

## **Peddlers Permit Cover Letter**

Here is a list of questions to be answered by each person soliciting for your business here in Oelwein. I've also attached a copy of the code section covering this topic. The following are required to start the application process:

- Complete all question on the application, sign and date.
- A nonrefundable fee of \$35.00 is due at time of application.
- A \$10,000 bond is required at time of application.
- A copy of your Drivers License and/or Passport is required
- Your personal cel phone or email address to contact you with additional question we may have or to notify you your permit request has been approved.
- After approval, your permit can be picked up at City Hall and it must be carried by each of your approved employees. (Duplicates may be necessary but for only for employees approved through the permitting process.)

It can take up to 10 days for this approval which includes a background check. This Peddlers Permit allows you to go "door to door" soliciting business and they are issued for 60 days. Please include a phone number you can be reached at for any additional questions. I will contact you at that number to let you know when the approval is complete.

Please be aware that you must be registered with the Iowa Secretary of State as a local transient merchant under Iowa Code Chapter 9C.4 which requires you to file a bond with the state even when registering under a municipal ordinance. A sales tax permit is also required. Their contact number is 515-281-5864.

Contractors are also required to be registered with the State of Iowa.

If your company does construction work here in Oelwein, your will be required to be register as a contractor to do work in Oelwein, in addition to the state requirement. The Oelwein requirement is completed through the building permit process. This is requested through the Police Facility by the Building Inspection Code Enforcement area. Please contact their facility regarding questions for their online process or follow the instructions on their web site [Oelweinpolice.org](http://Oelweinpolice.org) under the "Building Permit" tab. Their general number is 319-283-4311

Staff notes:

Dispense the following items upon inquiry:

1. Peddlers Permit cover letter
2. Peddlers Permit application
3. Oelwein City Code Chapter 17
4. Letter from Office of the Iowa Secretary of State



**Oelwein Peddlers, Solicitors and Transient Merchants Permit**

Personal Name \_\_\_\_\_

Permanent Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Temporary Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Personal Cel Phone \_\_\_\_\_ Email \_\_\_\_\_

Business Name \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Email \_\_\_\_\_

Describe Business Being Conducted

\_\_\_\_\_  
\_\_\_\_\_

List city names and state during last 3 years you worked soliciting sales and approximate dates.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Are you or a member of your business a convicted felon?      YES    NO

Date of felony \_\_\_\_\_

Have you ever had an Oelwein Peddlers, Solicitors and Transient Merchants Permit?

YES NO

Have you ever had an Oelwein Peddlers, Solicitors and Transient Merchants Permit Revoked?

YES NO

Oelwein Peddlers, Solicitors and Transient Merchants Permit requires the following

A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes, driver's license number and state issued, a photograph of the applicant and the right thumbprint of the applicant.

Description

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Driver's License Number and state issued \_\_\_\_\_

Description of the vehicle you will be driving to solicit sales. (make, model, year, color)

\_\_\_\_\_  
\_\_\_\_\_

Number of Days in Oelwein \_\_\_\_\_

**I have read and understand Oelwein Municipal Code Chapter 17 Licenses and Regulations and I acknowledge that a copy was provided to me. I also acknowledge door to door sales are allowable Monday –Saturday 9 am to 8 pm and no sales on Sunday, or on a state or national holiday. A copy of the sales order and receipt must be given to the customer at the same time of the sale.**

YES NO

Signature \_\_\_\_\_

Date \_\_\_\_\_

Police Chief Approval \_\_\_\_\_ Date \_\_\_\_\_

City Clerk Approval \_\_\_\_\_ Date \_\_\_\_\_

This permit allows the holder to perform the actions spelled out in Oelwein Municipal Code Chapter 17 Licenses and Regulations.

Fee Paid \$ \_\_\_\_\_ Date Paid \_\_\_\_\_ Date Permit Issued \_\_\_\_\_

CHAPTER 17  
LICENSES AND REGULATIONS

- Article I. Peddlers, Solicitors and Transient Merchants  
Sections 17-1 through 17-19
- Article II Pawnbrokers, Dealers in Precious Metals, and Itinerant Dealers  
Sections 17-20 through 17-26
- Article III Scrap and Recyclable Materials Dealers  
Sections 17-30 through 17-35

ARTICLE 1  
PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

SECTION 17-1. DEFINITIONS.

For use within this chapter, the following terms are defined:

A. "Peddler" means any person carrying or transporting 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.

B. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street an order for goods or merchandise to be delivered at a future date.

C. "Transient merchant" means any person, firm, or corporation who engages in a temporary or itinerant merchandising business, intending to remain in business in the City of Oelwein for less than one year, and in the course of such business hires, leases, or occupies any building or structure whatsoever. 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 shall not exempt any person, firm, or corporation from being considered a transient merchant.

SECTION 17-2. LICENSE REQUIRED.

It shall be unlawful for any person to engage in peddling, soliciting, or in the business of a transient merchant in this city without first obtaining a license as provided in this chapter.

### SECTION 17-3. LICENSE APPLICATION.

An application for a license under this chapter shall be made with the Oelwein city clerk or the clerk's authorized representative and shall give the following information:

A. The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed it will be carried on in the city and the local address or addresses of such person or persons while engaged in such business.

