RESOLUTION ADOPTING PEDDLER, HAWKER, AND SOLICITOR ORDINANCE

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104(6), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-187, the County may regulate, through ordinance, peddlers, hawkers, or solicitors operating for commercial purposes; and,

WHEREAS, under the direction of the County Board, the County Administrator and County Attorney drafted a peddler, hawker, and solicitor ordinance; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-188, notice was published in a newspaper of general circulation once per week for two weeks and such notice contained the entire language of the ordinance and the time and place of the hearing; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-188, a public hearing on the ordinance was held on October 18, 2016; and,

WHEREAS, in accordance with Neb. Rev. Stat. §23-192, the County Clerk provided a copy of the ordinance to the clerk of each city within seven days of the public hearing and each city was given seven days to respond; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-190, the County Board voted by a three-fourths vote to suspend the requirement that the county ordinance be read by title on three different days; and,

WHEREAS, a motion was made to proceed to final adoption of the peddler, hawker, and solicitor ordinance; and,

WHEREAS, the County Board desires to adopt a peddler, hawker, and solicitor ordinance, a copy of which is attached.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board does hereby adopt the peddler, hawker, and solicitor ordinance, a copy of which is attached hereto.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with the applicable law on the ______ day of [Date], 2016.

Sarpy County Board Chairperson

Sarpy County Clerk

[Signature]

[Signature]
ORDINANCE NO. 2-1-101

AN ORDINANCE TO ESTABLISH A LAW REGARDING THE REGISTRATION OF PEDDLERS, HAWKERS, AND SOLICITORS; TO ESTABLISH A PROCESS FOR THAT REGISTRATION; TO ESTABLISH A PENALTY AND PROVIDE A METHOD OF ENFORCEMENT; AND TO PROVIDE FOR AN EFFECTIVE DATE.

SECTION 1. Purpose:

It is the intent of this Ordinance to promote the public peace and order of the County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on exercises of free speech that are protected by the First Amendment.

SECTION 2. Definitions:

A "peddler" is 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 Sarpy County or any municipally owned or controlled part thereof, and shall also mean and include any person transacting a temporary business within the county at an established business.

A "solicitor" means 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.

A "hawk" means a person who offers goods for sale by shouting his or her wares in the street or going from door to door; peddler.

A "charitable organization" means any entity described in section 170(c) or section 501(c)(3) of the Internal Revenue Code or those which have been approved as a Nebraska not-for-profit organization.

SECTION 3. Prohibited acts:

It shall be unlawful for any person to engage in peddling, hawking, or soliciting for commercial purposes without first registering as a peddler, hawker, or solicitor with County. All registered peddlers, hawkers, and solicitors must carry such registration with them while engaging in business as well as government issued photo identification.

It shall be unlawful to refuse to display or produce proof of registration as a peddler, hawker, or solicitor.

It shall be unlawful for any peddler, solicitor, or hawker to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.
Any peddler, solicitor, or hawker who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, shall be in violation of Nebraska Revised Statute §28-521 and deemed guilty of second degree criminal trespass.

It shall be unlawful for any peddler, solicitor, or hawker to misrepresent the material nature of the services or goods that are being sold in order to secure the sale of such services or goods.

It shall be unlawful for any individual to falsify the information that they provide on their application for registration as a peddler, hawker, or solicitor.

SECTION 4. Exceptions:

This ordinance shall not require the registration of individuals who are acting for non-commercial purposes. Examples of such non-commercial purposes include but are not limited to: school fundraising efforts, charitable organizations, religious organizations, or the delivery or distribution of newspapers or shopping news.

This ordinance shall also not require the registration of individuals engaged in political campaign activities.

Additionally, this ordinance shall not require the registration of individuals who sole intent is to distribute flyers without engaging in direct sales of goods or services.

SECTION 5. Process for Registration:

All applications for registration shall be filed with the Sarpy County Clerk’s Office. Upon satisfactory completion of the application, the Sarpy County Clerk will provide an acknowledgment that the individual is a registered peddler, solicitor, or hawker for purposes of conducting business in Sarpy County.

Registration shall be valid for a period of up to one year, running from January 1 to December 31.

There shall be no fee required for such application for registration, nor shall any fee be required upon issuance of the license.

The registered peddler, solicitor, or hawker shall be required to carry this acknowledgment of registration with them during the time in which they are conducting business in Sarpy County.

