

ORDINANCE NO 443

AN ORDINANCE AMENDING CHAPTER 122 OF  
THE EARLHAM CODE OF ORDINANCES, 2017,  
PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

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

**SECTION 1. SECTION AMENDED.** Chapter 122 of the Code of Ordinances of the City of Earlham, Iowa, 2017, pertaining to peddlers, solicitors and transient merchants is hereby amended by removing the current Chapter 122 and replacing it with the following:

CHAPTER 122  
PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS AND MOBILE FOOD VENDORS

122.01 PURPOSE.

The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

122.02 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Mobile Food Vendors" means any person who prepares, stores, or sells any food item in or from a vehicle or unit which is either parked in a permanent location or which moves from place to place and stops temporarily for such sales.
2. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
3. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
4. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED.

Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter

122.04 APPLICATION FOR LICENSE.

An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. ~~An application fee of \$5.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.~~ Mobile food vendors must apply for their license at least two business days prior to date of sale.

122.05 LICENSE FEES.

~~Every licensee who is a nonresident of the City shall pay a fee before a license is issued:~~

~~—1. For one day or any part thereof—\$25.00~~

~~—2. For one week—\$100.00~~

The following license fees for all solicitors, peddlers, transient merchants and mobile food vendors shall be paid to the Clerk prior to the issuance of any license:

- |              |           |
|--------------|-----------|
| A. One day   | \$ 25.00  |
| B. One week  | \$ 50.00  |
| C. One month | \$ 100.00 |
| D. One year  | \$ 250.00 |

#### 122.06 BOND REQUIRED.

Before a license under this chapter is issued to a transient merchant or mobile food vendor, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

#### 122.07 LICENSE ISSUED.

If the Clerk 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.

#### 122.08 DISPLAY OF LICENSE.

Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant or mobile food vendor shall display publicly such merchant's license in the merchant's place of business.

#### 122.09 LICENSE NOT TRANSFERABLE.

Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

#### 122.10 TIME RESTRICTION.

Time restriction for licenses shall be as follows:

1. All solicitors and peddlers are in force and effect only between the hours of 10:00 a.m. and 7:00 p.m.
2. All mobile food vendor licenses are in force and effect only between the hours of 8:00 a.m. and 10:00 p.m.

122.11 LOCATION. The location of operation of a mobile food vendor shall be determined and approved by the City Clerk, Chief of Police or their designees.

#### 122.12 REVOCATION OF LICENSE.

After notice and hearing, the Clerk Council may revoke any license issued under this chapter for any of, but not limited to, the following reasons.:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or 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.
4. City Clerk or designee has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.

122.13 NOTICE OF HEARING. The Clerk shall send a notice to the licensee at the address on the permit application, 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 complaint against the licensee, the ordinance provision or State statutes allegedly violated, and the date, time and place for the hearing.

**122.14 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation. If a license is revoked, no refund of any license fee paid shall be made.

**122.15 LICENSE EXEMPTIONS.**

The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Earlham Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Community Projects. Peddlers or solicitors of items which are approved by the Earlham Community Projects Committee, Inc. and the Earlham Business Association as a part of any festival or celebration they may sponsor at any time, during the time period of the festival or celebration being sponsored, provided said peddler or solicitor is included in a list provided by such organizations to the Clerk.
8. Religious and Charitable Organizations. Authorized representatives of religious, charitable and nonprofit organizations located within the Earlham Community School District.

**122.16 ENFORCEMENT.** It shall be the duty the Earlham Police Department to enforce the provisions of this chapter against any person found to be violating the same.

**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 and approved by the City Council of Earlham, Iowa, this 12<sup>th</sup> day of June, 2023.

\_\_\_\_\_  
Jeff Lillie, Mayor

ATTEST: \_\_\_\_\_  
Mary Sue Hibbs, City Clerk

Passed First Reading: 12<sup>th</sup> day of June, 2017.  
Passed Second Reading: waived  
Third Reading: .waived.

I certify that the foregoing Ordinance was published as Ordinance No. 433 on the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mary Sue Hibbs, City Clerk

<u>Member</u>	<u>1<sup>st</sup> Reading</u>	<u>2<sup>nd</sup> Reading</u>	<u>3<sup>rd</sup> Reading and Final Passage</u>
Baskin			
Fredericksen			
Mudge			
Nelsen			
Swalla			