B. The name and permanent address of the applicant; whether such person will act as proprietor, agent, consignee or employee and the credentials establishing such relationship; the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

C. The place or places in the city where it is proposed to carry on applicant's business and the length of time during which it is proposed said business shall be conducted.

D. A statement of the nature and character of the tangible personal property or service to be sold or offered for sale by the applicant in the city; whether the goods are new, damaged or rejects; whether the same are proposed to be sold from stock in possession or by sample, or at auction, or by direct sale, or by taking orders for future deliveries; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

E. The place or places other than the permanent place of business of the applicant, where applicant within three (3) years preceding the date of said application peddled, solicited or conducted a transient business, stating the nature thereof and giving the post office box number and street address of any building or office in or from which said business was conducted.

F. Whether or not the applicant or the person having management or supervision of the applicant's business has been convicted of a felony within the five (5) years immediately preceding the date of the application or of the violation of any laws or ordinance relating to the same or similar business proposed to be conducted by the applicant, the nature of such offense and the punishment therefore.

G. Whether the applicant has ever held a license under this chapter which has been denied.

H. Whether the applicant has ever held a license under the chapter which has been revoked.

I. A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes, social security number, driver's license number and state issued, a photograph of the applicant and the right thumbprint of the applicant.

J. If the applicant's business is to be conducted through employees, the application shall include the information specified at paragraph 5 through 9, inclusive, above for each employee who will be conducting applicant's business in this city as well as the name and address of each such employee.

#### SECTION 17-4. LICENSE ISSUANCE.

The clerk shall forward the application to the police chief and if the police chief finds the application is made out in conformance with this chapter and the facts stated therein are correct, the chief shall sign the same noting approval and return the application to the city clerk who shall issue, within ten (10) days and upon the posting of a bond as required by this chapter, a license and charge a fee therefore as determined by this chapter. The license issued hereunder shall not be transferable. There shall be no refund of the license fee.

#### SECTION 17-5. APPLICATION FEES.

A nonrefundable fee as established by resolution of the city council shall be paid to the city clerk at the time of filing such application to cover the cost of investigating the facts set forth therein.

#### SECTION 17-6. LICENSE FEES.

Before a license shall be issued, the applicant shall pay a license fee in accordance with the fee schedule as adopted by resolution of the city council.

#### SECTION 17-7. LICENSE BOND.

Before a license under this chapter shall be issued, each applicant shall post a bond of one hundred dollars (\$100.00) with the city clerk. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the city and the statutes of the State of Iowa regulating and concerning the sale of goods, subscriptions, wares, merchandise or personal property of any nature, including food stuffs, or for services, including advertising, and will pay all judgment rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against said applicant by any person or persons for damage growing out of any misrepresentations or deception was made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this ordinance and shall not be retired until after a lapse of one year from the expiration of each license.

#### SECTION 17-8. DUPLICATE AND INDIVIDUAL LICENSES, WHEN REQUIRED.

A license under this chapter may be issued to a person carrying on the business of solicitor, peddler or transient merchant in this city through employees. Such employees shall carry a

duplicate license issued to the employee, which license shall be obtained at the office of the city clerk upon compliance with the requirements of the chapter. If the business of solicitor, peddler or transient merchant in this city is carried on through agents who are not employees, or by consignees, or by an unincorporated firm or association, each person so conducting the business in this city shall be required to have a separate license, but not post a separate bond if one is posted by the corporation.

#### SECTION 17-9. LICENSE DISPLAY.

Each solicitor or peddler shall at all times while doing business in this city keep in his or her possession the license provided for by this chapter and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly the license in his or her place of business.

#### SECTION 17-10. CHARITABLE AND NON-PROFIT ORGANIZATIONS.

A. Resident school, Girl Scout, Boy Scout, 501(C)(3) charitable corporations, and other such organizations shall be exempt from the application of this chapter.

B. A religious, charitable, patriotic, social service, civic, or political non-profit organization, other than those set forth in Sec. 17.10(1) of this section, shall receive a license for activities regulated under this chapter where its authorized representative volunteers are to undertake such activities without remuneration and where the entire proceeds of the activities will go to the organization and not for private profit. The organization shall file the information required for a license under this chapter in the office of the city clerk. The city clerk shall issue, free of charge, and without bond, a license for the requested activity which shall be valid for a period of one year and may be renewed on or before the expiration date.

#### SECTION 17-11. EXEMPTIONS.

Persons engaged in the following described activities are exempt from the duty of applying for a license under this chapter:

- A. Persons selling at wholesale to merchants for the purpose of resale.
- B. Persons selling or distributing newspapers.
- C. Persons selling tangible personal property or services to business enterprises.
- D. Persons who sell at their permanent residence in the city, works of art or craft made or created by such person or a member of each such person's immediate family.
- E. Persons licensed by the State of Iowa to sell real estate or insurance or licensed as transient vendors of drugs.

F. Persons selling or distributing livestock feeds as defined by the laws of the State of Iowa.

G. Persons selling or delivering tangible personal property or services through a permanent business licensed through the City.

