

ORDINANCE NO. 39

AN ORDINANCE - REGULATION OF  
SOLICITORS AND PEDDLERS

BE IT ORDAINED by Hanson County, South Dakota, that:

1. License Required. Any person who engages in the business of peddler or solicitor within Hanson County shall have a valid license from Hanson County to do so.

2. Exemptions. The provisions of this Ordinance shall not apply to any person having a dairy products route; any person engaged in soliciting or taking orders exclusively from retail dealers for the delivery of goods or merchandise by wholesale, nor newspaper or magazine subscriptions solicitations.

3. Application for License. Applications for licenses by solicitors and peddlers shall be made to the County Auditor, in writing, and shall be on a form and in a format determined by the County Auditor.

4. License Fees. The fee for solicitors and peddlers shall be:

(a) \$15.00 per day, (b) \$30.00 per week, or (c) \$70.00 per month for all peddlers and solicitors.

5. Issuance or Denial of License. The County Auditor's office will investigate the application and will issue or deny the license in writing within ten (10) days after the application has been made. If the license is denied, the reasons for denial shall be given in writing.

6. Right of Appeal Following Denial. If a license is denied, the applicant may appeal the denial by filing a written Notice of Appeal. The appeal will be heard by the Board of Commissioners at the next Board meeting which is at least ten (10) days later than the date of filing the Notice of Appeal with the County Auditor's office.

7. Transfer of License. Licenses issued under this Ordinance are not transferrable, and are valid only for the person to whom they were issued.

8. Suspension and Revocation of License. Licenses issued under this Ordinance may be suspended or revoked for any of the following reasons:

- A. Giving false information on any matter in the application for the license;
- B. Any violation of the provisions of this Ordinance;

- C. Conviction of the license holder of any felony or any crime involving moral turpitude; or
- D. Soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to be a menace to the health, safety or general welfare of the people of Hanson County.

9. Right of Appeal Following Suspension or Revocation. Any licensee having his or her license suspended or revoked under this Ordinance may appeal to Hanson County by filing with the County Auditor a written statement of the grounds for appeal within ten (10) days after notice of suspension or revocation.

The Hanson County Board of Commissioners shall set the time and place for hearing the appeal, and notice of the time and place shall be given at least ten (10) days prior to the date set for the hearing.

10. License To Be Carried. Every peddler or solicitor, peddling or soliciting, shall carry the license issued to him or her at all times, together with any other license required of him or her.

11. Regulations. The following rules and regulations apply to every peddler or solicitor:

- A. It is unlawful for any peddler or solicitor to sell or attempt to sell any goods, wares, or merchandise by means of any shout, outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than 100 feet, on any of the streets, avenues, roads, parks, or other public places of the County or on any private premises in the County.
- B. A peddler or solicitor does not have any exclusive right to any location in the public properties, and is not to be permitted a stationary location.
- C. The permitted hours of operation are between 8:00 a.m. and 5:00 p.m. of any day except Sundays and legal state holidays.
- D. Peddlers and solicitors will honor all posted signs stating "No solicitors or peddlers," or words to that effect.
- E. It is unlawful to distribute indiscriminately to the public by leaving at stores, offices, or residences, any cards, circulars, handbills, samples of merchandise, or any advertising matter without having first secured a permit for such distribution.

12. Hanson County Board of Commissioners finds that actions in violation of this Ordinance constitute a public nuisance which may also be enforced by civil litigation. If enforced by civil litigation, Hanson County may also recover attorney's fees from the defendant(s) for the prosecution of the action.

**13. Penalty for Violation. Any person violating any provision of this Ordinance may be fined up to \$2,000.00 or incarcerated up to thirty (30) days, or by both such fine and imprisonment for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.**

14. Board of Commissioners finds that actions in violation of this Ordinance constitute a public nuisance which may also be enforced by civil litigation. If enforced by civil litigation, Hanson County may also recover attorney's fees from the defendant(s) for the prosecution of the action.

15. This Ordinance is intended to comply with all applicable federal and South Dakota laws. If any part, term, or provision of this Ordinance is held by the Courts to be illegal or in conflict with any law, the validity of the remaining provisions shall not be affected and the Ordinance shall be construed and enforced as if the Ordinance did not contain the particular part held to be invalid.

16. All ordinances or parts of resolutions in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

17. Definitions. For this Ordinance, the following definitions apply:

A. "Solicitor." A solicitor is any person traveling from place to place, house to house, or in or along the streets, within Hanson County, taking or attempting to take orders for the sale of goods, or personal property of any nature, for future delivery, or for services to be performed in the future.

B. "Peddler." A peddler is any person traveling from place to place, house to house, or in or along the streets, within Hanson County, carrying, conveying, or transporting goods, or personal property of any nature, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a vehicle or conveyance. The word "peddler" includes the words "hawker" and "huckster".

17. Severability. In the event that any part or portion of this ordinance is declared to be invalid, illegal, or unconstitutional, the remaining portions hereof shall

remain in effect and enforceable as though the prohibited portion or portions hereof did not exist, so long as the ordinance still carries out the intent of the Board of Commissioners.

JUSTIFICATION FOR ORDINANCE:

- A. It is in the best interests of Hanson County residents to have some information regarding who is making sales within Hanson County;
- B. It is beneficial to limit the hours of door to door sales operations within Hanson County; and
- C. This Ordinance is needed for the protection of the public safety, health and welfare of its residents and citizens.

Votes For: 4

Votes Against: 0

Motion carried.

/s/Tom Bell, Chairman  
Hanson County Commissioners

ATTEST:

/s/ Lesa Trabing, Auditor  
Hanson County

(SEAL)

First Reading: June 17, 2014  
Seconded Reading: July 1, 2014  
Published: July 10, 2014  
Effective: 20 days after publication.