

~CHAPTER 16~

PEDDLERS, SOLICITORS & TRANSIENT MERCHANTS

Section 16-1. Peddlers Defined.

A person engaged in the selling of personal property by going about from place to place or house to house to sell such property and who carries with him such property for delivery at time of sale in Hot Springs or any municipally owned or controlled park thereof, and who does not maintain a regular stock of merchandise in Hot Springs for at least six (6) months during the year in which he is peddling or soliciting is a peddler.

Section 16-2. Solicitors Defined.

A person engaged in going about from place to place or house to house soliciting orders for, or offering to sell personal property for future delivery in Hot Springs or any municipally owned or controlled park thereof is a solicitor.

Section 16-3. Transient Merchants Defined.

A “transient merchant” is any person, firm, corporation, partnership, association, or agents of any of them, transacting a temporary business where goods are exposed for wholesale or retail sale at any place in Hot Springs. A “temporary business” is a business established for temporary operation only. A “permanent business” is a business operating more than six (6) months in one place by the same person.

Section 16-4. Scope of Chapter.

The provisions of this ordinance with reference to the bonding and licensing of solicitors and peddlers shall not apply to traveling salesmen doing business exclusively with retailers, merchants, manufacturers, jobbers, or with public officials, nor to the peddling or soliciting of orders for any agricultural products or manufactured goods raised or manufactured in this State by the person selling or soliciting the sale of same, nor to the distribution or sale of newspapers, nor to the distribution or sale of personal property where the proceeds are to be used exclusively for religious, charitable, or benevolent purposes, nor to the distribution or sale of religious, political, economic or educational tracts, pamphlets, or periodicals where the proceeds are to be used exclusively for religious, charitable, or benevolent purposes. The provisions of this ordinance with reference to the bonding and licensing of transient merchants shall not apply to buying and selling of goods by cooperative associations, nor to

sales where the proceeds are to be used exclusively for religious, charitable, or benevolent purposes, nor to sales to wholesale or retail merchants by sample for future delivery made by representatives of established wholesalers or manufacturers, nor to sales by licensed peddlers, nor to the sale of fruits or vegetables, farm or garden products, grown or raised within this State by persons selling or offering the same for sale, nor to manufactured articles manufactured within this State by the persons selling or offering the same for sale.

Section 16-5. Nuisances; Exceptions.

The practice of going in and upon private residence property by solicitors or peddlers who have not previously been requested or invited so to do by the owner or occupant thereof for the purpose of soliciting orders for the sale of personal property or offering to sell personal property for future delivery, or for the purpose of selling or disposing of personal property thereon, is declared to be a nuisance and is prohibited, and no person licensed as a solicitor or peddler hereunder shall thereby be deemed authorized to go upon any private residence property except with the prior request, invitation, or consent of the owner or occupant thereof. This section shall not apply to the distribution or sale of religious, political, economic or educational tracts, pamphlets, papers, or periodicals where the proceeds are to be used exclusively for religious, charitable, or benevolent purposes, nor to the peddling or soliciting of orders for any agricultural product or article raised or manufactured by such peddler or solicitor in this State or to any articles sold in interstate commerce, except that no person shall go upon any private residence property for any of such purposes where the owner or occupant thereof has requested such person not to come thereon for any of such purposes or has placed on said premises in a conspicuous position near the entrance thereof a sign indicating that the occupants of said premises do not desire to be molested or have their rights of privacy disturbed by distributors, solicitors, or peddlers of any of such personal property, articles, or publications, or to have any person come on to said premises for any such purpose.

Section 16-6. License for Peddlers and Solicitors.

No person shall deal as a peddler or solicitor as defined by this chapter without having procured a license as herein required, and no two or more persons shall deal under the same license as partners, agents, or otherwise. The license fee for a solicitor or peddler shall be Ten Dollars (\$10.00) a day. The application for license shall state the name of the applicant, permanent address of applicant, length of residence in the State, whether he transacts business for himself or someone else, and if someone else, the name and address of the person, firm, or corporation he represents, the nature and character

of the property to be sold, whether he sells and delivers the property directly to the purchaser or whether he solicits or takes orders for it by carrying samples or catalogs, the manner in which he intends to travel and the character of the vehicle he intends to use in traveling, copies of the contracts and agreements he intends to make with the customers, and how he intends to operate within the City.

Section 16-7. Bonds Required from Peddlers and Solicitors.

Every solicitor or peddler, before receiving a license, shall file in the office of the City Finance Officer a bond in the penal sum of Five Hundred Dollars (\$500) for the faithful performance and obligation of such solicitor or peddler arising in connection with his business as such and for the payment of all claims for damages for which he may become liable through fraud, deceit, or otherwise in the course of his business as such solicitor or peddler.

Section 16-8. Licenses and Bonds for Transient Merchants.

No person shall engage in business as a transient merchant as hereinbefore defined without a transient merchant's license for each structure, stand, tent, car, vehicle, booth, or place used by any such merchant. A transient merchant's license fee shall be One Hundred Dollars (\$100) per month and no such license shall be issued for a less period than one (1) month. To obtain such license, the transient merchant shall file in the Office of the City Finance Officer a verified application stating his name and residence; description of goods he intends to handle; the date he acquired them, and the place from whence they were last moved. With such application, he must also file a bond to said City, to be approved by the City Finance Officer, in the penal sum of Five Hundred Dollars (\$500) conditioned for the payment of any license fee to become due said City, should said merchant continue to operate beyond any time for which he has paid. On filing such application and bond and payment of fee in advance, the City Finance Officer shall issue a license to the applicant to do business at the place described in the application, and for the time for which a license fee has been paid in advance.

Section 16-9. Peddling from Vehicles on Streets.

No person shall sell or offer for sale any goods or merchandise from a cart, wagon, automobile, truck, or other vehicle in the thoroughfares of Hot Springs, South Dakota. This section, however, does not apply to the delivery of farm or garden products where the order for the same has been placed in advance, neither does it apply to drayage or the delivery of goods sold in the regular course of an established business.

Section 16-10. Peddling in Parks.

It shall be unlawful for any peddler or other person excepting a person occupying a portion of a park under a valid concession agreement to sell, or offer to sell, to any person within any municipal park of the City, any goods, wares, merchandise, books, pictures, novelties, souvenirs, or trinkets, or any other article of commerce and trade, including goods of his own production or manufacture.