H. Persons selling or distributing fresh fruit or vegetables cultivated by such person.

I. Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved and such sales are made on the premises where the event is to be conducted.

J. Persons selling tangible personal property at a garage, basement, or yard sale held at one of the person's premises.

K. Persons selling food and beverages at a food establishment regulated pursuant to the Code of Iowa.

#### SECTION 17-12. DENIAL OR REVOCATION OF LICENSE PROCEDURE.

A. Denial of license. The city may deny within ten days a license to any applicant who has:

1. Held a license under this chapter that has been revoked within two years of the date of the present application.

2. Failed to make a complete, truthful application.

3. During the past two years a history of:

a. Fraudulent applications of similar licenses;

b. Misrepresentation of the quality of merchandise or services offered for sale;

c. Crimes involving personal property.

B. Revocation of license. The police chief may revoke any license issued under the provisions of this chapter by sending a Notice of Revocation by certified mail to the license holder at his or her last known address, return receipt requested, or by personal service on the license holder or its officers for any of the following causes:

1. Information showing the license was erroneously issued initially;

2. For any violation of the provisions of this chapter;

3. For any violation of any city or State law regulating the sales activities of the license holder;

4. For making any fraudulent statement in connection with the application for a license under this chapter.

C. The license shall stand denied or revoked unless within five (5) days after denial or receipt of the Notice of Revocation from the police chief the license applicant or holder files a written request for a public hearing on the police chief's action. The public hearing shall be conducted before the city administrator which shall forward to the full city council a recommendation on whether a license shall be denied, reinstated or revoked, as the case may be. The city council may order the license issued or reinstated either conditionally or unconditionally, or revoke the license.

1. Ten (10) days' notice of the time and place of the public hearing shall be given the license applicant or holder, who shall have an opportunity to appear before the committee and who shall have an opportunity to appear before the committee and present any evidence or arguments he or she may have why the action taken by the police chief should not be approved by the city council.

#### SECTION 17-13. SALES REGULATIONS.

A. No person shall engage in activities regulated under this chapter on public property without first procuring special authorization from the city council.

B. No person shall shout or use any sound device upon any of the public places of the city or upon any private premises in said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard from the public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.

C. No person shall engage in business under this chapter in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or are not invited.

D. No person shall engage in the activities regulated under this chapter from door to door prior to 9:00 a.m. or after 8:00 p.m. on any weekday or Saturday, or at any time on a Sunday or on a State or National holiday.

E. A written receipt for all orders taken within the city shall be given to the customer, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods, wares, merchandise or service or services ordered, the total purchase price thereof, and the amount of the down payment received from the purchaser.

#### SECTION 17-14. PENALTY.

Violations of this Article, Section 7.1 - 7.13 shall be a municipal infraction punishable pursuant to 1-10. Anyone violating the provisions of this chapter shall, upon conviction, be subject to

imprisonment not to exceed thirty (30) days, or a fine not exceeding one hundred dollars (\$100.00). Each sale or solicitation of a sale made without a license or bond in violation of this chapter shall constitute a separate offense.

Sections 17-15 through 17-19 reserved.

## ARTICLE II

### PAWNBROKERS, DEALERS IN PRECIOUS METALS, AND ITINERANT DEALERS

#### SECTION 17-20. DEFINITIONS.

The following words and phrases shall have the meanings respectively ascribed to them for the purpose of the regulations in this section.

A. Dealer. Any pawnbroker or itinerant dealer, and any principal, employee, agent, or servant thereof, engaged in or conducting business for purposes, sale, barter, exchange, or pawn of gold, silver, platinum, including coins, and previous or semiprecious or semiprecious gems or stones.

D. Engaged in or conducting business. The purchase, sale, barter, pawn or exchange of any item in Sec. 17-20(1)(a), including the advertising therefor.

E. Itinerant Dealer. Any dealer as defined herein who engaged in any temporary or transient business conducted in a shop, room, hotel room, motel room or other premises rented for any duration less than thirty (30) consecutive days or used on a temporary basis.

#### SECTION 17-21. DEALER'S PERMIT.

A. A dealer must apply for and obtain a dealer's annual permit prior to being engaged in or conducting business as a dealer. Such permit shall be posted conspicuously in each place of business named therein.

B. Application. To obtain a dealer's permit a dealer shall file a written, sworn application on a form provided by the city clerk signed by the applicant if an individual, by all partners if a partnership, and by the president, if a corporation, with the city clerk showing:

1. The name or names of the principals, agents, and employees of the applicant's business during the time that it is proposed that such business will be carried on in the City of Oelwein; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (as proprietor, agent, employee or otherwise); the name and the address of the

person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state it is incorporated;

2. The place or places in the City of Oelwein where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that said business shall be conducted;

3. The place or places, other than the permanent place of business of the applicant, where the applicant within the six (6) months next preceding the date of said application conducted an itinerant business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

4. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers;

5. Credentials from the person, firm or corporation for which the applicant proposed to do business, authorizing the applicant to act as such representative.

C. Fee Requirement. Every application for a dealer's annual permit shall be accompanied by the application fee. The fee for a dealer's annual permit shall be in such amount as is set by resolution of the City council.

