



West Des Moines *Solicitor/Transient Merchant Permit Requirements*

Solicitor

Definition: Any person who initiates or attempts to initiate personal contact with other persons at or near residences or businesses, including upon private driveways, parking lots, or public sidewalks in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date.

30 Day License: \$100.00 application fee and \$50.00 for each person actually soliciting

90 Day License: \$100.00 application fee and \$100.00 for each person actually soliciting

Issuance Requirements:

- Completion of attached application
 - Photographing and Fingerprinting by WDM Police Department, 250 Mills Civic Parkway -Tuesday & Thursdays from 2:00-4:00 p.m.
 - Personal Surety Bond in the amount \$1,000.00 naming the City of West Des Moines as obligee
- ##### Criminal History Report from the applicant's state of residence
(Iowa residents: Contact the Iowa Dept. of Criminal Investigation at 515.281.4776)

Transient Merchant

Definition: Any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any land, building, structure, trailer or truck for the exhibition and sales of goods, wares or merchandise.

License Fee: Application Fee \$100.00 and
\$20.00 for a one day license or \$100.00 for a seven day license

Issuance Requirements:

- Completion of attached application
 - Photographing and Fingerprinting by WDM Police Department, 250 Mills Civic Parkway -Tuesday & Thursdays from 2:00-4:00 p.m.
 - Personal Surety Bond in the amount \$1,000.00 naming the City of West Des Moines as obligee
- ##### Criminal History Report from the applicant's state of residence
(Iowa residents: Contact the Iowa Dept. of Criminal Investigation at 515.281.4776)
- ##### Obtaining a Temporary Use Permit - Issued by WDM Development Services-515.222.3630

Charitable and Non-Profit Organizations

Definition: Charitable and/or Non-Profit organizations exempt from federal taxation.

Issuance Requirements:

- Completion of attached application
- Under "Description of Merchandise" include description of proposed activity
- Payment of \$100.00 application fee (unless exempted)

All licenses are subject to a waiting period of five working days; Hours of solicitation in the city of West Des Moines are from 9:00 a.m. to sunset



West Des Moines

Solicitor/Transient Merchant Permit Application

Completion of this form is required for individuals and supervisors desiring a Solicitor or Transient Merchant Permit. The application along with fees, surety bond, fingerprinting and photograph and DCI Background Check sent to: City Clerk's Office, 4200 Mills Civic Parkway, Suite 1A, P.O. Box 65320, West Des Moines, IA 50265. 515.222.3603

Organization Information

Name of Organization

Supervisor Contact

Address

City State Zip

Day Phone Cell Phone

Email Fed ID #

Solicitor/Transient Merchant Information

Full Name

Permanent Address

City State Zip

Local Address

City State Zip

Day Phone Cell Phone

Social Security #

Date of Birth	<input type="text"/>	Height	<input type="text"/>
Hair Color	<input type="text"/>	Weight	<input type="text"/>

Description of Merchandise:

List all felony convictions in your lifetime and any pending felony charges:

Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>

List all misdemeanor convictions in the past 10 years and any pending misdemeanor charges (excluding traffic offenses):

Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Charge	<input type="text"/>				
Location	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>

Note: Failure to disclose any convictions may result in denial of your application or revocation of your license.

List Last Three Places of Business:

Address	<input type="text"/>				
City	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Address	<input type="text"/>				
City	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>
Address	<input type="text"/>				
City	<input type="text"/>	State	<input type="text"/>	Date	<input type="text"/>

Included with this application:

_____ **Criminal History Report** - *From applicant's state of residence (Iowa residents: Obtain from Dept. of Criminal Investigation, 215 E 7th Street, Des Moines, Iowa, phone: 515.281.4776)*

_____ **Surety Bond** - \$1,000 (*Naming the City of West Des Moines as obligee*)

_____ **Photo/Fingerprinting** - *WDM Police Department - Tuesday & Thursdays, 2-4:00 pm, 250 Mills Civic Parkway*

_____ **Application Fee** - \$100.00 (*along with respective fees listed below*)

_____ **Solicitor Fee** - \$50.00 per individual (30 day) or \$100.00 per individual (90 day)

OR

_____ **Transient Merchant Fee** - \$20.00 for one day, \$100.00 for seven days

(All transient merchants must obtain a WDM Temporary Use Permit from the West Des Moines Development Services Department prior to issuance 515.222.3630)

\$ _____ **TOTAL**

I, the undersigned, hereby state that the information contained in this application is true. I have been furnished with a copy of the ordinance which covers solicitors and transient merchants and will conform to the articles of the ordinance.

