

## **ARTICLE 20-XXIX SOLICITORS AND PEDDLERS**

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### **20-2901 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Host owner* means the owner who owns the property the permit applicant desires to sell upon.

*Outdoor selling* means and includes any selling done from a temporary or mobile location by a seller who is not selling from a permanent business location that is open to the public and selling the same goods or merchandise. Such activities as street vending and seasonal sale of Christmas trees or other plant material to the general public on private property will be included. Note that even if rent has been paid by one other than the established business occupying the property for the temporary use of the space, if such selling is merely temporary or seasonal and not done by the established business occupying the property, such selling will fall within this article. This subsection applies to both nonprofit and profit organizations.

*Peddlers* means any person who goes from house to house, place to place, or street to street, conveying or transporting goods, wares or merchandise, or offering or exposing the same for sale, or making sales and delivering articles to the purchasers.

*Solicitor* means any person who goes from house to house, place to place, street to street, soliciting sales or taking orders for the sale of goods, wares or merchandise (including magazines, books, periodicals, realty, tangible or intangible personal property of any nature, including insurance) and such orders are for future delivery or for services to be performed in the future, irrespective of such person having, carrying or exposing for sale a sample of the subject of such order, and irrespective of such person collecting or not collecting advance payment on such orders.

(Code 1976, § 13-2801; Ord. No. O-7475-8; Ord. No. O-8485-92; Ord. No. O-8990-35; Ord. No. O-0001-6, § 1, 8-22-2000; Ord. No. O-0809-36, § 2)

#### **HISTORY**

Adopted by Ord. [O-2223-23](#) on 2/28/2023

### **20-2902 Regulations For Operation**

- (a) No peddler or solicitor shall enter any premises or attempt to peddle or solicit where the owner or occupant of such premises has indicated his desire not to be contacted for sales or solicitations by the placing of a "NO SOLICITORS" sign on those premises, and such entrance or attempt to peddle or solicit shall constitute a trespass upon private property.
- (b) Door-to-door peddlers and solicitors may only operate from the hours of 9:00 a.m. to 8:00 p.m. or sunset, whichever is earlier.

(Code 1976, § 13-2802; Ord. No. O-7475-8; Ord. No. O-8485-92; Ord. No. O-1112-29, § 1)

**HISTORY**

Adopted by Ord. [O-2223-23](#) on 2/28/2023

**20-2903 Applicability Of Article; Permit Required**

It shall be unlawful for any person to engage in outdoor selling on private property in the nature of peddling street vending or soliciting, as defined herein, within the corporate limits of the City without first obtaining a permit, as provided herein.

(Code 1976, § 13-2803; Ord. No. O-8485-92)

**HISTORY**

Adopted by Ord. [O-2223-23](#) on 2/28/2023

**20-2904 Application Procedure**

(a) *Contents of application.* Applicants for a permit under this article must file with the City Clerk a (verified) sworn application in writing on a form to be furnished by the City Clerk, which shall give the following information:

- (1) Name and description of applicant.
- (2) Address.
- (3) Brief description of business, goods to be sold, location desired.
- (4) Time period for which applicant wishes to do business.
- (5) License number and description of vehicle to be used (if applicable).
- (6) Verification that applicant is bonded as Group II vendor by the State Tax Commission or other proof that sales tax has been or is being paid on the merchandise sold or to be sold, if applicable.
- (7) If applicable, proof that a County health permit has been obtained.
- (8) If applicable, proof that a nursery and floral inspection certificate has been obtained from the State Department of Agriculture.
- (9) Photo of person to be selling.
- (10) Content of signs to be used.
- (11) Site plan depicting the location of any structure, vehicle, sign, or display to be used while conducting the business.
- (12) At time of filing, a fee, as provided in NCC 20-2909, shall be paid to the City Clerk.
- (13) Along with the written application, the applicant shall obtain from the State Bureau of Investigation and provide to the City Clerk a current State criminal history information report. The criminal record is considered current if it is dated no more than 30 days prior to the date on which the applicant submits a completed application to the City Clerk.
- (14) Each applicant for a permit under this article shall file with the application a bond either in cash or issued by a corporate surety authorized to do business in the State, which bond shall be payable to the City for the use and benefit of any person entitled thereto, and conditioned that the principal and surety will pay all damages to persons caused by, arising from, or growing out of the wrongful, fraudulent or illegal conduct of the licensee

while conducting the business in the City. The surety bond may also be used to secure collection and payment to the State Tax Commission of all City sales tax due and payable by reason of sales made within this City. Such bond shall be forfeited to the City if applicant does not, within 90 days of the expiration his license, demonstrate by affidavit or otherwise that such sales taxes have been paid. The bond shall remain in full force and effect for one year from the date of permit issuance. The bond amount for a one-day permit shall be \$1,000.00. The bond amount for a 30-day or 60-day permit shall be \$10,000.00.

- (15) Each applicant for a permit to solicit services under this article shall file with the application a certificate of insurance from the appropriate insurer that the applicant has general liability and workers compensation insurance in the amount required by the State when licensing the appropriate trade.

