

Article 2. Peddlers and Hawkers, Itinerant Sales

§10-201 PEDDLERS AND HAWKERS; REGULATION.

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers, and hawkers shall, before doing business within the Municipality, make application for, and be issued a permit. Application for said permit shall be made to the Municipal Clerk, and shall contain all the necessary information, and documents required for the protection of the residents of the Municipality. Any person or persons granted a peddler and hawker permit shall be subject to any fees, occupation taxes, and other rules and regulations which the Governing Body deems appropriate for the purposes stated herein. Any permit so granted shall be subject to revocation for good and sufficient cause by the Municipal Police. (Ref. 17-134, 17-525 RS Neb.)

§10-202 PEDDLERS AND HAWKERS; HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of six (6:00) o'clock P.M., and eight (8:00) o'clock A.M., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all times. (Ref. 17-134 RS Neb.)

§10-203 PEDDLERS AND HAWKERS; EXCEPTIONS.

Nothing herein shall be construed to apply to any person, or persons, selling produce raised within the county, or to wholesale salesmen soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization.

§10-204 ITINERANT SALES; DEFINITION.

A transient merchant, itinerant merchant, or itinerant vendor is defined as any person, firm, or corporation, whether as owner, agent, consignee, or employee, and whether a resident of the Municipality or not, who engages temporarily within the Municipality in the business of selling and delivering goods, wares, and merchandise or taking orders for goods or merchandise, to or at homes, apartments, or other residential premises in the Municipality. (Ref. 17-134, 75-323 RS Neb.)

§10-205 ITINERANT SALES; LICENSE REQUIRED.

It shall be unlawful for an itinerant vendor to engage in such business within the Municipality without first obtaining a license therefor. It shall be unlawful for any farmer, truck grower, or others who produce, hawk or peddle products of the farm, fruit or other staples of food, or who peddle, sell, or offer to sell any commodity or article of commerce or trade to park their conveyances or erect a place of business for the purpose of selling said products upon any street within the Business District. (Ref. 17-134, 75-323 thru 75-335 RS Neb.)

§10-206 ITINERANT SALES; APPLICATION.

Applicants for a license shall file a written sworn application signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the Municipal Clerk, showing:

1. The name or names of the person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the Municipality; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent, or otherwise); 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 law of what state the same is incorporated.
2. The place or places in the Municipality where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business shall be conducted.
3. A statement of the nature of merchandise to be sold or offered for sale by the applicant.
4. A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.
5. Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.
6. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Municipal Clerk may deem proper.

(Ref. 17-134, RS Neb.)

§10-207 ITINERANT SALES; FEE.

The applicant shall pay a license fee of thirty-five (\$35.00) to cover the cost of processing the application and issuing the license.

§10-208 ITINERANT SALES; BOND.

Before any license shall be issued for engaging in an itinerant business, such applicant shall file with the Municipal Clerk a bond running to the Municipality in a sum set by resolution of the Governing Body and executed by the applicant as principal, and one (1) corporate surety, or two (2) individual sureties upon whom service of process may be had in the County, such bond to be approved by the Municipal Attorney, conditioned that such applicant shall comply fully with all the provisions of this Code, and the statutes of the State

of Nebraska, regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against the applicant for any violation of this Code or the Statutes, or any of them, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deception practiced on any person transacting business with such applicant, either at the time of making the sale or through any advertisement of any character whatsoever with reference to the merchandise sold or any part thereof. Action on the bond may be brought in the name of the Municipality to the use of the aggrieved person. Nothing herein shall be construed to apply to any itinerant vender required to file a bond under the provisions of the statutes of the State of Nebraska as a prerequisite of doing business within the State. (*Ref. 17-134, 75-329 RS Neb.*)

§10-209 ITINERANT SALES; APPOINTMENT OF AGENT.

Before any license shall be issued, such applicant shall file with the Municipal Clerk an instrument nominating and appointing the Municipal Clerk, or the person performing the duties of such position, his true and lawful agent with full power and authority to acknowledge service of notice or process in respect to any matters connected with or arising out of the business transacted under such license.

Immediately upon being served with process, the Municipal Clerk shall send to the licensee at his last known address, by registered mail, a copy of such process. Nothing herein shall be construed to apply to any itinerant vendor required to appoint a State Official as an agent for the purpose of receiving service of process as a prerequisite for doing business within the State. (*Ref. 17-134, 75-325 RS Neb.*)

§10-210 ITINERANT SALES; LICENSE EXPIRATION.

All licenses issued shall expire one hundred eighty (180) days after the date of issuance thereof unless a prior date is fixed therein. (*Ref. 17-134, RS Neb.*)

§10-211 ITINERANT SALES; LICENSE REVOCATION.

The licenses issued may be revoked by the Governing Body after notice and a hearing, for any of the following causes:

1. Any fraud, misrepresentation, or false statement contained in the application for a 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. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
5. 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 a menace to the health, safety, or general welfare of the public.

Notice of a hearing for the revocation of a license 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 sent by registered mail, postage prepaid, to the licensee, at his last known address, at least five (5) days prior to the date set for the hearing. (*Ref. 17-134 RS Neb.*)

§10-212 ITINERANT SALES; APPEAL.

Any person aggrieved by the decision of the Municipal Clerk in regard to the denial of an application for a license or in connection with the revocation of a license, shall have the right to appeal to the Governing Body. Such appeal shall be taken by filing with the Governing Body within fourteen (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 Governing Body shall set the time and place for a hearing on such appeal and notice shall be given to such person by registered mail, postage prepaid, at his last known address. The order of the Governing Body on such appeal shall be final. (*Ref. 17-134, RS Neb.*)

§10-213 ITINERANT SALES; POLICE ENFORCEMENT.

It shall be the duty of the Municipal Police to examine all places of business and persons subject to the provisions of this Article and to enforce the provisions herein against any person found to be violating the same. (*Ref. 17-134, 75-334 RS Neb.*)