

ORDINANCE NO. 2164

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS RELATING TO
PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS**

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOONE, IOWA:

Section 1. Purpose. To establish rules and regulations relating to peddlers, solicitors, and transient merchants to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes.

Section 2. The following new chapter is hereby enacted:

Chapter 133-PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.

133.01 DEFINITIONS. For the purposes of this section the terms defined in this subsection have the meanings ascribed to them:

“Peddler” means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchaser.

“Solicitor” means any person who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares, or merchandise, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery. “Solicitor” does not include any person taking or attempting to take orders to be filled by goods, wares, or merchandise delivered to the purchaser from other states.

“Transient merchant” means any person, firm, or corporation who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the city, and who, in the furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer, or railroad car.

133.02 LICENSE REQUIRED. No peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the city unless a license therefore shall first be secured as provided in this section.

133.03 APPLICATION AND ISSUANCE. Application for such license shall be made to the city clerk on a form supplied by the city along with an administrative fee of \$20.00 per license application. The application shall state:

(1) The name and address of the applicant and of all persons associated with him or her in his or her business, copies of each person’s driver’s license, and a recent photo no smaller than 1" x 2". If any person who is covered by the application does not possess a driver’s license, they may substitute a state issued identification card or a copy of their social security card. School identification cards will not be accepted.

(2) The type of business for which the license is desired.

(3) In case of transient merchants, the place where the business is to be carried on.

(4) The length of time for which the license is desired.

(5) A general description of the thing or things to be sold.

(6) The place of residence of the applicant for the five years preceding the date of application. Every application shall be accompanied by a criminal background check provided by the applicant from the Iowa Department of Criminal Investigation at applicant's expense.

(7) The city clerk will review the application and issue a license if all required information is provided. If any information is not provided or the applicant refuses to provide it, the application will be denied.

133.04 LICENSE NOT TRANSFERRABLE. Any license issued under the provisions of this section shall not authorize any person or persons, except the identical person or persons named in said license to engage in business thereunder, and such license shall not be transferable.

133.05 LICENSE SHALL BE CARRIED. Every person licensed under this section shall have with him or her while engaged in such business the license received by him or her from the city clerk and shall produce the same at the request of any city official or at the request of any individual, within the City, to whom he or she is exhibiting his or her goods or selling or attempting to sell same.

133.06 PRACTICES PROHIBITED. No person licensed under the provisions of this section shall, within the City, call attention to his or her business nor to the goods, wares or merchandise which he or she is selling or offering for sale by crying them out, by blowing a horn, or by any loud or unusual noise. A licensee is permitted to peddle, solicit, or sell goods or services between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday and 1:00-5:00 p.m. on Sundays.

133.07 EXCEPTIONS. This ordinance shall not apply to sales made by commercial travelers or selling agents in the usual course of business with bona fide dealers, nor bona fide sales of articles by sample, for delivery at a future date, nor sales conducted pursuant to statute or by order of any court nor to bona fide auction sales conducted by an auctioneer duly licensed under the statutes of the State of Iowa, nor to persons selling or peddling the products of the farm or garden cultivated by him or her. Also excluded from these regulations is any local or resident charity, church, school or non-profit organization, i.e. Boone National Little League Association, Boy Scout Troops, Girl Scout Troops, etc.

133.08 REVOCATION. Any license, issued under the provisions of this section, shall be subject to revocation by the city council upon satisfactory proof of a violation of the provisions of this section by such licensee, provided, however, that such licensee shall be given notice of such proposed revocation and reasonable opportunity to appear before the city council at its meeting when such revocation is considered. In the event the licensee commits a criminal act, other than a traffic violation, or is involved in any act that can be construed as harassment, intimidation, or threats of personal harm, the license may be seized by any law enforcement officer and banned from further sales within the City. Any licensee who loses his or her license by seizure may request a hearing before the city council at the next council meeting and apply to have the license reinstated.

133.09 DURATION. No license shall be issued or granted for a period of more than one (1) year.

133.10 EXCLUSION BY RESIDENTS. Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by him or her may place upon or near the usual entrance to such premises a permanent printed placard or sign bearing a notice similar to the

following: "Peddlers and Solicitors Prohibited". Such placard shall be visible from the public right-of-way. No peddler shall enter in or upon any premises, or attempt to enter in or upon any premises, where placard or sign is placed and maintained. No person other than the person occupying such premises shall remove such placard or sign. Any licensee who violates said warning shall have their license immediately seized and prohibited from continuing with their sales activities within the City. The provisions of 133.08 as to appealing the seizure shall apply. Any person who violates a posted notice prohibiting peddlers and solicitors from entering the premises may also be charged with trespassing.

133.11 Penalty for Violations. Any person or organization covered by this ordinance who peddles, solicits, or sells any goods or services without first obtaining a license or continues to peddle, solicit, or sell goods or services after having their license revoked shall be guilty of a simple misdemeanor punishable according to the provisions of the Code of Iowa.

Section 3. Repealer Clause. All ordinances in conflict herewith are repealed. They are: None.

Section 4. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity or the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. When Effective. This ordinance shall be in effect after its passage, approval and publication as provided by law.

Passed and adopted this 20th day of September, 2010.

John Slight-Mayor

Attest:

Luke Nelson-City Administrator/Clerk