Each company that intends to conduct business in the County by means of peddler’s, solicitor’s, and hawker’s shall obtain for their employee’s, or cause their employee’s to obtain, an individual registration to conduct such business.
In order to apply for registration, each individual shall be required to provide the information requested on such forms as developed for application by the County Clerk.

SECTION 6. Criteria for Denial of Applications:

Individuals may be denied in their application for registration as a peddler, solicitor, or hawker for:
   a) Incomplete applications;
   b) Requests to sell goods, wares, merchandise, or services that are otherwise prohibited by law;
   c) Providing misleading or false information on their application;
   d) Convictions for specific crimes, including, but not limited to: theft, crimes involving dishonesty, sex offenses, crimes against property including vandalism, or violent crimes against others.

This list of criteria is not exhaustive but is intended merely to provide examples to individuals of circumstances that may warrant denial of the application.

SECTION 7. Hours of Operation:

The hours to operate door-to-door sales shall be from 9:00 a.m. to sunset, local time, of any day; provided, however, the hours to operate shall not extended beyond 8:00 p.m. any day, except by specific appointment with or invitation from the prospective customer.

SECTION 8. Penalty:

Any person found to be in violation of this Ordinance shall be fined one hundred dollars ($100) for each offense as permitted by Nebraska Revised Statute §23-187(2).

SECTION 9. Suspension or Revocation:

Any registered peddler, solicitor, or hawker found to be in violation of this Ordinance may have their registration suspended or revoked but shall receive a notice of the violation and shall be given the opportunity to respond to the violation. If the registered peddler, solicitor, or hawker does not respond to the notice, their registration shall be revoked.

SECTION 9. Effective Area:

This Ordinance is effective in Sarpy County, but it shall not be effective within the corporate boundaries of Bellevue, LaVista, Springfield, Gretna, and Papillion; nor shall it be effective within the area outside of the corporate boundaries of Bellevue, LaVista, Springfield, Gretna, and Papillion in which those cities have been granted and are exercising powers by ordinance on a similar subject matter. The County Clerk shall maintain and issue maps outlining the effective area of this ordinance.

SECTION 10. Effective Date:
This Ordinance shall take effect and be in force beginning January 1, 2017, as provided by law.

Passed and Adopted this 1st of November, 2016.

David R. Kelly
Sarpy County Board Chairperson

Attest:
Renee Sautermeister
Sarpy County Clerk

Chief Deputy
October 18, 2016

City Clerks for the Cities in Sarpy County
Via Email

RE: Sarpy County Peddler, Hawker, and Solicitor Ordinance

To Whom It May Concern:

Pursuant to its authority under Neb. Rev. Stat. §23-188, Sarpy County is in the process of adopting a peddler, hawker, and solicitor registration ordinance. In accordance with Nebraska Statutes, a public hearing was held on Tuesday, October 18, 2016. The County is now required to send a copy of the ordinance to each city within the county. As shown in part below, Neb. Rev. Stat. §23-192 requires a response to the ordinance from each city in the county:

(1) No ordinance adopted pursuant to sections 23-187 to 12-193 shall be effective within the corporate boundaries of any incorporated city or village located in whole or in part within the county. No ordinance adopted pursuant to sections 23-187 to 23-193 shall be effective within the area outside of the corporate boundaries of any city or village in which such city or village has been granted and is exercising powers by ordinance on a similar subject matter…

(2) Before a county adopts an ordinance under sections 23-187 to 23-193, the county clerk shall provide a copy of the text of the ordinance to the clerk of each city and village within the county no later than seven days after the first reading of the ordinance or public hearing on the ordinance, whichever occurs first. Within seven days after receiving a copy of the ordinance, the city or village shall respond to the county and provide a copy of any ordinance specifying where the city or village is enforcing an ordinance on similar subject matter outside its corporate boundaries…

Attached to this letter is a copy of the draft Peddler, Hawker, and Solicitor Ordinance for Sarpy County. As stated above, please respond to the County Clerk within seven days with a copy of any similar peddler, hawker, and solicitor ordinance your city is enforcing outside its corporate boundaries.

If you have any questions, please do not hesitate to contact me.

Regards,

Annie Gosnold-Parker, Deputy Sarpy County Attorney
aparker@sarpy.com
(402)593-5904
AN ORDINANCE TO ESTABLISH A LAW REGARDING THE REGISTRATION OF PEDDLERS, HAWKERS, AND SOLICITORS; TO ESTABLISH A PROCESS FOR THAT REGISTRATION; TO ESTABLISH A PENALTY AND PROVIDE A METHOD OF ENFORCEMENT; AND TO PROVIDE FOR AN EFFECTIVE DATE.

