

## APPLICATION FOR TRANSIENT MERCHANTS LICENSE

The undersigned hereby makes application for a Transient Merchant's license, pursuant to the provisions of City Ordinance No. 5794 of the City of Council Bluffs, Iowa; and acknowledges that the statements and answers to questions herein contained are true.

1. Applicant \_\_\_\_\_  
Full Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

\_\_\_\_\_ Telephone \_\_\_\_\_  
Permanent Home Address

2. Attached sheet is available for any additional persons who will be operating under this license, which includes their names, date of birth, permanent address and telephone number.

3. Name the firm or corporation, if any, on whose behalf such business is being conducted and the address of the firm or corporation.

Firm or Corporation \_\_\_\_\_

Address: \_\_\_\_\_

4. A list of goods, wares, merchandise, or products being sold: \_\_\_\_\_

Value of goods to be offered for sale: \_\_\_\_\_

Name of Supplier \_\_\_\_\_ Telephone of Supplier \_\_\_\_\_

Address of Supplier \_\_\_\_\_

5. What motor vehicles will be used in connection with the conduction of business?

_____	_____	_____	_____
Make	Model	Color	License #

6. Tax Information:

_____	_____	_____
Proof State Sale Tax	State Tax ID #	Exemption from State/Federal Tax

7. Have any individuals under items 1 or 2 been convicted of a felony or misdemeanor, except traffic charges? \_\_\_\_\_ If the answer is yes, give the name, date, place of conviction and nature of crime.

_____	_____	_____	_____
Name	Date	Place	Crime

8. On behalf of the Applicant have any persons conducted businesses at any other place within the State of Iowa and if so name the last three municipalities \_\_\_\_\_

9. Where will the business be carried on in Council Bluffs? \_\_\_\_\_

10. Date Business will commence \_\_\_\_\_



## Chapter 3.62 TRANSIENT MERCHANTS

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3.62.010 License required.

It shall be unlawful for any transient merchant, peddler, 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.

(Ord. 5794 § 3 (part), 2004).

3.62.020 Definitions.

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

"Mobile vending unit" means any vehicle, cart, or other contrivance from which street sales are made or offered to be made, and which may be moved from place to place for the purpose of making or offering to make street sales.

"Peddler" means 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.

"Person" means an individual, partnership, firm, corporation, association, or any body of persons, whether incorporated or not.

"Street sales" means any sales transaction made from a street stand, vehicle, box, contrivance, or place outside of and disconnected from a lawfully recognized building in the city of Council Bluffs, Iowa, near to or adjoining any sidewalk, alley, or other public highway.

"Transient merchant" means any person, whether owner, agent, bailee, consignee or employee, who engages in the sale of goods, wares, or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares or merchandise within the city of Council Bluffs, Iowa. A merchant shall be presumed to be temporarily or intermittently in business unless it is the intention of such merchant to remain continuously in business at each location where the merchant is engaged in business within the city of Council Bluffs, Iowa. as a merchant, for a period of more than sixty (60) days.

(Ord. 5794 § 3 (part), 2004).

3.62.030 Application for license.

The application for a license, as required by Section 3.62.010 of this chapter, shall include the following:

(a) The name, date of birth, permanent address, and phone number of the applicant;

