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Date October 8, 2018


An Ordinance entitled, "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 Article IV, Solicitation of Funds, of Chapter 78, which includes Sections 78-101 through 78-115, relating to solicitation",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
 \_\_\_\_\_  
 Lawrence R. McDowell  
 Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

ORDINANCE NO. \_\_\_\_\_

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 Article IV, Solicitation of Funds, of Chapter 78, which includes Sections 78-101 through 78-115, relating to solicitation.

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, as heretofore amended, is hereby amended by repealing Article IV, Solicitation of Funds, of Chapter 78, which includes Sections 78-101 through 78-115, relating to solicitation, as follows:

**ARTICLE IV. SOLICITATION OF FUNDS Reserved**

**Secs. 78-101 through 78-115. Reserved.**

**Sec. 78-101. 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:~~

~~———— *Person*, when used in reference to licensing and solicitation shall be synonymous with the term "organization," except where the context clearly indicates a different intention.~~

~~———— *Solicitation of funds* means any person or organization, excepting those listed in this definition, who shall solicit contributions of funds personally or through an authorized employee, agent, or representative by the direct solicitation of money or by the sale of tags, buttons, tokens or other items of nominal value, intending that all or a substantial portion of such funds be used for the procurement of necessities for one or more individuals or for medical, educational, religious or other purposes toward the benefit of the community or a needful segment thereof. Except as they pertain to activities governed by sections 78-108 through 78-112 of this article, the terms "solicitor of funds," "solicit funds," and "solicitation of funds" shall not pertain to or include the following:~~

- ~~———— (1) Any organization soliciting contributions from among its membership or employees;~~
- ~~———— (2) Any organization soliciting contributions while the solicitor and the person solicited are located upon property owned by that organization;~~
- ~~———— (3) Solicitation of contributions by mail;~~
- ~~———— (4) Solicitation of contributions by telephone;~~
- ~~———— (5) Solicitation for contributions of funds for a candidate for election or nomination to any public office or a political party as defined by I.C. § 43.2 or a nonparty political organization as described in I.C. § 44.1;~~

- ~~—— (6) Solicitation for a religious organization which is exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code;~~
- ~~—— (7) Solicitation of contributions by public employees of other employees of the same public employer in accord with the work rules of the public employer; or~~
- ~~—— (8) Solicitation of contributions by a foundation or organization which gives aid or financial support to a publicly owned institution when the solicitation takes place upon land owned by the public institution.~~

**Sec. 78-102. License required.**

~~—— No person or organization shall conduct a solicitation of funds, as defined in section 78-101 of this article, without having first obtained a license as provided in this article.~~

**Sec. 78-103. Application for license.**

~~—— Any person applying for a license to conduct a solicitation of funds shall make written application therefor to the city clerk. No license shall be issued unless an application containing the following information is first completed:~~

- ~~—— (1) The name of the applicant and the organization he or she represents.~~
- ~~—— (2) Purposes of the solicitation or purposes of the organization.~~
- ~~—— (3) Location and address of the general headquarters of the organization and of any headquarters or person through which the organization locally operates.~~
- ~~—— (4) Names and addresses of the officers of the organization.~~
- ~~—— (5) Names of the persons having charge of the solicitation and the estimated number of persons who will be directly soliciting funds.~~
- ~~—— (6) Proposed methods of soliciting or raising funds.~~
- ~~—— (7) The name and address of the local person or officer to whom action on the application and other city correspondence with the organization may be sent; any change in such name or address after issuance of a license shall be filed with the city clerk.~~
- ~~—— (8) A statement setting out the cost of solicitation as a percentage of funds raised annually and a statement setting forth why such costs of solicitation are reasonable. If the cost of solicitation exceeds 20 percent of funds solicited annually, the city clerk shall refer the application to the city council, which shall treat the license under section 78-105 of this article as if it had been denied and the denial had been appealed to the city council.~~

