ORDINANCE NO. 6591

AN ORDINANCE TO RETITLE AND AMEND CHAPTER 3.62 TRANSIENT MERCHANTS OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, TO NOW BE KNOWN AS SOLICITORS AND BY AMENDING SECTION 3.62.010 "LICENSE REQUIRED"; AMENDING AND RETITLING SECTION 3.62.020 "DEFINITIONS-TRANSIENT MERCHANTS" TO NOW BE KNOWN AS "DEFINITIONS-SOLICITORS"; AMENDING SECTION 3.62.030 "APPLICATION FOR LICENSE"; REPEALING SECTION 3.62.040 "INVESTIGATION OF APPLICANT-ISSUANCE"; SECTION 3.62.050 "BOND REQUIRED"; 3.62.070 "APPOINTMENT OF CITY CLERK AS AGENT"; AMENDING SECTION 3.68.080 "LICENSE FEE"; REPEALING SECTION 3.62.090 "COPIES OF LICENSE"; AMENDING SECTION 3.62.100 "PROHIBITED ACTS; SECTION 3.62.110 "REVOCATION OF LICENSE"; SECTION 3.62.120 "DISPLAY OF LICENSE-DUPLICATES"; REPEALING SECTION 3.62.130 "CHARITABLE OR RELIGIOUS ORGANIZATIONS" AND BY AMENDING SECTION 3.62.135 "SCHOOL FUNDRAISING ACTIVITIES".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 3.62 Solicitors of the 2020 Municipal Code of Council Bluffs, Iowa, is hereby retitled and amended to read as follows:

Chapter 3.62 - SOLICITORS

3.62.010 License Required
3.62.020 Definitions - Solicitors
3.62.030 Application For License
3.62.060 Insurance Required
3.68.080 License Fee
3.62.100 Prohibited Acts
3.62.110 Revocation Of License
3.62.120 Display Of License - Duplicates
3.62.135 School Fundraising Activities
3.62.140 Penalty For Violation

3.62.010 License Required

It shall be unlawful for any solicitor, or person making street sales, as hereinafter defined, to engage in any such business within the city of Council Bluffs, Iowa, without first obtaining a license in compliance with the provisions of this chapter. License shall be issued to each individual person, not per company. Any person, firm or corporation who follows the calling, trade, profession and occupation and engages in the business of distributing handbills, circulars, cards, pamphlets or other advertising matter, shall be required to secure a Solicitors permit

(Ord. 5794 § 3 (part), 2004)

3.62.020 Definitions - Solicitors

For the purpose of this chapter, the following words, terms and phrases are defined as follows:

Person: An individual.

Solicitor: Any person, traveling by foot, motor vehicle, or other type of conveyance from dwelling to dwelling, or street to street, carrying, conveying, or transporting candies, foods, magazines, or other merchandise, offering and exposing the same for sale, or making sales, and delivering such articles to purchasers, or taking orders for sales for future delivery, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale, or whether or not he/she is collecting advance payment on such sales, or offering to furnish or perform services to be furnished now or in the future.

(Ord. 5794 § 3 (part), 2004)

3.62.030 Application For License

The application for a license, as required by CBMC 3.62.010, shall include the following:

A. The name, permanent address, phone number and email of the applicant;

B. The name of the firm or corporation, if any, on whose behalf such business is being conducted and the address, Phone number and email of said firm or corporation;

C. Type of products and/or services being sold;

D. The make, model, state of registration, and license number of any and all vehicles being used in connection with the business being transacted by the transient merchant;

(Ord. 5794 § 3 (part), 2004)

3.62.060 Insurance Required

Before any license, as required by CBMC 3.62.010, shall be issued, the applicant shall file with the city clerk a certificate or proof of general liability insurance. The minimum requirements for coverage and amounts of such policy shall be as follows:

1. Injury liability insurance for injuries to one or more persons in any one accident in the amount of two hundred fifty thousand dollars ($250,000.00);

2. Products liability insurance in the amount of five hundred thousand dollars ($500,000.00), combined single limits; and

3. Property damage liability insurance in the amount of one hundred thousand dollars ($100,000.00) for any one accident.

The city of Council Bluffs, Iowa, shall be named as an additional insured against any liabilities that may arise in connection with the licensees.