D. Issuance. Upon receipt of an application for a dealer's permit, the city clerk shall notify the Chief of Police or chief's designee who shall cause such investigation of the applicant as the Chief deems necessary for the public good, and may recommend issuance or refusal of a dealer's permit. Within ten (10) days of the filing of an application, the city clerk shall issue a dealer's permit or refuse to do so for reasons including but not limited to the following:

1. fraud, misrepresentation or false statement of material or relevant facts contained in the application; or

2. that the applicant has engaged in a fraudulent transaction or enterprise.

E. Appeal. If the city clerk denies an application for a dealer's permit, the city clerk shall mail to the applicant, by certified mail, a written statement of the decision with a brief statement of the reasons therefore. An appeal from the decision of the city clerk may be made in writing to the city administrator or administrator's designee, within ten (10) days of the receipt of the decision. The written appeal shall state the specific grounds for the appeal. The city council shall hold a hearing within a reasonable time from the receipt of the appeal. At the hearing, the applicant or permit holder may be represented by counsel, may cross-examine witnesses and may present evidence in his or her favor. The city council may grant or deny the appeal. That decision shall be final.

F. Expiration. A dealer's permit shall expire on December 31 of the year in which it is issued. If a dealer's business is discontinued or moved or sold within one (1) year after issuance, the dealer's permit expires and a new permit must be obtained before the dealer's business is

recommended. The dealer's annual permit is a personal privilege and shall not be transferable, nor shall there be a partial refund of the application fee where the permit holder discontinues his business prior to December 31 of the year in which the permit was issued.

G. Revocation. Any dealer's permit may be revoked by the city administrator or administrator's designee after notice and hearing if it is found that the dealer has knowingly violated any provisions of this subsection. The city administrator shall mail to the permit holder, by certified mail, a written notice of the hearing (20) days before the hearing date. The notice shall set forth the grounds of the proposed revocation and the time and place of the hearing. At the hearing the permit holder may be represented by counsel, may cross-examine witnesses, and present evidence in his or her favor. The decision of the city administrator or administrator's designee shall be final.

H. Itinerant dealers must register with the City of Oelwein Police Department before engaging in or conducting business each time that such dealer is in the City of Oelwein to conduct business.

#### SECTION 17-22. RECORDS OF TRANSACTIONS AND RETENTION OF PURCHASES.

A. Records. Every dealer shall keep at the dealer's place of business a record book in which shall be legibly recorded with ink at the time of each transaction as a dealer setting forth;

1. the time, date, place for the transaction, and type of transaction;
2. an accurate description of the goods, articles or things purchased, bartered, exchanged, pawned or received;
3. the signature and printed name, residence and description (consisting of the sex, date of birth, social security number,) of the person selling, pawning, bartering or exchanging the goods, articles, or things;
4. the estimated value of each article;
5. the amount paid, advanced or loaned; and
6. the date, name, address and phone number of the person when an item is bought or redeemed.

B. Such record book shall be kept for a period of at least ten years from the date of purchase, sale, barter, exchange or pawn.

C. Itinerant dealers. Every itinerant dealer shall present the aforesaid record book to the Police Department for inspection and photocopying before the itinerant dealer leaves the City of Oelwein.

D. Retention.

1. No dealer shall sell and deliver, melt, change the form of, or dispose of any item subject to this section within ten (10) days of the acquisition of such item unless permission to do so is granted in writing by the Chief of Police or his designee, except that the person who pawns an item is permitted to redeem the pawned item within the ten (10) day retention period.

2. The Chief of Police or his designee may inspect all items for which he grants a request to dispose of before the end of the ten (10) day retention period.

#### SECTION 17-23. REPORTS TO CHIEF OF POLICE.

Every dealer shall deliver the records required in subsection (3) above to the Chief of Police or his designee every business week which deal with the transactions occurring in that period, except that an itinerant dealer shall deliver the records required in subsection (3) above to the Chief of Police or his designee every day which deal with the transactions occurring in that period.

#### SECTION 17-24. INSPECTION OF PREMISES.

Every dealer shall admit to its premises during its regular business hours, any police officer to examine its record book on the premises or in its possession, as well as articles purchased or received; and to search for and to take into possession any article known by that officer to have been reported missing or known or believed by the officer to have been stolen.

#### SECTION 17-25. PROHIBITIONS.

A. No dealer shall conceal, secrete or destroy for the purpose of concealing, any item purchased or acquired by him for the purpose of preventing identification thereof by a police officer or any person claiming to own the same.

B. It shall be unlawful for any dealer in the course of the dealer's business or occupation to acquire, by purchase, barter, exchange or pawn, any goods from any person under eighteen (18) years of age.

C. It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, items bearing evidence of a serial number which has been tampered with or scratched or obliterated in any manner unless such person immediately contacts the police department of the city.

D. It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, any items prior to examining a picture identification with a physical description of the person selling, bartering, exchanging or pawning said articles.

SECTION 17-26. Violation of this section shall be a municipal infraction punishable pursuant to 1-10.

Sections 17-27 through 17-29 reserved.

