

vChapter 52 -- Peddlers and Solicitors

52.010. Purpose. This Chapter is designed to:

1. prevent undue annoyance of city residents by peddlers,
2. maximize the first amendment rights of peddlers 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 are not burglars and criminals in disguise, and
5. attempt to increase the physical safety of peddlers who go from place to place within the City.

52.020. Peddlers and solicitors, defined.

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.

52.035. Exception to license requirements. A peddler and/or solicitor shall not be required to abide by the regulations as set forth in this Chapter for the limited purpose of participating in a special event. The peddler and/or solicitor must comply with the provisions as stated in the City Parks Rules and Regulations Manual to participate in the special event. The peddler and/or solicitor shall be required to obtain a license as stated herein if sales or services are to be provided at any other time or locations within the City, other than for the special event. **Ord #1863.**

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

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. 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 drivers 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.)
5. The permanent and (if any) local address of the applicant.
6. The permanent and (if any) local addresses of each person for whom a card is requested.
7. A brief description of the proposed activity subject to this identification card requirement.
8. 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.
9. 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.

10. The motor vehicle make, model, year, color, and registration number of any vehicle which shall be used in the proposed activity.

11. The permanent name and address of the organization or person 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.

12. Any other information the applicant wishes to provide.

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

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.

5. The City Clerk has received a criminal records name check regarding the applicant directly from the Missouri State Highway Patrol-Criminal Record System. It shall be the applicant's responsibility to mail in the request for such criminal records check, using a form provided by the City Clerk, and the applicant shall be

responsible for paying any fees charged for such criminal records check. For all purposes, the applicant's application will not be deemed to be tendered or complete until such criminal records report is received by the City Clerk.

(Revised: Ord. 478)

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 the relevant 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 within the working days provided in Section 52.090, 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 Board of Aldermen, 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 Callaway 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 Sections 52.120(1) and (2), 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 Callaway 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 worn on the outer clothing of the peddler at all times while peddling so as to be reasonably visible to any person who might be approached by said peddler.

52.150. Validity of identification card. An identification card shall be valid within the meaning of this Chapter for a period of three 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 within the City.

52.160. Revocation of card. Any identification card granted hereunder may be revoked by the municipal court after the filing of an 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 peddler card shall:

1. Enter or remain on private property where he has reason to believe that the residents thereof have indicated the 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 peddler, either by a posted sign or otherwise.

52.180. City responsibilities.

1. 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 peddler. This list shall be available for public inspection. Upon the issuance of any 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 the listee requests sooner

removal, at which time the listing shall be removed, or unless the listee shall request the same be continued an additional two years.)

52.190. Time limits. No person shall peddle within the corporate limits of this City except within the time limits prescribed in this 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 at any time after sunset on any day unless such person:

a. Is dressed in light colored or reflective clothing.

b. Has notified the chief of police of his intention to peddle after dark. (Chapter Revised: Ord. 469)