Signature

Date

ORDINANCE NO. 1982

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2009, BY AMENDING TITLE 3, "BUSINESS AND LICENSING", CHAPTER 7, "SOLICITORS AND TRANSIENT MERCHANTS"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1: Title 3, Chapter 7, Sections 1 through 16, is hereby amended by deleting ~~strike-through~~ text and adding underline text.

3-7-1: PURPOSE:

The purpose of this chapter is to protect residents of the city against fraud, and to ensure the safety of the residents by protecting them from intrusion into the privacy of their homes by licensing and regulating solicitors and transient merchants.

3-7-2: DEFINITIONS:

SOLICITOR: Any person who initiates or attempts to initiate personal contact with other persons at or near ~~solicits or attempts to solicit from~~ residences or businesses, including upon private driveways, parking lots, or public sidewalks ~~or upon the public right of way~~ in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date. ~~Solicitation on public right of way shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right of way.~~

TRANSIENT MERCHANT: Any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any land, building, structure, trailer, or truck for the exhibition and sale of goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer or conduct of such transient business in connection with, as a part of, on the property of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person from being a transient merchant.

PERSON: The term, "person", as used herein includes natural persons, corporations, firms, and organizations of any description, whether acting in person or through agents, employees, or other persons.

3-7-3: TRANSIENT MERCHANTS:

Any person as defined in Section 3-7-2 of this Chapter, "transient merchant", shall comply with the following requirements:

A. All merchandise, trucks, trailers, etc., shall be set back a minimum of a thirty five foot (35') setback from all property lines.

B. Shall provide a site plan and explanation that required parking is not reduced or that measures have been provided to ensure to the City that the transient merchant's operation will not disrupt the normal and/or required traffic circulation of the area the operation is located. This document shall be reviewed and approved by the City's community Development Services Department prior to the issuance of the license.

C. The area of the operation shall not exceed eight hundred (800) square feet and no dimension shall exceed forty (40) lineal feet.

D. The transient merchant operation shall be limited to seven (7) days per site, per month. Seasonal sales such as Christmas trees and produce shall be exempt from this subsection.

3-7-4: LICENSE REQUIRED; FEE:

A. License Required: No solicitor or transient merchant shall engage in business in the City without having first obtained a license as provided by this Chapter.

B. License Fees:

1. The City Council shall establish the amount of the licensee fee for thirty (30) day and ninety (90) day solicitor licenses by resolution. The City Council shall also establish the amount of the licensee fee for one (1) day and seven (7) day transient merchant licenses by resolution. The City Clerk, taking into consideration the nature of the business, the economic environment, and the municipal costs associated with the administration of this chapter, shall fix the amount of the license fees within the limits set forth in this Section. At the time of license issuance, the applicant shall pay to the City Clerk the applicable license fee ~~one of the following fees~~ in addition to the application fee.

Solicitors:

~~— 90 days — \$ 25.00 for each person actually soliciting~~

Transient merchants:

~~— 1 day — \$ 20.00~~

~~— 7 days — \$ 100.00~~

2. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

3-7-5: LICENSE APPLICATION:

An application for a solicitor or transient merchant license shall be filed with the City Clerk. At the time of application, the applicant shall pay to the City Clerk the non-refundable application fee. The City Council shall establish the amount of the application fee by resolution. ~~sum of one~~

~~hundred dollars (\$100.00) to cover administrative costs.~~ The application shall contain the following information:

