

ORDINANCE NO. 09-115

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CRESTON, IOWA, 1996, BY AMENDING PROVISIONS PERTAINING TO PEDDLER'S, SOLICITOR'S AND TRANSIENT MERCHANT'S LICENSES

Be It Enacted by the City Council of the City of Creston, Iowa:

SECTION 122.04 MODIFIED. Chapter 122, Section 04, Subsections 1-8; Section 05, Subsections 2-5; Section 06, Subsections 1-2; Sections 07, 11, 12, 13, 14, 15, 18, Subsections 3 and 5; and Section 19 of the Code of Ordinances of the City of Creston, Iowa, 1996, is repealed and the following adopted in lieu thereof:

122.04 APPLICATION FOR LICENSE. Any person, firm, partnership, corporation or association not exempt from the application of the chapter shall file an application in writing with the Police Chief for a license under this chapter. A non-refundable application fee of ten dollars (\$10.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. The application shall contain the following information:

1. Applicant's name, permanent and local address and local phone number;
2. Applicant's date of birth and physical description;
3. Applicant's employer, if any, and the employer's address;
4. A place for the applicant to indicate whether or not the applicant has an Iowa retailer's sales tax permit and, if so, the applicant's sales tax permit number;
5. Applicant's motor vehicle description;
6. The nature of the applicant's business;
7. Last three places of such business; and
8. Length of time to be covered by the license.

Applicants must also furnish photo identification and criminal history data from the Department of Criminal Investigation updated within one year from license/permit request.

122.05 LICENSE FEES. The following license fees shall be paid to the Police Chief prior to the issuance of any license.

1. Non-refundable application fee	\$ 10.00
2. One day license	\$ 50.00
3. One week	\$150.00
4. Six months	\$500.00
5. One year or major part thereof	\$1,000.00

122.06 BOND/LICENSE REQUIRED.

1. **Transient Merchants.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Police Chief evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.
2. **Peddlers.** Before a license under this chapter is issued to a peddler who is engaged in selling food items as a mobile food unit, an applicant shall provide to

the Police Chief evidence that the applicant possesses a State of Iowa Mobile Food License as required by Section 137F.4 of the Code of Iowa.

122.07 LICENSE ISSUED. If the Police Chief finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

Upon issuance of license, the Chief of Police shall provide a copy to the City Clerk and Chamber of Commerce.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Police Chief may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license of in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Police Chief shall send notice to the licensee at the licensee's local address or hand deliver the notice, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statues allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Police Chief shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Police Chief may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Police Chief shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Police Chief finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Police Chief revokes or refuses to issue a license, the Police Chief shall make a part of the record the reasons therefore. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Police Chief by a majority vote of the Council members present and the Police Chief shall carry out the decision of the Council.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

3. **Local Residents and Farmers.** Local residents and farmers who offer products for sale.
5. **Route Sales.** Route delivery persons who only incidentally solicit additional business or make special sales (i.e. Schwans, Avon).

122.19 **CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations which have a place of business in Union County, Iowa, operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04, 122.05 and 122.06. All such organizations are required to submit in writing to the **Police Chief** the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the **Police Chief** finds that the organization is a bona fide charity or nonprofit organization, the **Police Chief** shall issue, free of charge, a license containing the above information to the applicant. In the event the **Police Chief** denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council on the _____ day of _____, 2009, and approved this _____ day of _____, 2009.

WARREN WOODS
Mayor, City of Creston

ATTEST:

LISA WILLIAMSON
Clerk, City of Creston

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. 09-115 on the _____ day of _____, 2009.

LISA WILLIAMSON
Clerk, City of Creston