00 per peddler per license.
 - (2) \$25.00 per pushcart or mobile food unit per license.

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- (c) No license issued under this chapter shall be transferable.
 - (d) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.
 - (e) Penalty, see § 114.99.

Sec. 114.03. Application procedure.

- (a) All applicants for licenses required by this chapter shall file an application with the town clerk.

This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president/member manager if a corporation. The applicant may be requested to provide information concerning the following items:

- (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) For food vendors:
 - a. A description of the proposed location of the vending business and notarized permission from the business owner or manager of the location.
 - b. a description, including the size, and a photograph of any pushcart or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
 - c. A copy of any approval required by the county health department.
 - d. Proof of insurance policy, issued by an insurance company to do business in the state, protecting the permittee and the town from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the town as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the town. Such insurance shall afford minimum limits of \$100,000.00 per bodily injury, \$300,000.00 per occurrence bodily injury, and \$25,000.00 per occurrence property damage.

Sec. 114.031. Vending of food from pushcarts and mobile food units.

- (A) Vending of food and drink from licensed food units is permitted in areas zoned B-1 with the following exceptions:
- (1) No foot peddler or vendor selling from a pushcart shall:
 - a. Vend on any sidewalk.
 - b. Vend within ten feet of an entranceway to any building.
 - c. Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or alley.
 - d. Vend within ten feet of the crosswalk at any intersection.
 - e. Vend within ten feet of any fire hydrant.
 - f. Allow the pushcart or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.
 - g. Vend within 50 feet of another foot peddler or pushcart with exception during special events.
 - h. Impede, endanger, or interfere with travel upon or use of the street or sidewalk. If it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any law enforcement officer of the town may direct vendors to temporarily move to another location.
 - (2) No vendor selling from a mobile food unit shall:
 - a. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access for fire, police, or sanitation vehicles.
 - b. Park the mobile unit upon any street with exception during special events.
 - c. Remain in any one location more than three hours between the normal business hours of 8:00 a.m. to 5:00 p.m. with exception to special events.
 - d. Operate after 10:00 p.m. when located within 150 feet of a single or two-family residential dwelling. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.
- (b) Requirements for pushcarts.
- (1) No pushcart shall exceed 36 inches in width or 72 inches in length. No pushcart shall exceed 60 inches in height.
 - (2) Any covering for a pushcart shall be limited to a single mast umbrella, attached to the pushcart. The umbrella shall be at least 78 inches in height at its lowest point and shall not exceed eight feet in diameter when fully opened. Tent-like structures or canopies supported by multiple posts are specifically prohibited.
- (c) All mobile food units in or from which food is prepared or sold shall comply with all requirements of the Cleveland County Health Department and Cleveland County Environmental Health.

Sec. 114.04. Standards for issuance.

- (a) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.
- (b) The application shall be approved 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 the applicant has done any of the following will constitute valid reasons for disapproval of an application:
 - (1) Been convicted of a crime of moral turpitude; or
 - (2) Made willful misstatements in the application; or
 - (3) Committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
 - (4) Committed prior fraudulent acts; or
 - (5) Compiled a record of continual breaches of solicited contracts; or
 - (6) Attained an unsatisfactory moral character.

Sec. 114.05. Revocation procedure.

Any license or permit granted under this chapter may be revoked by the town clerk after notice and hearing, pursuant to the standards in section 114.06. 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.

Sec. 114.06. Standards for revocation.

- (a) A license granted under this chapter may be revoked for any of the following reasons:
 - (1) Any fraud or misrepresentation contained in the license application; or
 - (2) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
 - (3) Any violation of this chapter; or
 - (4) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
 - (5) 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.

Sec. 114.07. Appeal procedure.

- (a) Any person aggrieved by a decision under sections 114.04 or 114.06 shall have the right to appeal to the town council. The appeal shall be taken by filing with the town 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 town 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 sections 114.05.
- (b) The order of the town council after the hearing shall be final.

Sec. 114.08. Exhibition of identification.

- (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 town clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words licensed peddler or licensed solicitor, the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Cross reference(s)—Penalty, see § 114.99.

Sec. 114.99. Penalty.

- (a) (1) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50.00 per day.
 - a. A citation of said civil penalty shall be issued by the code enforcement officer.
 - b. Each citation for a civil penalty must be paid within 48 hours of issuance.
- (b) The municipality may also, and in addition, seek any and all appropriate equitable remedies, injunctions and/or abatement orders from the appropriate court of competent jurisdiction.