- A. Name, permanent and local address, and local phone number;
- B. Date of birth and physical description;
- C. Company name and address;
- D. Description of merchandise;
- E. Transient merchants shall include the address from which business will be conducted and supply written permission from the property owner, their designee or leasing agent;
- F. Last three (3) places of business, including, in the case of transient merchants, the complete addresses from which business was conducted;
- G. Applicant's supervisor or manager and his/her local address;
- H. Length of time to be covered by license;
- I. A list of all convictions for criminal misdemeanor offenses (excluding traffic offenses) during the ~~five (5)~~ ten (10) years prior to application, ~~including any charges currently pending~~ and a list of all convictions for criminal felony offenses during the applicant's lifetime. The lists shall include the type of offense, the City, County, and State where the offense occurred, and the date of conviction of each offense;
- J. A list of all pending criminal misdemeanor and felony charges, including the type of offense charged, and the City, County, and State where the offense allegedly occurred.
- K. Applicants who reside in the State of Iowa shall provide, at the applicant's expense, an officially sealed State of Iowa state-Division of Criminal Investigation (DCI) personal background check to the City, ~~criminal history report to be supplied by the applicant~~ and which is dated no more than thirty (30) days prior to the application. Applicants who do not reside in the State of Iowa shall provide, at the applicant's expense, an equivalent personal background check from the applicant's state of residence.

3-7-6: PHOTOGRAPHING AND FINGERPRINTING OF APPLICANT:

Each applicant shall be fingerprinted and a photograph shall be taken of each applicant by the City's Police Department and at the applicant's expense.

3-7-7: ISSUANCE OF LICENSE:

The City Clerk, upon review of said license application request with the City's Development Services Department of community development, the Police Department, and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than ~~three (3) working~~ five (5) business days from date of application shall be in effect to provide sufficient time for the City Clerk's decision making process. In making his/her decision, the City Clerk shall consider the following factors:

- A. The information in the application is found to be correct.
- B. The required bond is paid.
- C. The applicant has not, ~~during the immediately preceding five (5) years~~, been convicted of an offense involving sexual abuse and/or a crime requiring sex offender registration ~~or theft or fraud~~.
- D. The applicant has not been convicted of a criminal offense involving serious injury or death to another person, kidnapping, false imprisonment, robbery, burglary, theft, fraud, forgery, identity theft, trespass, harassment, or stalking.
- E. Any other relevant considerations that, in the City Clerk's determination, would undermine the stated purposes of this Chapter.

3-7-8: LICENSE EXEMPTIONS:

The following are excluded from the application of this Chapter, except such persons or entities must comply with Sections 3-7-13 and 3-7-14 of this Chapter:

- A. Newspaper carriers.
- B. Members of local Boy Scout, Girl Scout, Campfire or 4-H Clubs, and Future Farmers of America ~~and similar nonprofit organizations~~, if the sales are to benefit the parent organization in its recognized operation and programs.
- ~~C. Farmers who offer for sale products of their own raising.~~
- C. Students representing local schools or local youth sports organizations conducting projects sponsored by organizations recognized by the schools or youth sports organizations.
- ~~E. Persons who make regularly scheduled route deliveries in residential areas of goods or services, e.g., lawn services, cable television service, dairy product delivery service.~~
- D. City, county, state, or federal government officials and employees while in the performance of their official duties.
- E. Representatives of any public utility lawfully doing business in the City, while acting in such capacity.

3-7-9: CHARITABLE AND NONPROFIT ORGANIZATIONS:

A. Representatives of charitable organizations exempt from federal taxation and/or non-profit organizations shall be subject to the requirements of this Chapter, except that they shall not be required to submit ~~permit~~ license fees nor provide a bond. ~~nor~~ They shall they be required to submit an application and application fees under Section 3-7-5 of this Chapter. In lieu of addition to this application, all such organizations shall be required to submit in writing to the City Clerk the following information:

1. Name of organization;
2. Federal identification number;
3. A description of the proposed activity, including use for any money solicited;
4. Period during which activities will take place;
5. Whether any commissions, fees, or wages are to be charged by the solicitor for his/her efforts and the amount thereof;
6. Names and addresses of officers and directors of the organization; and
7. Names and addresses of all people who will be soliciting or distributing in the name of the organization.

