

Article I. Solicitors and Peddlers

5-1 Definitions

- (a) *Solicitor*: A solicitor is a person, whether a resident of the city, or not, traveling by foot, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, and, merchandise, personal property of any nature whatsoever, including, without limitation, intangible personal property, stocks, bonds, investment participation shares, and product promotions, for future delivery, or for services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether he/she is collecting advanced payment on such sales or not. The word "solicitor" shall include the words "itinerant merchants", "salesmen", and "promoters".
- (b) *Peddler*: A peddler is a person, whether a resident of the city, or not, traveling by foot, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meat, fish, vegetables, fruit, truck garden or farm products or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who without traveling from place to place, sells the same for sale from a wagon, motor vehicle, or other vehicle or conveyance. The word "peddler" shall include the words "drummers" and "hawkers".

State law reference regulation of solicitation campaigns, flea markets and itinerant merchants, G. S. 160A-178.

5-2. Permit Required

It shall be unlawful for any person not exempted by this section to engage in solicitation and/or peddling within the corporate city limits of the city, either directly or through an agent or employee, without first obtaining a permit from Forest City Police Department authorizing such activity.

State law reference Regulation of solicitation campaigns, flea markets and itinerant merchants, G. S. 160A-178.

5-3. Permit Application

Any person wanting to engage in peddling and/or soliciting in the Town of Forest City shall submit to the Town of Forest City Police Department a permit application. The application shall be filed not less than 15 days prior to the desired date of such solicitation and/or peddling. The permit application shall be on a form furnished by the department and shall contain the following information:

- (a) Full name, date of birth and permanent address of the person applying for the permit.
- (b) Physical description of applicant including height, weight, eye and hair color.
- (c) Name, address and telephone number of organization applying for a permit.
- (d) Job title of applicant.
- (e) The purpose for such solicitation to be conducted including a description of the goods, wares, merchandise, food, periodicals, items or services to be sold or offered for sale.
- (f) Method solicitations will be made.
- (g) Identification of days and hours of operations the solicitations will be made.
- (h) Descriptions of vehicles being used and registration plates of said vehicles.
- (i) A list of all misdemeanor and felony arrests including the approximate dates of arrests and city/state of such arrest(s).
- (j) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the city, the governing body of the city or any employee thereof.
- (k) Present a valid state driver's license, North Carolina Identification Card, Passport or Military Identification.
- (l) If the applicant is an employer or principal, a separate application shall be submitted for each person who will be peddling and/or soliciting. A separate permit will be processed for each.
- (m) Any other reasonable information or documentation as determined by the police department.

5-4 Permit fees for solicitors and peddlers

At the time of the application, the applicant shall pay a nonrefundable fee to defray the cost of processing the application. The original organizational application fee shall be \$25.00 and each subsequent application shall be at a fee of \$5.00. The annual permit shall expire on December 31 of the year of issuance.

5-5 Exclusions

Charitable organizations where the accrued benefits are awarded to a charitable organization or charitable project within Rutherford County are exempt from the definition of "solicitor" or "peddler".

5-6 Approval, rejection and revocation

1. When an application is filed, the Chief of Police or his designee shall:
 - (a) Make such investigation to ascertain whether the provisions of this article have been complied with; and
 - (b) Notify the applicant of his/her decision to approve or deny the permit.

2. In the event the Chief of Police or his designee denies the application, he shall notify the applicant in writing as to the reason for the denial.
3. The Chief of Police or his designee shall have the authority to revoke any previously issued solicitors and/or peddlers permit.
 - (a) The permittee shall be notified in writing as to the reason of the revocation.
 - (b) The revocation shall become effective immediately upon receipt of notification.
 - (c) The permittee shall not conduct solicitation pending determination or appeal.

5-7 Reasons for denial and or revocation

The Chief of Police or his designee may deny an application or revoke any previously issued permit for the following:

- (a) The application is incomplete;
- (b) The application fee has not been paid;
- (c) The application contains false or misleading statements;
- (d) Has committed prior ordinance violations pertaining to solicitors and peddlers;
- (e) Applicant has been convicted of a misdemeanor involving larceny, fraud, forgery, sale of counterfeit goods and/or breaking and entering.
- (f) Applicant has been convicted of a felony; and
- (g) Any other reasonable evidence that the applicant would pose a substantial threat to the public health, safety, morals or general welfare.

5-8 Appeal

1. Appeals by applicants and/or permittee must be filed within ten (10) days from receipt of notice by the Chief of Police or his designee of such denial to issue a permit and/or revocation of a permit. The Chief of Police or his designee shall:

- (a) Within 10 days of an appeal hold at least one hearing;
- (b) Make a determination as to deny, revoke or reinstate a permit;
- (c) Notify applicant and/or permittee in writing of such determination.

2. Appeal of Chief's decision

Applicant and/or permittees may file appeals of the Chief's appeal determination to the City Manager. The appeal must be within ten (10) days of receipt of notification of the Chief of Police final decision and in writing. The City Manager shall review the denial and/or revocation and the appeal determinations. The City Manager will:

- (1) Reinstate the permit; or
- (2) Uphold the denial or revocation.

The City Manager will notify the applicant/permittee of his decision in writing. This City managers decision shall be final.

5-9 Prohibited activities by solicitors and peddlers

It shall be unlawful for any solicitor or peddler, or any person in his behalf, to:

- (a) Solicit or peddle between the hours of 8:00 pm and 8:00 am;
- (b) Accost another, or by forcing oneself upon the company of another;
- (c) Touch a person being solicited without the persons consent;
- (d) Block the path of a person being solicited or blocking the entrance or exit of any building or vehicle;
- (e) Use profane or abusive language during solicitation;
- (f) Use of a gesture or act intended to cause a reasonable person to be fearful of the solicitor or make the person being solicited to feel compelled to accede to the solicitation;
- (g) Be under the influence of alcohol or have illegally used controlled substances;
- (h) Continue to solicit an individual after the person has made a negative response, either verbally or by physical sign, and
- (i) To solicit/peddle or attempt to solicit/peddle from city streets to include the right of way, sidewalks, median or shoulder thereof.

5-10 Approaching motor vehicles

No person shall stand, sit or loiter in any city street or the right of way thereof for the purpose of employment, business or contribution from the driver or occupant of the motor vehicle. This provision shall not apply to licensees, employees or contractors of the Department of Transportation or City employees engaged in construction, maintenance or in making traffic engineering surveys.

State law reference pedestrians soliciting rides, employment, business or funds upon highways or street, G.S. 20-175

5-10 Not to be represented as endorsement by city

It shall be unlawful for any permittee, or for any agent, employee or representative thereof, to advertise, represent or hold out in any manner that the permit required by this article is an endorsement of the holder thereof by the governing body of the city, or any employee thereof, or by the city.

5-11 Violation a misdemeanor

Violation of this article shall be a misdemeanor and punishable by a fine not to exceed fifty (50.00) and/or by imprisonment of more than 30 days.

State law reference violation of local ordinances misdemeanor, G.S. 14-4, and enforcement of ordinances, 160A-175.

5-12 Each day a separate offense

Each day that any violation of this article shall continue shall constitute a separate offense.