

 Council Communication Office of the City Manager	Date	October 13, 2008
	Agenda Item No. 50 Roll Call No. 08- Communication No. 08-620 Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Amending Chapter 78 of the Municipal Code regarding Transient Merchants.

SYNOPSIS:

Recommend Council approval of revisions to Chapter 78 of the Municipal Code establishing a comprehensive set of regulations regarding the licensing and operation of transient merchant businesses by repealing and replacing substantially all of Article III of Chapter 78 of the Municipal Code of the City of Des Moines.

This Ordinance provides for the issuance of three-day, thirty-day and annual transient merchant licenses and fees for each type of license. This Ordinance also establishes a process for denial and revocation of a transient merchant license for a transient merchant who is determined to be operating in violation of the applicable codes and regulations.

The Community Development Department and the Police Department will enforce the new regulations. Staff proposes the regulations become effective January 15, 2009, in order to allow time for staff to inform local transient merchants and other interested parties of the changes.

FISCAL IMPACT:

Amount: Indeterminate

It is unclear how the new regulations will affect the number of transient merchants that apply for a transient merchant license. In calendar year 2007, twelve transient merchant licenses were issued to 5 vendors, resulting in \$1,200.00 in revenue. Since the ordinance change in March requiring all transient merchants to obtain a license, 64 licenses have been issued to 21 different vendors, resulting in \$6,400.00 in revenue. The current ordinance provides for thirty day licenses. The proposed ordinance change will allow for annual licensing which may limit the number of permits issued. Operating costs associated with enforcement will be absorbed by current departmental budgets. Staff anticipates the added review and inspections may impact availability to handle other matters in a timely manner.

Funding Source:

Revenue from license fees will be deposited in the general operating budget.

ADDITIONAL INFORMATION:

In January of 2008, staff brought to Council a proposed amendment to City regulations as it related to regulation of transient merchants. At that time there was a provision in the regulations that allowed a transient merchant to be exempt from the requirement to obtain a license if they had a year lease on the property. Staff was asked to modify the ordinance to require that all transient vendors obtain a license. At that time staff made a number of suggested changes to the regulations in addition to eliminating the allowed exemption.

Council requested citizen input on the suggested regulations. A working group comprised of community stake holders was formed by the City Manager's Office. The working group and staff held two public hearings and met seven times to address issues raised by the suggested changes in the regulations. The working group came up with 17 guiding principles to be taken into consideration in drafting a set of new regulations. Staff has taken into account the guiding principles and drafted a new set of regulations.

In March, 2008 the regulation was amended to require that all transient merchants obtain a transient merchants license. Under the current regulations all transient merchants, regardless of the length of their lease on the property, are required to obtain a license.

The proposed license process requires that the applicant show proof of holding all other licenses required for legal operation when applying for the license. This includes a valid state sales tax license and a valid food establishment license. The transient merchant license and the sales tax license must be displayed at the site and provides proof that they are legally operating in the City of Des Moines.

Under the proposed regulations the applicant will be required to bring in a site plan as part of the application process. The site plan will be reviewed to determine if the transient merchant will meet the requirements of the ordinance. They will be required to locate out of the required set backs, on a paved surface and provide three parking spaces on a paved surface. Parking will be evaluated to determine if sharing parking will leave sufficient parking to serve normal operations of both businesses. The transient merchant will not be allowed to operate in a space on the property that exceeds 1,000 square feet and no more than 50 feet on any side of the display area.

Under the new proposal a transient merchant holding a 30-day license or an annual license must provide seating on a paved area. A transient merchant holding an annual license must provide bathroom facilities within 500 feet of the licensed facilities for workers and customers.

The new regulations would mandate the transient merchant remove all equipment, temporary structures, temporary toilet facilities, garbage, trucks and trailers from the site every day for a period of at least six hours in a twenty-four hour period.

The proposed regulations provide for three types of licenses to allow different types and duration of vending. There would be the option of taking out a three-day license, a thirty-day license or an annual license. If a three day license is issued there must be a lapse of ten days between dates the parcel may be used for the operation of a transient merchant.

Another significant proposal in the new regulation is the establishment of a 1,000 foot buffer zone around events for which a street use permit had been issued. No transient merchant may operate within the buffer zone without the prior written consent of the applicant who holds the street use permit.

Community Development zoning inspectors, with the assistance of Neighborhood Based Service Delivery (NBSD) police officers, will enforce the new regulations Monday through Friday, 8 A.M. – 5 P.M. The Police Department will be responsible for enforcement during the evening hours and on

weekends. As a condition of obtaining and operating with a transient merchant license the vendor must display the license so it is visible.

Staff proposes that the new transient merchant regulations become effective January 15, 2009.

If Council approves the new regulations, staff will conduct public outreach in an attempt to make all stakeholders aware of the ordinance changes. Staff will send letters concerning the new regulations to former licensees and other registrants, property owners that lease to transient merchants and interested organizations. Information will be offered for individuals who wish to explore transition into a permanent structure for their business operations.

Staff intends to monitor compliance with and enforcement of the new transient merchant regulations and will report findings to Council one year after the new ordinance is enacted.

PREVIOUS COUNCIL ACTION(S):

Date: March 24, 2008

Roll Call Number: 08-505

Action: Third reading of the amendment considered and voted for the first time under Roll Call No. 08-0330 of February 25, 2008; and again considered and voted upon for the second time under Roll Call No. 08-420 of March 10, 2008, to the ordinance that allowed vendors with a year lease to be exempt from obtaining a transient merchants license. Moved by Meyer to adopt. Motion carried 7-0
[Http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-505.pdf](http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-505.pdf)

Date: March 10, 2008

Roll Call Number: 08-420

Action: Second reading of the amendment considered and voted for the first time upon under Roll Call No. 08-830 February 25, 2008 to the ordinance that allowed vendors with a year lease to be exempt from obtaining a transient merchants license. Moved by Meyer to adopt. Motion carried 7-0.
http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-420.pdf

Date: February 25, 2008

Roll Call Number: 08-331

Action: Second reading of the ordinance presented January 28, 2008, Roll Call number 08-146. The action was deferred pending public meetings. Moved by Meyer to defer until a public hearing has been held and a commission of interested parties has been formed. Motion carried 7-0
http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-331.pdf

Date: February 25, 2008

Roll Call Number: 08-330

Action: First reading of the amendment to the ordinance that allowed vendors with a year lease to be exempt from obtaining a transient merchants license. Moved by Meyer to adopt. Motion carried 7-0
http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-330.pdf

Date: February 11, 2008

Roll Call Number: 08-239

Action: Second reading of an item which was considered and voted for the first time upon under Roll Call No. 08-146. Moved by Meyer to defer to the February 25, 2008 council meeting to allow the City Manger to coordinate a meeting with various groups in the community and available council members for input and dialogue. Motion carried 7-0

http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-239.pdf

Date: January 28, 2008

Roll Call Number: 08-146

Action: First reading of amendments to Chapter 78. Moved by Meyer to vote for passage; refer to the City Manager to receive input and it include the requirements that applicants provide proof of an Iowa Health Inspections License, if applicable. Motion carried 7-0.

http://www.dmgov.org/mayor_council/Roll%20Calls/2008_as/08-146.pdf

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Approve second and third readings of the ordinance.

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