- (b) The name, date of birth, and permanent address of any persons who will be acting on behalf of the applicant in conducting business under the authority of such a license;
  - (c) The name of the firm or corporation, if any, on whose behalf such business is being conducted and the address of said firm or corporation;
  - (d) A list of the goods, wares, merchandise, or products being sold, and the price of each, along with the name, address, and phone number of the supplier of the goods, wares, merchandise, or products;
  - (e) The make, model, year, state of registration, and license number of any and all vehicles being used in connection with the business being transacted by the transient merchant;
  - (f) Proof of the state sales tax permit, including state tax identification number, or exemption from state and federal taxing authorities;
  - (g) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than a traffic violation, the nature of the offense, and the penalty imposed;
  - (h) A statement as to whether or not the applicant or any persons conducting or carrying on business within the city of Council Bluffs, Iowa, on behalf of the applicant have conducted or carried on such business at any other place within the state of Iowa and, if so, the names of the last three municipalities where the applicant carried on such business;
  - (i) The place or places within the city where it is proposed to carry on the business;
  - (j) The time when such business operation or activity shall be commenced and the time when it will be terminated; and
  - (k) A photograph of the applicant, and any other person or persons who will conduct or carry on the business within the city of Council Bluffs, Iowa. Such photograph shall be taken not more than ninety (90) days prior to the making of the application and shall be a minimum size of two inches by two inches, showing the head and shoulders of the person photographed.
- (Ord. 5794 § 3 (part), 2004).

#### 3.62.040 Investigation of applicant--Issuance.

- (a) Upon receipt of an application, the city clerk shall refer the application to the chief of police, who shall make such investigation of the character and reputation of the persons who will conduct the business within the city of Council Bluffs, Iowa, as he/she deems necessary for the protection of the public good.
  - (b) The chief of police shall, based on the investigation of the character and business responsibility of the applicant, endorse his or her approval or disapproval upon the application, and forward such endorsed application to the city clerk.
  - (c) If the application has been approved by the chief of police, the city clerk shall issue a license upon the payment of all fees and compliance with the other conditions herein provided.
  - (d) If the application has not been approved by the chief of police, the city clerk shall not issue a license unless the causes for such disapproval are eliminated; in which case, the application shall be resubmitted to the chief of police for investigation in the same manner as herein provided for the submission of the initial application.
- (Ord. 5794 § 3 (part), 2004).

#### 3.62.050 Bond required.

Before any license, as required by Section 3.62.010 of this chapter shall be issued, the applicant shall file with the city clerk a bond running to the city of Council Bluffs, Iowa, in the amount of ten thousand dollars (\$10,000.00), executed by the applicant as principal. The surety of such bond shall be a corporate surety authority to do business in the state of Iowa, and the bond and surety therein shall be approved by the city attorney before such license is issued. Bond forms shall be prepared by the city attorney, and any deviation from such form shall be approved by the city attorney. Such bond shall be conditioned:

- (a) For the observation of provisions of this chapter and any and all other ordinances of the city of Council Bluffs, Iowa, and any statutes of the state of Iowa that regulate merchandising and handling of goods, wares, merchandise, commodities, products or services dealt in by the licensee;
- (b) For the prompt and full payment of any taxes, fees, or other monies which may become due pursuant to the issuance of the license; and

(c) For the full and complete protection of the city against any and all litigation growing out of the issuance of the license or anything done under such license.

(Ord. 5794 § 3 (part), 2004).

#### 3.62.060 Insurance required.

Before any license, as required by Section 3.62.010 of this chapter, 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:

- (a) 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);
- (b) Products liability insurance in the amount of five hundred thousand dollars (\$500,000.00), combined single limits; and
- (c) 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).

#### 3.62.070 Appointment of city clerk as agent.

Before any license, as required by Section 3.62.010 of this chapter, shall be issued, the applicant shall file with the city clerk an instrument nominating and appointing the city clerk or the person performing the duties of such position as the applicant's true and lawful agent, with full power and authority to acknowledge service of notice or process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license or for the performance of the conditions of the bond provided for in Section 3.62.050 of this chapter, or for any breach thereof. Such instrument shall contain a provision that the applicant for the license consents and agrees that service of any notice of civil suit may be made upon the city clerk of the person performing the duties of such position and when so made shall be as valid as if personally served upon the applicant, and that the applicant waives all claim or right of error by reason of such acknowledgement of manner of service. Immediately upon being served with notice or process as herein provided, the city clerk or the person performing the duties of such position shall send to the licensee at his/her address as shown upon the application, a copy of said notice or process. Such notice shall be sent by certified mail and shall be mailed not more than two days after service of the notice or process upon the city clerk, as herein provided.