B. If the City Clerk shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license without payment of the required license fees under Section 3-7-4 of this Chapter ~~free of charge~~.

C. The City Clerk may elect to waive the application and fee requirements for charitable and non-profit organizations based upon the following considerations: (1) If there are many persons soliciting on behalf of the organization; (2) If the many persons soliciting on behalf of the organization are all volunteers; (3) If there is a limited duration for the organization's soliciting efforts; and (4) If there is a limited location for the organization's soliciting efforts. The City Clerk shall not waive the application and fee requirements for charitable and non-profit organizations that solicit or attempt to solicit from residences and businesses.

3-7-10: BOND:

At the time of application, the applicant shall file with the City Clerk a personal surety bond in the amount of one thousand dollars (\$1,000.00) conditioned that the applicant shall comply fully with all ordinances of the City and laws of the State of Iowa regulating solicitors and transient merchants, guaranteeing attendance at all scheduled hearings and court appearances, and guaranteeing to any resident of the City that all money paid as a down payment will be

accounted for and applied according to the representations of the licensee. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. Said bond shall provide an expiration period not less than twelve (12) months from the date of the application for a license.

3-7-11: DISPLAY OF LICENSE:

Upon the approval of a solicitor license, the City shall provide each solicitor with a City-issued license that the solicitor must wear around his/her neck with a lanyard or upon another conspicuous place on his/her person so that other persons can readily see the license at all times while the person engages in soliciting. The City Clerk may elect to waive these license display requirements based upon the considerations detailed in Section 3-7-9(C) of this Chapter. ~~shall at all times while doing business in this city keep in his/her possession the license provided for in this chapter, and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with the provisions of this chapter.~~ Each transient merchant shall display publicly his/her license in his/her place of business.

3-7-12: LICENSE NOT TRANSFERABLE:

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

3-7-13: HOURS TO DO BUSINESS:

All licenses issued to solicitors shall be in force and effect only between ~~the hours of~~ nine o'clock (9:00) A.M. and the time of sunset ~~seven o'clock (7:00) P.M.~~ No soliciting shall occur on nationally-recognized holidays. Any person found to be acting as a solicitor or transient merchant, legally, without a license, shall also be limited to these hours.

3-7-14: UNLAWFUL ACTS:

A. Fraudulent Representation/Harassment: No licensee shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale, or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce, or threaten any individual to induce a sale.

B. Prohibited Soliciting: No solicitor shall do business or attempt to do business upon any property on which is posted notice that peddling and/or soliciting is prohibited.

C. Soliciting or Transient Merchandising without a License: It shall be unlawful to solicit or conduct transient merchandising as defined in this Chapter without a valid license or permit.

D. Supervisor or Employer: No person supervising or employing another to solicit or conduct transient merchandising as defined in this Chapter shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this Section. Each such unlawful act by each employee or supervised person may be charged as a separate offense.

There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer or employee of the City Clerk's office gives notice to the supervisor or employer of such unlawful acts and, subsequently, further unlawful acts are committed by the employee or person supervised.

E. No person, with or without a solicitor license, shall stand, sit, or otherwise be present in or on the travel portion of a public or private street or highway in order to solicit or attempt to solicit from pedestrians or vehicle occupants. The entire width of the roadway shall be deemed the travel portion of a public or private street or highway, including the edge or curb of the roadway and any median or island that separates directional traffic on the street or highway. Solicitors may submit a written request to the City Clerk to be allowed to solicit from a traffic median or island. Any such request shall include a diagram or map indicating the location for the proposed solicitation, and a specific date and time for the proposed solicitation. Upon receiving such a written request, the City Clerk shall provide the requesting party with the City's expectations that must be satisfied before the City Clerk decides to grant or deny the request. The City Clerk shall then grant or deny the request in part or in its entirety.