SECTION 1. Purpose:

It is the intent of this Ordinance to promote the public peace and order of the County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on exercises of free speech that are protected by the First Amendment.

SECTION 2. Definitions:

A "peddler" is 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 Sarpy County or any municipally owned or controlled part thereof, and shall also mean and include any person transacting a temporary business within the county at an established business.

A "solicitor" means 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.

A “hawker” means a person who offers goods for sale by shouting his or her wares in the street or going from door to door; peddler.

A “charitable organization” means any entity described in section 170(c) or section 501(c)(3) of the Internal Revenue Code or those which have been approved as a Nebraska not-for-profit organization.

SECTION 3. Prohibited acts:

It shall be unlawful for any person to engage in peddling, hawking, or soliciting for commercial purposes without first registering as a peddler, hawker, or solicitor with County. All registered peddlers, hawkers, and solicitors must carry such registration with them while engaging in business as well as government issued photo identification.

It shall be unlawful to refuse to display or produce proof of registration as a peddler, hawker, or solicitor.

It shall be unlawful for any peddler, solicitor, or hawker to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.
Any peddler, solicitor, or hawker who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the same and not return to such premises, shall be in violation of Nebraska Revised Statute §28-521 and deemed guilty of second degree criminal trespass.

It shall be unlawful for any peddler, solicitor, or hawker to misrepresent the material nature of the services or goods that are being sold in order to secure the sale of such services or goods.

It shall be unlawful for any individual to falsify the information that they provide on their application for registration as a peddler, hawker, or solicitor.

SECTION 4. Exceptions:

This ordinance shall not require the registration of individuals who are acting for non-commercial purposes. Examples of such non-commercial purposes include but are not limited to: school fundraising efforts, charitable organizations, religious organizations, or the delivery or distribution of newspapers or shopping news.

This ordinance shall also not require the registration of individuals engaged in political campaign activities.

Additionally, this ordinance shall not require the registration of individuals who sole intent is to distribute flyers without engaging in direct sales of goods or services.

SECTION 5. Process for Registration:

All applications for registration shall be filed with the Sarpy County Clerk’s Office. Upon satisfactory completion of the application, the Sarpy County Clerk will provide an acknowledgment that the individual is a registered peddler, solicitor, or hawker for purposes of conducting business in Sarpy County.

Registration shall be valid for a period of up to one year, running from January 1 to December 31.

There shall be no fee required for such application for registration, nor shall any fee be required upon issuance of the license.

The registered peddler, solicitor, or hawker shall be required to carry this acknowledgment of registration with them during the time in which they are conducting business in Sarpy County.

Each company that intends to conduct business in the County by means of peddler’s, solicitor’s, and hawker’s shall obtain for their employee’s, or cause their employee’s to obtain, an individual registration to conduct such business.
In order to apply for registration, each individual shall be required to provide the information requested on such forms as developed for application by the County Clerk.

SECTION 6. Criteria for Denial of Applications:

Individuals may be denied in their application for registration as a peddler, solicitor, or hawker for:

a) Incomplete applications;

b) Requests to sell goods, wares, merchandise, or services that are otherwise prohibited by law;

c) Providing misleading or false information on their application;

d) Convictions for specific crimes, including, but not limited to: theft, crimes involving dishonesty, sex offenses, crimes against property including vandalism, or violent crimes against others.

This list of criteria is not exhaustive but is intended merely to provide examples to individuals of circumstances that may warrant denial of the application.

SECTION 7. Hours of Operation:

The hours to operate door-to-door sales shall be from 9:00 a.m. to sunset, local time, of any day; provided, however, the hours to operate shall not extended beyond 8:00 p.m. any day, except by specific appointment with or invitation from the prospective customer.

SECTION 8. Penalty:

Any person found to be in violation of this Ordinance shall be fined one hundred dollars ($100) for each offense as permitted by Nebraska Revised Statute §23-187(2).

SECTION 9. Suspension or Revocation:

Any registered peddler, solicitor, or hawker found to be in violation of this Ordinance may have their registration suspended or revoked but shall receive a notice of the violation and shall be given the opportunity to respond to the violation. If the registered peddler, solicitor, or hawker does not respond to the notice, their registration shall be revoked.