### ARTICLE III

#### SCRAP AND RECYCLABLE MATERIALS DEALERS

##### SECTION 17-30. FEES FOR SCRAP AND RECYCLABLE MATERIALS COLLECTORS.

Any person who buys scrap and recyclable materials consisting of iron, brass, copper, rubber or rags, except used beverage containers and gathers them with an automobile, truck or otherwise, whether buying for cash or bartering or trading for the same, shall pay a license tax for one day of three dollars (\$3.00), or for one year of twenty-five dollars (\$25.00).

##### SECTION 17-31. PURCHASING FROM MINORS.

No scrap and recyclable materials dealer or secondhand dealer shall purchase any goods, wares, or chattels, except used beverage containers, from any minor without the written consent of the parents or guardians.

##### SECTION 17-32. STORAGE CONSTITUTING NUISANCE.

Depositing or storage of flammable scrap or recyclable materials such as rags, rope, cordage, rubber, bones and paper by dealers of such articles within the city limits, unless it is in a building of fireproof construction, is a public nuisance and may be abated and punished as such. This provision shall not apply to recycling collection facilities authorized by the City.

##### SECTION 17-33. REPORT OF PURCHASES.

Such dealers licensed under this article shall report to the chief of police within twenty-four (24) hours, any purchases of articles of value, such as brass, copper, jewelry or clothing, with a description of thereof and the name of the person from whom purchased.

##### SECTION 17-34. INVESTIGATION TO DISCOVER STOLEN PROPERTY.

No scrap and recyclable materials dealer shall refuse, resist or attempt to prevent any sheriff or police officer from making examination of the premises occupied by such scrap and recyclable materials dealer, for the purpose of discovering stolen property.

##### SECTION 17-35. RESTRICTIONS ON DISPOSAL OF PROPERTY.

No scrap or recyclable materials dealer shall melt up, break up or dispose of any article which such dealer has reason to believe has been stolen or which is adversely claimed by any person or which he has been notified not to sell or otherwise dispose of, by any sheriff, police officer or constable, without obtaining a permit from the mayor or chief of police.

(Ord. No. 828, 11-28-89; Ord. No.1120, 6-26-2012.)

Section 17-36 through 17-49 reserved.

CHAPTER 17  
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ARTICLE 1  
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B. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street an order for goods or merchandise to be delivered at a future date.

C. "Transient merchant" means any person, firm, or corporation who engages in a temporary or itinerant merchandising business, intending to remain in business in the City of Oelwein for less than one year, and in the course of such business hires, leases, or occupies any building or structure whatsoever. 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 shall not exempt any person, firm, or corporation from being considered a transient merchant.

SECTION 17-2. LICENSE REQUIRED.

It shall be unlawful for any person to engage in peddling, soliciting, or in the business of a transient merchant in this city without first obtaining a license as provided in this chapter.

### SECTION 17-3. LICENSE APPLICATION.

An application for a license under this chapter shall be made with the Oelwein city clerk or the clerk's authorized representative and shall give the following information:

A. The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed it will be carried on in the city and the local address or addresses of such person or persons while engaged in such business.

B. The name and permanent address of the applicant; whether such person will act as proprietor, agent, consignee or employee and the credentials establishing such relationship; the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

C. The place or places in the city where it is proposed to carry on applicant's business and the length of time during which it is proposed said business shall be conducted.

D. A statement of the nature and character of the tangible personal property or service to be sold or offered for sale by the applicant in the city; whether the goods are new, damaged or rejects; whether the same are proposed to be sold from stock in possession or by sample, or at auction, or by direct sale, or by taking orders for future deliveries; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

E. The place or places other than the permanent place of business of the applicant, where applicant within three (3) years preceding the date of said application peddled, solicited or conducted a transient business, stating the nature thereof and giving the post office box number and street address of any building or office in or from which said business was conducted.

F. Whether or not the applicant or the person having management or supervision of the applicant's business has been convicted of a felony within the five (5) years immediately preceding the date of the application or of the violation of any laws or ordinance relating to the same or similar business proposed to be conducted by the applicant, the nature of such offense and the punishment therefore.

G. Whether the applicant has ever held a license under this chapter which has been denied.

H. Whether the applicant has ever held a license under the chapter which has been revoked.

I. A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes, social security number, driver's license number and state issued, a photograph of the applicant and the right thumbprint of the applicant.

J. If the applicant's business is to be conducted through employees, the application shall include the information specified at paragraph 5 through 9, inclusive, above for each employee who will be conducting applicant's business in this city as well as the name and address of each such employee.

#### SECTION 17-4. LICENSE ISSUANCE.

The clerk shall forward the application to the police chief and if the police chief finds the application is made out in conformance with this chapter and the facts stated therein are correct, the chief shall sign the same noting approval and return the application to the city clerk who shall issue, within ten (10) days and upon the posting of a bond as required by this chapter, a license and charge a fee therefore as determined by this chapter. The license issued hereunder shall not be transferable. There shall be no refund of the license fee.

#### SECTION 17-5. APPLICATION FEES.

A nonrefundable fee as established by resolution of the city council shall be paid to the city clerk at the time of filing such application to cover the cost of investigating the facts set forth therein.