(Ord. 5794 § 3 (part), 2004)

3.62.080 License Fee

For each license issued hereunder, the applicant shall pay the applicable fee as found in the Schedule Of Fees set forth in CBMC 2.08. Applicant may obtain a license for 6 months or for 1 year.

(Ord. 5794 § 3 (part), 2004)

3.62.100 Prohibited Acts

No Solicitor, or person making street sales, shall:

A. Shout, blow on a horn, ring a bell, or use any loudspeaker or amplifying system for the purpose of advertising or otherwise announcing his or her wares, or business activities, except as may be permissible under any other ordinance of the city of Council Bluffs, Iowa, or statute of the state of Iowa, and such acts shall be specifically prohibited after 9:00 p.m. and before 9:00 a.m. on any day of the week;

B. Have any right to any location in the public streets or ways or upon any public property, nor shall he/she be permitted to operate in any congested area where such operations might impede or inconvenience the public. The judgment of a police officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public inconvenienced;

C. Sell or offer to sell goods, wares, or merchandise on any of the city's public streets;

D. Enter upon any residential premises in the city where the owner, occupant, or person legally in charge of the premises has posted, at the entry to the premises or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import.

(Ord. No. 6082, § 1, 6-14-2010)

Editor's note— Ord. No. 6082, § 1, adopted June 14, 2010, repealed the former section and enacted a new section as set out herein. The former section pertained to similar subject matter and derived from Ord. No. 5794, § 3, 2004.

3.62.110 Revocation Of License

Any license issued hereunder may be revoked for cause after reasonable notice and opportunity for hearing by the city clerk, who shall give such notice by certified mail to the permanent address of the applicant. Notice shall be in writing, and include the specific grounds of the complaint, and the time and place of hearing. In the event of such revocation, no other solicitors license shall be issued to such applicant for a period of two years thereafter. A license may be revoked for any of the following causes:

A. Violation of any provision of this chapter;

B. Fraud, misrepresentation, or false statement contained in the license application;

C. Fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, merchandise, or services by the transient merchant or any person acting on his/her behalf; or

D. Conviction of the licensee or any person acting on his/her behalf, for a felony or for any misdemeanor involving moral turpitude.

(Ord. 5794 § 3 (part), 2004)

3.62.120 Display Of License - Duplicates

Any license issued herein shall at all times be carried by the licensee. Such license shall be displayed to any person requesting to see the same, and it shall be unlawful for any licensee to engage in the conduct or carrying on of the business without such license in his/her possession.

(Ord. 5794 § 3 (part), 2004)

3.62.135 School Fundraising Activities

Except as set forth in CBMC 3.62.100 Paragraph H, the provisions of this chapter shall not apply to school fundraising activities.

(Ord. No. 6093, § 2, 7-26-2010)

Editor's note— Ord. No. 6093, § 2, adopted July 26, 2010, repealed the former section and enacted a new section as set out herein. The former section pertained to similar subject matter and derived from Ord. No. 5794, § 3, 2004.

3.62.140 Penalty For Violation

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions set forth in CBMC 8.02.020. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of CBMC 1.95 in lieu of criminal prosecution.

(Ord. 5794 § 3 (part), 2004)

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its publication, as by law provided.

PASSED
AND November 13, 2023.
APPROVED

_____

MATTHEW J. WALSH Mayor

Attest: _____

JODI QUAKENBUSH City Clerk

First Consideration: 10-23-23
Second Consideration: 11-13-23
Public Hearing: N/A
Third Consideration: _____