SECTION 9. Effective Area:

This Ordinance is effective in Sarpy County, but it shall not be effective within the corporate boundaries of Bellevue, La Vista, Springfield, Gretna, and Papillion; nor shall it be effective within the area outside of the corporate boundaries of Bellevue, La Vista, Springfield, Gretna, and Papillion in which those cities have been granted and
are exercising powers by ordinance on a similar subject matter. The County Clerk shall maintain and issue maps outlining the effective area of this ordinance.

SECTION 10. Effective Date:

This Ordinance shall take effect and be in force beginning January 1, 2017, as provided by law.
Ms. Gosnold-Parker,

Attached are the confirmations of receipt by all City Clerks in Sarpy County for the proposed disorderly conduct ordinance.

Please contact our office if anything further is needed.

Thank you,

Deb Houghtaling
Deb Houghtaling
Sarpy County Clerk
Deb@sarpy.com
(by Kendra Koehler, Admin. Assistant)
(402) 593-2114
Fax: (402) 593-4471
City of Bellevue response

Andrea V. Gosnold-Parker  
Deputy Sarpy County Attorney  
1210 Golden Gate Drive  
Papillion, NE 68046  
(402)593-5904

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you received this in error, please reply immediately to the sender and delete this message. Thank you.

Sabrina,  
No, we do not. We have our own thing for in-town stuff, but if it’s in the County, we would refer them to the County for licensing.

Thank you.

Sabrina Ohnmacht, CMC  
City Clerk  
City of Bellevue  
210 West Mission Avenue  
Bellevue, NE 68005  
Phone  402.293.3007  
Fax  402.293.3068  
sabrina.ohnmacht@bellevue.net

Sabrina,  
Just to verify, does the City of Bellevue currently enforce a similar ordinance outside of its corporate boundaries?
Thank you,

Andrea V. Gosnold-Parker  
Deputy Sarpy County Attorney  
1210 Golden Gate Drive  
Papillion, NE 68046  
(402)593-5904

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you received this in error, please reply immediately to the sender and delete this message. Thank you.

From: Sabrina Ohnmacht [mailto:sabrina.ohnmacht@bellevue.net]  
Sent: Wednesday, October 19, 2016 3:01 PM  
To: Kendra Koehler <kkoehler@sarpy.com>  
Subject: RE: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**

Received.

Thank You!

Sabrina Ohnmacht, CMC  
City Clerk

City of Bellevue  
210 West Mission Avenue  
Bellevue, NE 68005  
Phone  402.293.3007  
Fax  402.293.3068  
sabrina.ohnmacht@bellevue.net

From: Kendra Koehler [mailto:kkoehler@sarpy.com]  
Sent: Wednesday, October 19, 2016 2:46 PM  
To: cityclerk@papillion.org; 'pbueth@cityoflavista.org' <pbueth@cityoflavista.org>; 'Kathleen Gottsch' <kathleencityofspringfield@yahoo.com>; Sabrina Ohnmacht <sabrina.ohnmacht@bellevue.net>;  
tammy@cityofgretna.com' <tammy@cityofgretna.com>  
Cc: Civil Attorneys <civilattys@sarpy.com>; Clerk Email <clerk@sarpy.com>; Mark Wayne <markw@sarpy.com>  
Subject: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**  
Importance: High

City Clerks,

Attached is a letter and draft ordinance in accordance with Neb. Rev. Stat. 23-192. Please confirm receipt as soon as possible by replying to this email.

Please contact our office if anything further is needed.

Thank you,
Good Morning,

Gretna only enforces the peddler/solicitor within the corporate limits. Let me know if you have any other questions.

Thanks,
Tammy Tisdall  |  City Clerk
City of Gretna
204 N. McKenna Ave
PO Box 69
Gretna, NE 68028
P 402.332.3336 x210
www.gretnane.org

---

Ms. Tisdall,

I have looked at the Gretna Ordinance for peddlers and it appears to only apply to the city limits of Gretna. Is the ordinance currently being enforced outside of the city’s corporate boundaries?

Thank you,

Andrea V. Gosnold-Parker
Deputy Sarpy County Attorney
1210 Golden Gate Drive
Papillion, NE 68046
(402)593-5904
Hi Kendra,

I have received your email. I can not find the ordinance but I have attached the section of our municipal code book that pertains to solicitor’s and peddlers.

Thanks,
Tammy Tisdall  City Clerk
City of Gretna
204 N. McKenna Ave
PO Box 69
Gretna, NE 68028
P 402.332.3336 x210
www.gretnane.org

City Clerks,

Attached is a letter and draft ordinance in accordance with Neb. Rev. Stat. 23-192. Please confirm receipt as soon as possible by replying to this email.