#### SECTION 17-6. LICENSE FEES.

Before a license shall be issued, the applicant shall pay a license fee in accordance with the fee schedule as adopted by resolution of the city council.

#### SECTION 17-7. LICENSE BOND.

Before a license under this chapter shall be issued, each applicant shall post a bond of one hundred dollars (\$100.00) with the city clerk. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the city and the statutes of the State of Iowa regulating and concerning the sale of goods, subscriptions, wares, merchandise or personal property of any nature, including food stuffs, or for services, including advertising, and will pay all judgment rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against said applicant by any person or persons for damage growing out of any misrepresentations or deception was made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this ordinance and shall not be retired until after a lapse of one year from the expiration of each license.

#### SECTION 17-8. DUPLICATE AND INDIVIDUAL LICENSES, WHEN REQUIRED.

A license under this chapter may be issued to a person carrying on the business of solicitor, peddler or transient merchant in this city through employees. Such employees shall carry a

duplicate license issued to the employee, which license shall be obtained at the office of the city clerk upon compliance with the requirements of the chapter. If the business of solicitor, peddler or transient merchant in this city is carried on through agents who are not employees, or by consignees, or by an unincorporated firm or association, each person so conducting the business in this city shall be required to have a separate license, but not post a separate bond if one is posted by the corporation.

#### SECTION 17-9. LICENSE DISPLAY.

Each solicitor or peddler shall at all times while doing business in this city keep in his or her possession the license provided for by this chapter and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly the license in his or her place of business.

#### SECTION 17-10. CHARITABLE AND NON-PROFIT ORGANIZATIONS.

A. Resident school, Girl Scout, Boy Scout, 501(C)(3) charitable corporations, and other such organizations shall be exempt from the application of this chapter.

B. A religious, charitable, patriotic, social service, civic, or political non-profit organization, other than those set forth in Sec. 17.10(1) of this section, shall receive a license for activities regulated under this chapter where its authorized representative volunteers are to undertake such activities without remuneration and where the entire proceeds of the activities will go to the organization and not for private profit. The organization shall file the information required for a license under this chapter in the office of the city clerk. The city clerk shall issue, free of charge, and without bond, a license for the requested activity which shall be valid for a period of one year and may be renewed on or before the expiration date.

#### SECTION 17-11. EXEMPTIONS.

Persons engaged in the following described activities are exempt from the duty of applying for a license under this chapter:

- A. Persons selling at wholesale to merchants for the purpose of resale.
- B. Persons selling or distributing newspapers.
- C. Persons selling tangible personal property or services to business enterprises.
- D. Persons who sell at their permanent residence in the city, works of art or craft made or created by such person or a member of each such person's immediate family.
- E. Persons licensed by the State of Iowa to sell real estate or insurance or licensed as transient vendors of drugs.

F. Persons selling or distributing livestock feeds as defined by the laws of the State of Iowa.

G. Persons selling or delivering tangible personal property or services through a permanent business licensed through the City.

H. Persons selling or distributing fresh fruit or vegetables cultivated by such person.

I. Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved and such sales are made on the premises where the event is to be conducted.

J. Persons selling tangible personal property at a garage, basement, or yard sale held at one of the person's premises.

K. Persons selling food and beverages at a food establishment regulated pursuant to the Code of Iowa.

#### SECTION 17-12. DENIAL OR REVOCATION OF LICENSE PROCEDURE.

A. Denial of license. The city may deny within ten days a license to any applicant who has:

1. Held a license under this chapter that has been revoked within two years of the date of the present application.

2. Failed to make a complete, truthful application.

3. During the past two years a history of:

a. Fraudulent applications of similar licenses;

b. Misrepresentation of the quality of merchandise or services offered for sale;

c. Crimes involving personal property.

B. Revocation of license. The police chief may revoke any license issued under the provisions of this chapter by sending a Notice of Revocation by certified mail to the license holder at his or her last known address, return receipt requested, or by personal service on the license holder or its officers for any of the following causes:

1. Information showing the license was erroneously issued initially;

2. For any violation of the provisions of this chapter;

3. For any violation of any city or State law regulating the sales activities of the license holder;

4. For making any fraudulent statement in connection with the application for a license under this chapter.

C. The license shall stand denied or revoked unless within five (5) days after denial or receipt of the Notice of Revocation from the police chief the license applicant or holder files a written request for a public hearing on the police chief's action. The public hearing shall be conducted before the city administrator which shall forward to the full city council a recommendation on whether a license shall be denied, reinstated or revoked, as the case may be. The city council may order the license issued or reinstated either conditionally or unconditionally, or revoke the license.

1. Ten (10) days' notice of the time and place of the public hearing shall be given the license applicant or holder, who shall have an opportunity to appear before the committee and who shall have an opportunity to appear before the committee and present any evidence or arguments he or she may have why the action taken by the police chief should not be approved by the city council.

#### SECTION 17-13. SALES REGULATIONS.

A. No person shall engage in activities regulated under this chapter on public property without first procuring special authorization from the city council.

B. No person shall shout or use any sound device upon any of the public places of the city or upon any private premises in said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard from the public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.