3-7-15: SUSPENSION OR REVOCATION OF LICENSE:

A. Grounds; Notice:

1. The City Clerk may suspend any license issued under this Chapter, pending the outcome of an administrative hearing, for any of the following reasons:

- a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
- b. The licensee has violated this Chapter or any other Chapter of this Code or has otherwise conducted his/her business in an unlawful manner.
- c. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.
- d. The City Clerk has received and investigated three (3) or more founded ~~written~~ complaints during the licensed period from residents of the City who are dissatisfied with the manner in which the licensee is conducting business.

2. The City Clerk shall ~~have immediately serve notice to~~ the licensee served with notice either in person or by regular mail to the licensee's local address of the license suspension, the specific reason(s) for such action, and date and time of hearing with the City Clerk to review the particulars of the suspension.

B. Hearing: A hearing shall be conducted by the City Clerk not more than ~~three (3)~~ five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this Chapter. Should the licensee or

his/her authorized representative fail to appear without good cause, the City Clerk may proceed with the hearing and make his/her findings to a conclusion.

C. Revocation: After the City Clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation of ~~this chapter~~ has occurred. The revocation shall be effective immediately.

D. Appeal: If the City Clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal appeal code hearing officer as provided in Section 4-4-9 of this Code. The municipal appeal code hearing officer may reverse, modify, or affirm the decision of the City Clerk.

E. Effect of Revocation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this Chapter for a period of one (1) year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

3-7-16: PENALTY:


Commission of any act declared unlawful ~~under section 3-7-14~~ and in violation of the provisions of this Chapter is shall constitute a simple misdemeanor punishable as provided Iowa Code section 903.1. Failure to comply with the provisions of this Chapter shall also constitute a municipal infraction, punishable pursuant to Section 1-4-1 of this Code.

SECTION 2. REPEALER. All Ordinances or parts of Ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

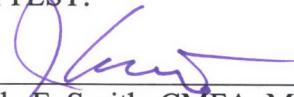
SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

PASSED AND APPROVED this 1st day of April, 2013.



Steven K. Gaer, Mayor

ATTEST:



Jody E. Smith, CMFA, MMC
City Clerk

AFFIDAVIT OF PUBLICATION

COPY OF ADVERTISEMENT

Exhibit "A"

STATE OF IOWA

SS

COUNTY OF POLK

R779 CITY OF WEST DES MOINES ORDINANCE NO. 1982 AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2009, BY AMENDING TITLE 3, "BUSINESS AND LICENSING", CHAPTER 7, "SOLICITORS AND TRANSIENT MERCHANTS"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1: Title 3, Chapter 7, Sections 1 through 16, is hereby amended by deleting (strike-through) text and adding underline text.

3-7-1: PURPOSE:

The purpose of this chapter is to protect residents of the city against fraud, and to ensure the safety of the residents by protecting them from intrusion into the privacy of their homes by licensing and regulating solicitors and transient merchants.

3-7-2: DEFINITIONS:

SOLICITOR: Any person who initiates or attempts to initiate personal contact with other person; at or near (solicits or attempts to solicit from) residences or businesses, including upon private driveways, parking lots, or public sidewalks (or upon the public right of way) in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date. (Solicitation on public right of way shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right of way.)

TRANSIENT MERCHANT: Any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any land, building, structure, trailer, or truck for the exhibition and sale of goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer or conduct of such transient business in connection with, as a part of, on the property of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person from being a transient merchant.

PERSON: The term, "person", as used herein includes natural persons, corporations, firms, and organizations of any description, whether acting in person or through agents, employees, or other persons.

3-7-3: TRANSIENT MERCHANTS:

Any person as defined in Section 3-7-2 of this Chapter, "transient merchant", shall comply with the following requirements:

A. All merchandise, trucks, trailers, etc., shall be set back a minimum of a thirty-five foot (35') setback from all property lines.

B. Shall provide a site plan and explanation that required parking is not reduced or that measures have been provided to ensure to the City that the transient merchant's operation will not disrupt the normal and/or required traffic circulation of the area the operation is located. This document shall be reviewed and approved by the City's (community) Development Services Department prior to the issuance of the license.