Please contact our office if anything further is needed.

Thank you,

Deb Houghtaling
City of La Vista response.

Andrea V. Gosnold-Parker
Deputy Sarpy County Attorney
1210 Golden Gate Drive
Papillion, NE 68046
(402)593-5904

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you received this in error, please reply immediately to the sender and delete this message. Thank you.

From: Pam Buethe [mailto:pbuethe@cityoflavista.org]
Sent: Monday, October 24, 2016 11:52 AM
To: Andrea Gosnold-Parker <aparker@sarpy.com>
Subject: RE: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**

Our ordinance applies only to those coming into the cities corporate limits.

Pamela A. Buethe CMC MPA
City Clerk
City of La Vista
8116 Park View Boulevard
La Vista NE 68128
Phone: (402) 331-4343
Fax: (402) 331-4375
pbuethe@cityoflavista.org
Accountability • Integrity • Public Service

From: Andrea Gosnold-Parker [mailto:aparker@sarpy.com]
Sent: Friday, October 21, 2016 10:56 AM
To: Pam Buethe <pbuethe@cityoflavista.org>; Kendra Koehler <kkoehler@sarpy.com>
Subject: RE: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**

Pam,

Just to verify, does the City of La Vista currently enforce a similar ordinance outside of its corporate boundaries?

Thank you,

Andrea V. Gosnold-Parker
Deputy Sarpy County Attorney
1210 Golden Gate Drive
Papillion, NE 68046
(402)593-5904
From: Pam Buethe [mailto:pbuethe@cityoflavista.org]
Sent: Wednesday, October 19, 2016 4:14 PM
To: Kendra Koehler <kkoehler@sarpy.com>
Subject: RE: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**

I have received this draft ordinance.
Pam

Pamela A. Buethe CMC MPA
City Clerk
City of La Vista
8116 Park View Boulevard
La Vista NE 68128
Phone: (402) 331-4343
Fax: (402) 331-4375
pbuethe@cityoflavista.org
Accountability • Integrity • Public Service

From: Kendra Koehler [mailto:kkoehler@sarpy.com]
Sent: Wednesday, October 19, 2016 2:46 PM
To: cityclerk@papillion.org; Pam Buethe <pbuethe@cityoflavista.org>; 'Kathleen Gottsch' <kathleencityofspringfield@yahoo.com>; 'Sabrina.Ohnmacht@bellevue.net' <Sabrina.Ohnmacht@bellevue.net>; 'tammy@cityofgretna.com'
Cc: Civil Attorneys <civilattys@sarpy.com>; Clerk Email <clerk@sarpy.com>; Mark Wayne <markw@sarpy.com>
Subject: Sarpy County Ordinance - Peddler, Hawker, and Solicitor ** Reply Required**
Importance: High

City Clerks,

Attached is a letter and draft ordinance in accordance with Neb. Rev. Stat. 23-192. Please confirm receipt as soon as possible by replying to this email.

Please contact our office if anything further is needed.

Thank you,

Deb Houghtaling
Deb Houghtaling
Sarpy County Clerk
Deb@sarpy.com
(by Kendra Koehler, Admin. Assistant)
(402) 593-2114
Fax: (402) 593-4471
Good afternoon. Attached is the City of Papillion’s ordinance regarding door-to-door sales. We only enforce this ordinance within our corporate city limits.

Thank you,

Elizabeth Butler  
City Clerk  
City of Papillion  
122 East Third Street  
Papillion, NE 68046  
www.papillion.org  
cityclerk@papillion.org  

O: 402.597.2021  
F: 402.339.0670

City Clerks,

Attached is a letter and draft ordinance in accordance with Neb. Rev. Stat. 23-192. Please confirm receipt as soon as possible by replying to this email.

Please contact our office if anything further is needed.
Good morning. I acknowledge receipt of the county's ordinance.

The City of Springfield enforces a peddlers ordinance within our corporate limits. A copy of our ordinance is attached hereto for your records. Please let me know if you have any questions or require additional information.

Thank you.

Kathleen R. Gottsch, CMC
City Administrator/Clerk/Treasurer
City of Springfield
P.O. Box 189
170 North 3rd Street
Springfield, NE 68059
(402) 253-2204 phone/fax
kathleencityofspringfield@yahoo.com
springfieldne.org