C. No person shall engage in business under this chapter in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or are not invited.

D. No person shall engage in the activities regulated under this chapter from door to door prior to 9:00 a.m. or after 8:00 p.m. on any weekday or Saturday, or at any time on a Sunday or on a State or National holiday.

E. A written receipt for all orders taken within the city shall be given to the customer, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods, wares, merchandise or service or services ordered, the total purchase price thereof, and the amount of the down payment received from the purchaser.

#### SECTION 17-14. PENALTY.

Violations of this Article, Section 7.1 - 7.13 shall be a municipal infraction punishable pursuant to 1-10. Anyone violating the provisions of this chapter shall, upon conviction, be subject to

imprisonment not to exceed thirty (30) days, or a fine not exceeding one hundred dollars (\$100.00). Each sale or solicitation of a sale made without a license or bond in violation of this chapter shall constitute a separate offense.

Sections 17-15 through 17-19 reserved.

## ARTICLE II

### PAWNBROKERS, DEALERS IN PRECIOUS METALS, AND ITINERANT DEALERS

#### SECTION 17-20. DEFINITIONS.

The following words and phrases shall have the meanings respectively ascribed to them for the purpose of the regulations in this section.

A. Dealer. Any pawnbroker or itinerant dealer, and any principal, employee, agent, or servant thereof, engaged in or conducting business for purposes, sale, barter, exchange, or pawn of gold, silver, platinum, including coins, and previous or semiprecious or semiprecious gems or stones.

D. Engaged in or conducting business. The purchase, sale, barter, pawn or exchange of any item in Sec. 17-20(1)(a), including the advertising therefor.

E. Itinerant Dealer. Any dealer as defined herein who engaged in any temporary or transient business conducted in a shop, room, hotel room, motel room or other premises rented for any duration less than thirty (30) consecutive days or used on a temporary basis.

#### SECTION 17-21. DEALER'S PERMIT.

A. A dealer must apply for and obtain a dealer's annual permit prior to being engaged in or conducting business as a dealer. Such permit shall be posted conspicuously in each place of business named therein.

B. Application. To obtain a dealer's permit a dealer shall file a written, sworn application on a form provided by the city clerk signed by the applicant if an individual, by all partners if a partnership, and by the president, if a corporation, with the city clerk showing:

1. The name or names of the principals, agents, and employees of the applicant's business during the time that it is proposed that such business will be carried on in the City of Oelwein; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (as proprietor, agent, employee or otherwise); the name and the address of the

person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state it is incorporated;

2. The place or places in the City of Oelwein where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that said business shall be conducted;

3. The place or places, other than the permanent place of business of the applicant, where the applicant within the six (6) months next preceding the date of said application conducted an itinerant business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

4. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers;

5. Credentials from the person, firm or corporation for which the applicant proposed to do business, authorizing the applicant to act as such representative.

C. Fee Requirement. Every application for a dealer's annual permit shall be accompanied by the application fee. The fee for a dealer's annual permit shall be in such amount as is set by resolution of the City council.

D. Issuance. Upon receipt of an application for a dealer's permit, the city clerk shall notify the Chief of Police or chief's designee who shall cause such investigation of the applicant as the Chief deems necessary for the public good, and may recommend issuance or refusal of a dealer's permit. Within ten (10) days of the filing of an application, the city clerk shall issue a dealer's permit or refuse to do so for reasons including but not limited to the following:

1. fraud, misrepresentation or false statement of material or relevant facts contained in the application; or

2. that the applicant has engaged in a fraudulent transaction or enterprise.

E. Appeal. If the city clerk denies an application for a dealer's permit, the city clerk shall mail to the applicant, by certified mail, a written statement of the decision with a brief statement of the reasons therefore. An appeal from the decision of the city clerk may be made in writing to the city administrator or administrator's designee, within ten (10) days of the receipt of the decision. The written appeal shall state the specific grounds for the appeal. The city council shall hold a hearing within a reasonable time from the receipt of the appeal. At the hearing, the applicant or permit holder may be represented by counsel, may cross-examine witnesses and may present evidence in his or her favor. The city council may grant or deny the appeal. That decision shall be final.

F. Expiration. A dealer's permit shall expire on December 31 of the year in which it is issued. If a dealer's business is discontinued or moved or sold within one (1) year after issuance, the dealer's permit expires and a new permit must be obtained before the dealer's business is

recommended. The dealer's annual permit is a personal privilege and shall not be transferable, nor shall there be a partial refund of the application fee where the permit holder discontinues his business prior to December 31 of the year in which the permit was issued.

G. Revocation. Any dealer's permit may be revoked by the city administrator or administrator's designee after notice and hearing if it is found that the dealer has knowingly violated any provisions of this subsection. The city administrator shall mail to the permit holder, by certified mail, a written notice of the hearing (20) days before the hearing date. The notice shall set forth the grounds of the proposed revocation and the time and place of the hearing. At the hearing the permit holder may be represented by counsel, may cross-examine witnesses, and present evidence in his or her favor. The decision of the city administrator or administrator's designee shall be final.