C. The area of the operation shall not exceed eight hundred (800) square feet and no dimension shall exceed forty (40) lineal feet.

D. The transient merchant operation shall be limited to seven (7) days per site, per month. Seasonal sales such as Christmas trees and produce shall be exempt from this subsection.

3-7-4: LICENSE REQUIRED; FEE:

A. License Required: No solicitor or transient merchant shall engage in business in the City without having first obtained a license as provided by this Chapter.

B. License Fees:

1. The City Council shall establish the amount of the licensee fee for thirty (30) day and ninety (90) day solicitor licenses by resolution. The City Council shall also establish the amount of the licensee fee for one (1) day and seven (7) day transient merchant licenses by resolution. (The City Clerk, taking into consideration the nature of the business, the economic environment, and the municipal costs associated with the administration of this chapter, shall fix the amount of the license fees within the limits set forth in this Section.) At the time of license issuance, the

applicant shall pay to the City Clerk the applicable license fee (one of the following fees) in addition to the application fee.

(Solicitors:)

(90 days \$25.00 for each person actually soliciting)

(Transient merchants:)

(1 day \$20.00)

(7 days \$100.00)

2. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

3-7-5: LICENSE APPLICATION:

An application for a solicitor or transient merchant license shall be filed with the City Clerk. At the time of application, the applicant shall pay to the City Clerk the non-refundable application fee. The City Council shall establish the amount of the application fee by resolution.

The undersigned, being first duly sworn on oath, states that The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

THE DES MOINES REGISTER

newspapers of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an

advertisement, a printed copy of which is attached as Exhibit "A" and made a part of this affidavit, was printed and published in The Des Moines Register on the following dates

April 5, 2013

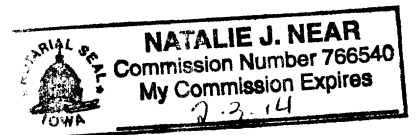
Maura Walsh

Legals Clerk

Subscribed and sworn to before me by said affiant this 5th day of April 2013

Natalie J. Near

Notary Public in and for Polk County, Iowa



(sum of one hundred dollars (\$100.00) to cover administrative costs.) The application shall contain the following information:

- A. Name, permanent and local address, and local phone number;
- B. Date of birth and physical description;
- C. Company name and address;
- D. Description of merchandise;
- E. Transient merchants shall include the address from which business will be conducted and supply written permission from the property owner, their designee or leasing agent;
- F. Last three (3) places of business, including, in the case of transient merchants, the complete addresses from which business was conducted;
- G. Applicant's supervisor or manager and his/her local address;
- H. Length of time to be covered by license;
- I. A list of all convictions for criminal misdemeanor offenses (excluding traffic offenses) during the (five (5)) ten (10) years prior to application, (including any charges currently pending) and a list of all convictions for criminal felony offenses during the applicant's lifetime. The lists shall include the type of offense, the City, County, and State where the offense occurred, and the date of conviction of each offense;
- J. A list of all pending criminal misdemeanor and felony charges, including the type of offense charged, and the City, County, and State where the offense allegedly occurred.
- K. Applicants who reside in the State of Iowa shall provide, at the applicant's expense, an officially sealed State of Iowa (state) Division of Criminal Investigation (DCI) personal background check to the City, (criminal history report to be supplied by the applicant and) which is dated no more than thirty (30) days prior to the application. Applicants who do not reside in the State of Iowa shall provide, at the applicant's expense, an equivalent personal background check from the applicant's state of residence.

3-7-6: PHOTOGRAPHING AND FINGERPRINTING OF APPLICANT:

Each applicant shall be fingerprinted and a photograph shall be taken of each applicant by the City's Police Department and at the applicant's expense.

