

## ARTICLE 6. - DOOR-TO-DOOR SALES AND SOLICITATION

Footnotes:

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**State Law reference**— Authority to license, tax and regulate transient merchants, itinerant merchants, peddlers and hawkers, N.D.C.C. § 40-05-01(26).

Sec. 12-6-1. - Purpose and intent.

The board of city commissioners finds and declares that, for the safety, privacy and protection of residents of the community, and for the preservation of the rights of people conducting protected speech, it is necessary and proper that certain door-to-door solicitations in residential areas be regulated and that permissible sales or solicitations be restricted to daylight or early evening hours.

(Code 1994, § 13-15-01; Ord. No. 1004, 4-18-2006)

Sec. 12-6-2. - Door-to-door sales regulated.

The practice of going door-to-door at private residences without being requested or invited to do so for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services is allowed only as permitted by this article. Any person violating the provisions of this article is guilty of an offense.

(Code 1994, § 13-15-02; Ord. No. 1004, 4-18-2006; Ord. No. 1184, 5-20-2014)

Sec. 12-6-3. - Sales or solicitations without a permit.

Any person or organization desiring to engage in door-to-door solicitation in residential areas for the purpose of soliciting charitable or religious contributions, the sale of religious articles or publications or the sale of other articles if the proceeds are used for charitable or religious purposes, persons soliciting for or in support of any nonprofit organization or public interest, political candidates, or persons campaigning for or against a political candidate or issue may do so without a permit, provided that they comply with the provisions of this article.

(Code 1994, § 13-15-06; Ord. No. 1004, 4-18-2006)

Sec. 12-6-4. - Hours of sales solicitation.

Door-to-door sales or solicitation allowed pursuant to this article are permitted only between the hours of 9:00 a.m. and 5:30 p.m. and between the hours of 7:00 p.m. and 9:00 p.m. daily.

(Code 1994, § 13-15-07; Ord. No. 1004, 4-18-2006)

Sec. 12-6-5. - Locations where solicitation prohibited.

Notwithstanding the sales or solicitations allowed under this article, no person may solicit or sell at any private residence, business or establishment if there is placed on the premises, in an observable location, a sign at least ten square inches in size bearing the words "No Trespassing," "No Soliciting," or similar notice.

(Code 1994, § 13-15-08; Ord. No. 1184, 5-20-2014)

Sec. 12-6-6. - Required; application.

- (a) Any person or organization desiring to engage in door-to-door sales in residential areas for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services, may do so, provided that they comply with the provisions of this article and obtain a permit to do so by filing an application with the office of city administration. The application must be on a form provided by the city and contain the following:
  - (1) Applicant's name, present residence, present home address, present business address, current telephone number and email address.
  - (2) A general description of the applicant's business, including the goods, wares, merchandise, magazines, periodicals or personal services that will be sold in the city.
  - (3) Applicant's residence and business address for the prior two-year period, if different from the present residence and address.
  - (4) The name and address of the organization the applicant represents or by whom they are employed.
  - (5) If the applicant is a business and the application is for multiple sales persons, a complete listing of the name, date of birth, local address and telephone number of each sales person that will conduct sales in the city.
  - (6) A copy of the applicant's state sales tax permit and if applicable, a copy of the applicant's transient merchant license.
  - (7) Such other information as is required by the city.
- (b) An applicant for a door-to-door sales permit must be a person of good character, integrity and honesty, whose prior activities, criminal record, including arrest record or pending criminal cases, reputation, habits and associations, do not pose a threat to the public interest of this state or to safety or security of the citizens in their homes. A permit may not be issued to a person whose prior conduct indicates a threat to the safety of other persons. The city police department will conduct a background check on any applicant applying for a door-to-door sales permit.
- (c) A permit may not be issued to an applicant unless the applicant has obtained a transient merchant license from the attorney general, pursuant to N.D.C.C. ch. 51-04, if required, or the applicant has obtained a statement from the attorney general that a transient merchant license is not required.
- (d) A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government under circumstances which indicate the person poses a threat to the public interest, or has pled guilty to or been found guilty of a felony violation of N.D.C.C. chs. 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, or 12.1-23 or an offense of other states or the federal government equivalent to the offenses defined in these chapters, may not be granted a door-to-door sales permit for five years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.
- (e) A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of N.D.C.C. chs. 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, or 12.23, or an offense of other states, the federal government, or a municipality equivalent to these offenses may not be issued a door-to-door sales permit for two years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.

- (f) The chief of police shall issue or deny a door-to-door sales permit within a reasonable time of receipt of the application. Written notice of a denial must be mailed to the applicant at the address listed as current on the application. The notice shall contain a statement of the facts upon which the denial is based.
- (g) Denial of a door-to-door sales permit is subject to an appeal to the board of city commissioners upon written notice of appeal filed within ten days of receipt of the notice of denial. If no appeal is filed within the time specified, the action shall be final. Upon receipt of a notice of appeal, the board shall set a date for a hearing within 15 days of receipt of the notice of the appeal. Notice of the time and place for the hearing must be served upon the applicant personally or by first class mail at least five days before the hearing. The board shall hear such testimony and other evidence as it deems necessary and expedient, and thereupon make its findings and decision, which shall be final.

(Code 1994, § 13-15-03; Ord. No. 1004, 4-18-2006; Ord. No. 1184, 5-20-2014)

Sec. 12-6-7. - Issuance and terms thereof.

- (a) Upon approval of the application, the chief of police shall issue a permit to the applicant.
- (b) The permit is to be in the form of a photo identification badge and must be worn at all times by the applicant when selling. Permits will be issued to each employee or agent of the applicant that will engage in sales.
- (c) The permit must have a number on it which shall also be placed on the applicant's application file. The permit must also contain the name of the applicant and/or the name of the sales person. Each sales person shall wear a permit in a visible manner during all sales activities.
- (d) The permit shall be issued for a period of one year. The permit fee shall be established by resolution.

(Code 1994, § 13-15-04; Ord. No. 1004, 4-18-2006; Ord. No. 1184, 5-20-2014)

Sec. 12-6-8. - Revocation of permits.

- (a) Permits issued under the provisions of this article may be revoked by the board of city commissioners, after notice and hearing, for any of the following causes:
  - (1) Fraud, misrepresentation or false statement contained in the application for a permit.
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on business.
  - (3) Any violation of this article.
  - (4) Conviction of any crime involving theft or dishonesty.
  - (5) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
  - (6) In the event the chief of police acquires information that a permittee is engaging in fraudulent sales practices, he may issue an order immediately suspending said permit pending notice and hearing as provided in this section.
- (b) Notice of the hearing for revocation must be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice must be mailed, first class mail, to the address of the licensee as contained in the application, at least five days prior to the date of the hearing.

(Code 1994, § 13-15-05; Ord. No. 1004, 4-18-2006; Ord. No. 1184, 5-20-2014)