H. Itinerant dealers must register with the City of Oelwein Police Department before engaging in or conducting business each time that such dealer is in the City of Oelwein to conduct business.

#### SECTION 17-22. RECORDS OF TRANSACTIONS AND RETENTION OF PURCHASES.

A. Records. Every dealer shall keep at the dealer's place of business a record book in which shall be legibly recorded with ink at the time of each transaction as a dealer setting forth;

1. the time, date, place for the transaction, and type of transaction;
2. an accurate description of the goods, articles or things purchased, bartered, exchanged, pawned or received;
3. the signature and printed name, residence and description (consisting of the sex, date of birth, social security number,) of the person selling, pawning, bartering or exchanging the goods, articles, or things;
4. the estimated value of each article;
5. the amount paid, advanced or loaned; and
6. the date, name, address and phone number of the person when an item is bought or redeemed.

B. Such record book shall be kept for a period of at least ten years from the date of purchase, sale, barter, exchange or pawn.

C. Itinerant dealers. Every itinerant dealer shall present the aforesaid record book to the Police Department for inspection and photocopying before the itinerant dealer leaves the City of Oelwein.

D. Retention.

1. No dealer shall sell and deliver, melt, change the form of , or dispose of any item subject to this section within ten (10) days of the acquisition of such item unless permission to do so is granted in writing by the Chief of Police of his designee, except that th person who pawns an item is permitted to redeem the pawned item within the ten (10) day retention period.

2. The Chief of Police of his designee may inspect all items for which he grants a request to dispose of before the end of the ten (10) day retention period.

#### SECTION 17-23. REPORTS TO CHIEF OF POLICE.

Every dealer shall deliver the records required in subsection (3) above to the Chief of Police or his designee every business week which deal with the transactions occurring in that period, except that an itinerant dealer shall deliver the records required in subsection (3) above to the Chief of Police or his designee every day which deal with the transactions occurring in that period.

#### SECTION 17-24. INSPECTION OF PREMISES.

Every dealer shall admit to its premises during its regular business hours, any police office to examine its record book on the premises or in its possession, as well as articles purchased or received; and to search for and to take into possession any article known by that officer to have been reported missing or known or believed by the officer to have been stolen.

#### SECTION 17-25. PROHIBITIONS.

A. No dealer shall conceal, secrete or destroy for the purpose of concealing, any item purchased or acquired by him for the purpose of preventing identification thereof by a police officer or any person claiming to own the same.

B. It shall be unlawful for any dealer in the course of the dealer's business or occupation to acquire, by purchase, barter, exchange or pawn, any goods from any person under eighteen (18) years of age.

C. It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, items bearing evidence of a serial number which has been tampered with or scratched or obliterated in any manner unless such person immediately contacts the police department of the city.

D. It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, any items prior to examining a picture identification with a physical description of the person selling, bartering, exchanging or pawning said articles.

SECTION 17-26. Violation of this section shall be a municipal infraction punishable pursuant to 1-10.

Sections 17-27 through 17-29 reserved.

### ARTICLE III

#### SCRAP AND RECYCLABLE MATERIALS DEALERS

##### SECTION 17-30. FEES FOR SCRAP AND RECYCLABLE MATERIALS COLLECTORS.

Any person who buys scrap and recyclable materials consisting of iron, brass, copper, rubber or rags, except used beverage containers and gathers them with an automobile, truck or otherwise, whether buying for cash or bartering or trading for the same, shall pay a license tax for one day of three dollars (\$3.00), or for one year of twenty-five dollars (\$25.00).

##### SECTION 17-31. PURCHASING FROM MINORS.

No scrap and recyclable materials dealer or secondhand dealer shall purchase any goods, wares, or chattels, except used beverage containers, from any minor without the written consent of the parents or guardians.

##### SECTION 17-32. STORAGE CONSTITUTING NUISANCE.

Depositing or storage of flammable scrap or recyclable materials such as rags, rope, cordage, rubber, bones and paper by dealers of such articles within the city limits, unless it is in a building of fireproof construction, is a public nuisance and may be abated and punished as such. This provision shall not apply to recycling collection facilities authorized by the City.

##### SECTION 17-33. REPORT OF PURCHASES.

Such dealers licensed under this article shall report to the chief of police within twenty-four (24) hours, any purchases of articles of value, such as brass, copper, jewelry or clothing, with a description of thereof and the name of the person from whom purchased.

##### SECTION 17-34. INVESTIGATION TO DISCOVER STOLEN PROPERTY.

No scrap and recyclable materials dealer shall refuse, resist or attempt to prevent any sheriff or police officer from making examination of the premises occupied by such scrap and recyclable materials dealer, for the purpose of discovering stolen property.

##### SECTION 17-35. RESTRICTIONS ON DISPOSAL OF PROPERTY.

No scrap or recyclable materials dealer shall melt up, break up or dispose of any article which such dealer has reason to believe has been stolen or which is adversely claimed by any person or which he has been notified not to sell or otherwise dispose of, by any sheriff, police officer or constable, without obtaining a permit from the mayor or chief of police.

(Ord. No. 828, 11-28-89; Ord. No.1120, 6-26-2012.)

Section 17-36 through 17-49 reserved.