3-7-7: ISSUANCE OF LICENSE:

The City Clerk, upon review of said license application request with the City's Development Services Department (of community development), the Police Department, and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than (three (3) working) five (5) business days from date of application shall be in effect to provide sufficient time for the City Clerk's decision making process. In making his/her decision, the City Clerk shall consider the following factors:

- A. The information in the application is found to be correct.
- B. The required bond is paid.
- C. The applicant has not, (during the immediately preceding five (5) years,) been convicted of an offense involving sexual abuse and/or a crime requiring sex offender registration (or theft or fraud).
- D. The applicant has not been convicted of a criminal offense involving serious injury or death to another person, kidnapping, false imprisonment, robbery, burglary, theft, fraud, forgery, identity theft, trespass, harassment, or stalking.
- E. Any other relevant considerations that, in the City Clerk's determination, would undermine the stated purposes of this Chapter.

3-7-8: LICENSE EXEMPTIONS:

The following are excluded from the application of this Chapter, except such persons or entities

must comply with Sections 3-7-13 and 3-7-14 of this Chapter:

- A. Newspaper carriers.
- B. Members of local Boy Scout, Girl Scout, Campfire or 4-H Clubs, and Future Farmers of America (and similar nonprofit organizations,) if the sales are to benefit the parent organization in its recognized operation and programs.
- C. Farmers who offer for sale products of their own raising.)
- C. Students representing local schools or local youth sports organizations conducting projects sponsored by organizations recognized by the schools or youth sports organizations.
- (E. Persons who make regularly scheduled route deliveries in residential areas of goods or services, e.g., lawn services, cable television service, dairy product delivery service.)
- D. City, county, state, or federal government officials and employees while in the performance of their official duties.
- E. Representatives of any public utility lawfully doing business in the City, while acting in such capacity.

3-7-9: CHARITABLE AND NON-PROFIT ORGANIZATIONS:

- A. Representatives of charitable organizations exempt from federal taxation and/or non-profit organizations shall be subject to the requirements of this Chapter, except that they shall not be required to submit (permit) license fees nor provide a bond. (nor) They shall (they) be required to submit an application and application fees under Section 3-7-5 of this Chapter. In (lieu of) addition to this application, all such organizations shall be required to submit in writing to the City Clerk the following information:

1. Name of organization;
2. Federal identification number;
3. A description of the proposed activity, including use for any money solicited;
4. Period during which activities will take place;
5. Whether any commissions, fees, or wages are to be charged by the solicitor for his/her efforts and the amount thereof;
6. Names and addresses of officers and directors of the organization; and
7. Names and addresses of all people who will be soliciting or distributing in the name of the organization.

- B. If the City Clerk shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license without payment of the required license fees under Section 3-7-4 of this Chapter (free of charge).

- C. The City Clerk may elect to waive the application and fee requirements for charitable and non-profit organizations based upon the following considerations: (1) If there are many persons soliciting on behalf of the organization; (2) If the many persons soliciting on behalf of the organization are all volunteers; (3) If there is a limited duration for the organization's soliciting efforts; and (4) If there is a limited location for the organization's soliciting efforts. The City Clerk shall not waive the application and fee requirements for charitable and non-profit organizations that solicit or attempt to solicit from residences and businesses.

3-7-10: BOND:

At the time of application, the applicant shall file with the City Clerk a personal surety bond in the amount of one thousand dollars (\$1,000.00) conditioned that the applicant shall comply fully with all ordinances of the City and laws of the State of Iowa regulating solicitors and transient merchants, guaranteeing attendance at all scheduled hearings and court appearances, and guaranteeing to any resident of the City that all money paid as a down payment

will be accounted for and applied according to the representations of the licensee. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. Said bond shall provide an expiration period not less than twelve (12) months from the date of the application for a license.

3-7-11: DISPLAY OF LICENSE:

Upon the approval of a solicitor license, the City shall provide each solicitor with a City-issued license that the solicitor must wear around his/her neck with a lanyard or upon another conspicuous place on his/her person so that other persons can readily see the license at all times while the person engages in soliciting. The City Clerk may elect to waive these license display requirements based

upon the considerations detailed in Section 3-7-9(C) of this Chapter. (shall at all times while doing business in this city keep in his/her possession the license provided for in this chapter, and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with the provisions of this chapter. Each transient merchant shall display publicly his/her license in his/her place of business.)