(Ord. 5794 § 3 (part), 2004).

#### 3.68.080 License fee.

For each license or duplicate issued hereunder, the applicant shall pay the applicable fee as found in the schedule of fees set forth in Section 2.08.030 of this code.

(Ord. 5794 § 3 (part), 2004).

#### 3.62.090 Copies of license.

When more than one person will engage in the conduct of the business of a transient merchant, whether as agent, servant, employee or in any other capacity, one copy of the license shall be delivered to the applicant/licensee for each of said persons, the copy of which shall bear the name of the applicant/licensee, the name of the individual acting for or on the behalf of the licensee, and a recitation as to the capacity of the person so acting.

(Ord. 5794 § 3 (part), 2004).

#### 3.62.100 Prohibited acts.

No transient merchant, peddler, or person making street sales, or any person acting on behalf of said transient merchant, peddler, 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 from a mobile vending unit on any of the city's public streets between the hours of 10:00 p.m. and 7:00 a.m. on any day of the week, and on any of the city's arterial streets as set forth on the city's arterial street map between the hours of 4:00 p.m. and 6:00 p.m. on any day of the week;
  - (d) Sell or offer to sell goods, wares, or merchandise on any of the city's public streets or other areas that are situated within a one block radius of any school between the hours of 7:30 a.m. and 4:30 p.m. during the days when any such school is in session;
  - (e) Sell or offer to sell goods, wares, or merchandise from a mobile vending unit unless said mobile vending unit is parked in accordance with the ordinances of the city of Council Bluffs, Iowa, and the statutes of the state of Iowa;
  - (f) Sell or offer to sell goods, wares, or merchandise from a mobile vending unit from any side of the unit other than the curb side of said mobile vending unit; or
  - (g) Operate a mobile vending unit that is not equipped with an accessible container in which all litter and wrappers from goods, wares, or merchandise sold therefrom can be placed, and it shall be the duty of the operator of said mobile vending unit to see that any litter and wrappers do not remain after completing sales in any one location.
- (Ord. 5794 § 3 (part), 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 transient merchant 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 or copy issued herein shall at all times be carried by the licensee and any person acting for or on such licensee's behalf. Such license shall be displayed to any person requesting to see the same, and it shall be unlawful for any licensee or person acting for or on the behalf of said licensee to engage in the conduct or carrying on of the business without such license in his/her possession. If a license or copy is lost, defaced, or destroyed, a duplicate license shall be issued by the city clerk, stamped with the word "duplicate" upon its face. The fee for such a duplicate shall be as set forth in the schedule of fees of the city of Council Bluffs, Iowa.

(Ord. 5794 § 3 (part), 2004).

### 3.62.130 Charitable or religious organizations.

- (a) The provisions of this chapter shall not apply to any charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code, and engaging in the sale of

any product, goods, wares, or merchandise, for the purpose of raising funds for the furtherance of such organization, provided that any such group shall file an affidavit with the city clerk stating the purpose for which such funds are being raised, and that all monies realized by such sales, after deducting the expenses of sale, shall be expended for such charitable or religious purpose, and that none of said monies will inure to the benefit of any of the individual members of such group or organization.

(b) The provisions of this chapter shall not apply to events sponsored by any charitable or religious organization that is exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code. If the event is to take place or infringe upon public property, a special events permit shall be required. (Ord. 5801 § 1, 2004; Ord. 5794 § 3 (part), 2004).

#### 3.62.135 School fundraising activities.

The provisions of this chapter shall not apply to school fundraising activities. For this exemption to be effective, the school shall, in writing, give notice to the city clerk of the merchandise being sold, approximate number of students involved, and the duration of the sales activities.

(Ord. 5794 § 3 (part), 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 Section 8.02.020 of this code. 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 Chapter 1.95 in lieu of criminal prosecution.

(Ord. 5794 § 3 (part), 2004).