

ORDINANCE NO. 14,750

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Section 78-61 thereof, and enacting a new Section 78-61 regarding transient merchants and sales of food and merchandise from temporary facilities.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, be and is hereby amended by repealing Section 78-61 thereof, and enacting a new Section 78-61 regarding transient merchants and sales of food and merchandise from temporary facilities, as follows:

**Sec. 78-61. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Transient merchant* means a person, principal or agent who engages in a merchandising business from a temporary location or structure in the city, and who, for the purpose of carrying on such business, hires, leases or occupies any land, structure, trailer or truck for the exhibition and sale of such goods, wares or merchandise and including the sale of any article, food, beverage, fruit, vegetable or farm product; provided however that the following types of sales activities shall not constitute sales by a transient merchant:

- (1) *Permitted premises.* Activities conducted in compliance with a certificate of occupancy issued pursuant to section 134-151.
- (2) *Yard sales.* The casual and occasional sales of used household goods by the owner thereof to the public, on a nonreceiving basis, if the seller, at the time of the sale, is not engaged for profit in the business of selling goods of that or a similar nature, so long as such sales are not conducted in excess of four consecutive days and no more than two times annually.
- (3) *Licensed use of right-of-way.* Sales activities conducted in compliance with an entertainment district license, a sidewalk sales permit, a farmers' or public market permit, or a sidewalk cafe license issued for the premises pursuant to article VII of chapter 102 of this code.
- (4) *Street Use Permit.* Sales activities conducted in compliance with a street use permit issued pursuant to article XVI of chapter 102 of this code.
- (5) *Peddlers.* Sales activities conducted in compliance with a peddlers license issued pursuant to article II of this chapter.
- (6) *Emergency response sites.* Sales of food and beverages at the site of an

emergency or disaster with the permission of the police chief, fire chief or public works director.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 08-505), passed by the City Council of said City at a meeting held March 24, 2008, 2008 signed by the Mayor on March 24, 2008 and published as provided by law in the Business Record on April 7, 2008. Authorized by Publication Order No. 6068.

Diane Rauh, City Clerk