(b) *Review of application.*

- (1) The City Clerk shall review the application to ensure:

- a. That applicant is aware of his responsibility to collect and pay sales tax and that applicant is properly registered with the State Tax Commission. If applicant is not properly registered with the State Tax Commission, the permit will not be issued.
- b. That the chosen location is commercially zoned and does not extend onto the public right-of-way.
- c. That the applicant's business operation will not obstruct a safe line of sight from any street or private drive used to exit the subject property or cause other sight distance related problems.
- d. That NCC ch. 28 is to be properly complied with during applicant's business activity.
- e. That applicant's business operations will not reduce the required off-street parking of the host business.
- f. That a valid County health permit is obtained if required.
- g. That a valid nursery and floral inspection certificate has been obtained from the State Department of Agriculture, if required.

- (2) Applications of persons previously convicted of murder, manslaughter, kidnapping, robbery, rape, arson, burglary, and grand larceny, as defined by State and federal law, shall be reviewed by a Review Board to determine fitness to hold a license. The Review Board shall consist of a representative of the Police Department, a representative of the City Attorney's office, and the City Clerk.

- (3) Within seven days after receipt of the application, the City Clerk shall either approve or disapprove of the application.

- a. If the application is approved, the Clerk shall issue the permit within three days after the approval.
- b. If the application is not approved, the City Clerk must State with specificity the reasons for nonapproval and the City Clerk shall notify the applicant within three days after nonapproval. Proper mailing to the address shown on the application shall be adequate notification to the applicant.

HISTORY

Adopted by Ord. [O-2223-23](#) on 2/28/2023

## **20-2905 Review Of City Clerk's Decision**

- (a) An applicant who has been denied a permit may make application for relief from portions of this article or defects in the original permit application to the City Manager. Relief may be granted by the City Manager upon adequate showing that an undue hardship would be suffered if not granted.
- (b) After having been denied relief by the City Manager, as provided in subsection (a) of this section, the applicant shall have the right of appeal to the Council of the City. Such appeal shall be taken by filing with the Council within 14 days after denial of relief by the City Manager a written statement setting forth fully the grounds for the appeal. The Council shall set the time and place for the hearing and shall notify the applicant at least seven days prior to such hearing. Proper mailing to the address shown on the application shall be adequate notification. The decision and order of the Council on such appeal shall be final and conclusive.

(Code 1976, § 13-2805; Ord. No. O-8485-92)

HISTORY

Adopted by Ord. [O-2223-23](#) on 2/28/2023

## **20-2906 Permit Issuance**

- (a) Permits shall be issued by the City Clerk.
- (b) A permit must be issued not less than 48 hours prior to any actual selling activity by the applicant.
- (c) Permits shall be issued according to the place and manner of the soliciting, peddling, or outdoor vending. If a change of location is desired during the permit period, the permit will first have to be updated and reviewed.
  - (1) Permits for soliciting or peddling may be either for a one-day, 30-day, or 60-day duration.
  - (2) Permits for outdoor vending shall be issued in increments of either one day or 30 days for up to six months, but a vendor may not receive a permit for more than six months in a calendar year.
- (d) The format of such permit will generally follow the format of licenses, as provided in NCC 20-101, and such permit shall be prominently displayed at the applicant's selling location.

(Code 1976, § 13-2806; Ord. No. O-8485-92; Ord. No. O-8990-36; Ord. No. O-1011-18, § 5; Ord. No. O-1112-9, § 5)

HISTORY

Adopted by Ord. [O-2223-23](#) on 2/28/2023

## **20-2907 Renewal Of Permits**

Upon application to the City Clerk on a form to be provided by the City Clerk on which the application verifies that selling conditions remain unchanged from the date of approval of the original issuance of the permit, and if there have been no complaints filed concerning the conduct of applicant's selling operations, the Clerk shall issue a renewal or renewals of such permit for a period as designated in NCC 20-2906(c) or for such longer periods as approved by the City Manager, upon payment for such

longer periods as approved by the City Manager, upon payment of the applicable fee pursuant to NCC 20-2909.

(Code 1976, § 13-2807; Ord. No. O-8485-92)

**HISTORY**

*Adopted by Ord. [O-2223-23](#) on 2/28/2023*

**20-2908 Revocation Of Permits**

(a) Permits issued pursuant to this article may be revoked by the City Manager after notice and hearing, for any, but not limited to, the following reasons:

- (1) Any fraud, misrepresentation or false statement contained in the application for the license.
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, or merchandise.
- (3) Any violation of this article.
- (4) Conducting the business licensed under this article in an unlawful manner, or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(b) Appeal from revocation of such permit shall follow the procedure, as provided in NCC 20-2905(b).

(Code 1976, § 13-2808; Ord. No. O-8485-92)

**HISTORY**

*Adopted by Ord. [O-2223-23](#) on 2/28/2023*

**20-2909 Fees**

The application fee to be paid to the City Clerk upon submission of the application for a permit shall be, as provided in the City fee schedule.

(Code 1976, § 13-2809; Ord. No. O-8485-92; Ord. No. O-8990-36; Ord. No. O-1011-18, § 6; Ord. No. O-1112-9, § 6)

**HISTORY**

*Adopted by Ord. [O-2223-23](#) on 2/28/2023*

**20-2910 Enforcement**

Any person violating any provision of this article shall, upon conviction thereof, be punished in accordance with NCC 20-113.

(Code 1976, § 13-2810; Ord. No. O-8485-92)

**HISTORY**

*Adopted by Ord. [O-2223-23](#) on 2/28/2023*