3-7-12: LICENSE NOT TRANSFERABLE:

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

3-7-13: HOURS TO DO BUSINESS:

All licenses issued to solicitors shall be in force and effect only between the hours of nine o'clock (9:00) A.M. and the time of sunset (seven o'clock (7:00) P.M.) No soliciting shall occur on nationally-recognized holidays. Any person found to be acting as a solicitor or transient merchant, legally, without a license, shall also be limited to these hours.

3-7-14: UNLAWFUL ACTS:

- A. Fraudulent Representation/Harassment: No licensee shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale, or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce, or threaten any individual to induce a sale.

- B. Prohibited Soliciting: No solicitor shall do business or attempt to do business upon any property on which is posted notice that peddling and/or soliciting is prohibited.

- C. Soliciting or Transient Merchandising without a License: It shall be unlawful to solicit or conduct transient merchandising as defined in this Chapter without a valid license or permit.

- D. Supervisor or Employer: No person supervising or employing another to solicit or conduct transient merchandising as defined in this Chapter shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this Section. Each such unlawful act by each employee or supervised person may be charged as a separate offense. There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer or employee of the City Clerk's office gives notice to the supervisor or employer of such unlawful acts and subsequently, further unlawful acts are committed by the employee or person supervised.

- E. No person, with or without a solicitor license, shall stand, sit, or otherwise be present in or on the travel portion of a public or private street or highway in order to solicit or attempt to solicit from pedestrians or vehicle occupants. The entire width of the roadway shall be

deemed the travel portion of a public or private street or highway, including the edge or curb of the roadway and any median or island that separates directional traffic on the street or highway. Solicitors may submit a written request to the City Clerk to be allowed to solicit from a traffic median or island. Any such request shall include a diagram or map indicating the location for the proposed solicitation, and a specific date and time for the proposed solicitation. Upon receiving such a written request, the City Clerk shall provide the requesting party with the City's expectations that must be satisfied before the City Clerk decides to grant or deny the request. The City Clerk shall then grant or deny the request in part or in its entirety.

3-7-15: SUSPENSION OR REVOCATION OF LICENSE:

- A. Grounds; Notice:
 1. The City Clerk may suspend any license issued under this Chapter, pending the outcome of an administrative hearing, for any of the following reasons:
 - a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - b. The licensee has violated this Chapter or any other Chapter of this Code or has otherwise conducted his/her business in an unlawful manner.
 - c. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.
 - d. The City Clerk has received and investigated three (3) or more founded written complaints during the licensed period from residents of the City

who are dissatisfied with the manner in which the licensee is conducting business.

2. The City Clerk shall have (immediately serve notice to) the licensee served with notice either in person or by regular mail to the licensee's local address of the license suspension, the specific reason(s) for such action, and date and time of hearing with the City Clerk to review the particulars of the suspension.

- B. Hearing: A hearing shall be conducted by the City Clerk not more than (three (3)) five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this Chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the City Clerk may proceed with the hearing and make his/her findings (to a conclusion).

- C. Revocation: After the City Clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation (of this chapter) has occurred. The revocation shall be effective immediately.

- D. Appeal: If the City Clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal (appeal) code hearing officer as provided in Section 4-4-9 of this Code. The municipal (appeal) code hearing officer may reverse, modify, or affirm the decision of the City Clerk.

- E. Effect of Revocation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this Chapter for a period of one (1) year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

3-7-16: PENALTIES:

Commission of any act declared unlawful (under section 3-7-14) and in violation of the provisions of this Chapter (is) shall constitute a simple misdemeanor punishable as

provided Iowa Code section 903.1. Failure to comply with the provisions of this Chapter shall also constitute a **municipal** infraction, punishable pursuant to Section 1-4-1 of this Code.

SECTION 2. REPEALER. All Ordinances or parts of Ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

PASSED AND APPROVED this 1st day of April, 2013.

Steven K. Gaer, Mayor

ATTEST:
Jody E. Smith, CMFA, MMC
City Clerk
