

Section 532 – Registration and Licensure for Transient Merchants, and  
Providing Penalties for Violation.

Section 532:00. Definitions. When using this Ordinance, the following terms have the following meaning:

“Transient Merchant” includes any person, persons, firm or corporation, whether a resident of the City of Foley or not, who engages in a temporary business of selling or delivering goods, wares, and merchandise for a period of 90 days or less, within said City and who and further for such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels or motels, lodging houses, apartments, shops, or uses any street, alley or other place within the City for exhibition and sale of such goods, wares and merchandise, either privately or publicly.

Section 532:05. License Required. No person shall peddle, solicit, or offer for sale as a transient merchant any items or engage in any such business within the City of Foley unless exempted by a specific provision of this Ordinance, without first obtaining a license in compliance with the provisions of this Ordinance.

Section 532:10. License Exemptions.

Subdivision 1. The provisions of this Ordinance shall not apply to agents of wholesale houses or manufacturing establishments calling on local businesses or homes for orders nor shall this apply to any person who may sell the produce of his farm or garden occupied and cultivated by said person.

Subdivision 2. Any organization, society, association or corporation desiring to solicit or to have solicited in its name money, donations of money, or property or financial assistance of any kind, upon the streets, in office or business buildings by house to house canvass, or in public places for a charitable, religious, patriotic, or philanthropic purpose shall be exempt from the provisions of Section 532.05; provided, however, all organizations, society or corporations under this section shall be required to register with the City Clerk on forms so provided, thirty (30) days prior to canvassing, solicitation, or obtaining of donations or other financial assistance in the City of Foley. The registration requirement is mandatory and any violation of this Section shall be punishable by Section 532.45 herein.

Section 532.20. License Application. Every person and organization desiring to engage in the activities provided in this Ordinance unless specifically exempted, shall be required to make application in writing to the Foley City Clerk on forms so provided. Said application forms must be completed in their entirety, and failure to abide by this provision will be sufficient cause to deny licensure. At the time of filing the application, the appropriate application fee as set by the Foley City Council, shall be paid to the Foley City Clerk to cover the cost of investigation of the facts contained in the application and to cover the cost of the license.

Upon receipt of each application, it shall be referred to the Foley Police Department, who shall immediately investigate the applicant's business, and conduct inquiries as deemed necessary for the protection of the public good. Upon completion of the investigation, the Foley Chief of Police shall endorse the application within thirty (30) days after it has been submitted by the applicant to the Foley City Clerk and said endorsement shall indicate the Police Department's approval or disapproval, and if disapproved, the reasons for the same. The application shall then be returned to the Foley City Clerk who shall notify the applicant of the action taken, and if approved, then the appropriate license shall be issued upon payment of the appropriate license fee.

Section 532:25.     Bond.           A surety bond shall be executed and filed with the Foley City Clerk before the license is issued. The bond shall be in at least the amount of \$1,000.00 conditioned that the licensee shall comply with the applicable ordinances, and that the licensee shall indemnify the City and save it harmless from all loss or damage by reason of accident or negligence of the licensee. However, this requirement may be waived in the discretion of the City Council if the investigation subject to Section 532.20 would appear to warrant such waiver.

Section 532:30.     Enforcement.       It shall be the duty of the Foley Police Department to require any person seen peddling or soliciting and who is not known by such officer to have obtained a license hereunder, to produce said license and to enforce the provisions of this ordinance against any person found to be violating the same.

Section 532:35.     Revocation of License.     Any license issued under the provisions of this Ordinance may be revoked for any of the following causes: fraud, misrepresentation, incorrect statement contained in the application, any violation of this Ordinance, conviction of any crime or misdemeanor, conducting the business of a transient merchant in any unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to health, safety of the general welfare of the public. Said notice shall be provided in writing to the license applicant by personal service in the same manner as service of a Summons and Complaint. Any person claiming to be aggrieved by the revocation of a license may appeal to the Foley City Council, by filing with the Council a written statement setting forth the grounds for the appeal, and by filing said statement with the Foley City Clerk with ten (10) days after receiving notice of the revocation. In the interim, the revocation remains effective until reinstatement, if any, by the Foley City Council.

Section 532.40.     Expiration of License.     All licenses issued under the provisions of this Ordinance shall expire at midnight on the date stated for termination. All licenses shall specify the date of expiration.

Section 532.45.     Penalty.           Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding \$700.00, by imprisonment for a period not exceeding 90 days, or both.

Section 532.50.     Posting Notice of No Solicitation.   All owners or occupants of residential or business premises who do not wish to be disturbed by peddlers, solicitors, salespersons, transient merchants, or similar persons may post a notice stating, "No Soliciting".

Said notice should be in sufficiently-sized block letters of contrasting lettering and posted in a conspicuous location(s) such that it can be easily discerned by a passerby. Any licensed or unlicensed person or organization attempting to peddle or solicit orders for the sale of services or goods, and whose attention has been called to the posted notice by an occupant, shall constitute a nuisance and the penalty section of this Ordinance shall apply.

Section 532.60. Severability. In the event any portion of this Ordinance is hereafter declared or held to be invalid, that shall not effect the remaining provisions of this Ordinance which shall remain in full force and effect.

Section 532 was added to the 1974 Code of Ordinances by Ordinance Number 192, adopted the 18<sup>th</sup> day of October, 1983 and published the 1<sup>st</sup> Day of November, 1983.