**Sec. 78-104. Issuance of license.**

~~—— Upon the city clerk determining that a person applying for a license has complied with the terms of section 78-103 of this article and that the other sections of this article and city ordinances will be obeyed in the conduct of the solicitations so described, he or she shall issue a license to solicit funds. Failure to comply with the application requirements shall be grounds to deny a license. The city clerk shall not issue a license to any organization where total annual costs of solicitation exceed 20 percent of funds solicited annually by the organization, but shall refer such application to the city council for review as if the license has been denied.~~

**Sec. 78-105. Appeal of license denial to city council.**

~~Any license denied under this article may be appealed to the city council within 20 days of denial. The city council shall consider the denial at its next regular meeting and shall either affirm the denial or order the city clerk, after payment of fees, to issue the license. The city council may consider additional evidence upon appeal. Any license not issued because the total annual cost of solicitation exceeds 20 percent of funds solicited annually shall be referred by the city clerk to the city council, which shall at its next regular meeting decide whether the license shall issue in the same manner as an appeal from denial of a license. The city council shall issue a license to an organization where costs of solicitation exceed 20 percent of funds solicited annually if it finds any of the following:~~

- ~~(1) The organization is a tax exempt charity under either state or federal law;~~
- ~~(2) Solicitation costs include employment of disadvantaged persons and when costs of such employment is subtracted from total solicitation costs the annual cost of solicitation would be less than 20 percent;~~
- ~~(3) The organization would be exempt from taxation under federal or state law but is precluded from such exemption because it engages in some form of political activity; or~~
- ~~(4) Any other reason which shows the organization is in fact charitable and does not operate primarily for the benefit of people who either raise funds or are in charge of fundraising.~~

**Sec. 78-106. Duration of license.**

~~The license issued under this article shall be issued in the name of the organization, shall embody the particular information contained in the application therefor, and shall be valid for one year from January 1 of the year of issue or until revoked by the city council, whichever event occurs first in time. Such license shall permit the licensee to solicit for contributions of funds in the city so long as the name and makeup of the organization, the goals and purposes thereof, the manner and method of solicitation, and cost of solicitation remain the same as stated in the application. If any of those particulars change, the license shall become and remain invalid until the applicant has submitted the pertinent corrective information to the city clerk who may endorse the application as continuing or deny the application as changed, in which event the applicant may appeal to the city council as provided in section 78-105 of this article.~~

**Sec. 78-107. License fee.**

- ~~(a) The applicant for a license to solicit funds shall pay a license fee to the city clerk at the time of filing the application in the amount set in the Schedule of Fees adopted by City Council by resolution. There shall be no prorated fees.~~
- ~~(b) In the event that the application is filed less than 30 calendar days prior to the start date of soliciting, an additional late fee shall be paid in an amount set in the Schedule of Fees adopted by City Council by resolution.~~
- ~~(c) In the event the application is withdrawn by the applicant or is denied either initially or on appeal, either all or a portion of such license fee in an amount set in the Schedule of Fees~~

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~~adopted by the City Council by resolution shall be retained by the city to defer the administrative costs incurred.~~

**~~Sec. 78-108. Soliciting persons in vehicles or from booths.~~**

- ~~(a) No person shall solicit funds from a person situated in a motor vehicle, whether on public or private property, except when the person has obtained a street use permit pursuant to article XVI of chapter 102 of this code and the solicitation occurs within the closed portion of the street.~~
- ~~(b) The erection, maintenance and use of any stand, booth or similar structure in connection with any solicitation in a public street, alley, or other public property is prohibited. No table or freestanding sign may be erected on any public property except sidewalks, in which event the area occupied shall not exceed four feet by four feet and shall not be positioned within 15 feet of the entrances of any building or the intersection of any streets nor in such a manner as to impede normal pedestrian traffic.~~

**~~Sec. 78-109. Soliciting by minors.~~**

~~Persons under 18 years of age may solicit funds under a license issued pursuant to this article only when such solicitation is conducted under the guidance and direct supervision of an adult.~~

**~~Sec. 78-110. Soliciting in streets.~~**

~~No person shall stand, sit, or otherwise be present in or on a street, highway, alley, or traffic median or island located within a street or highway, in order to solicit or attempt to solicit employment, business or contributions from the occupants of any vehicle, except when the person has obtained a street use permit pursuant to article XVI of chapter 102 of this code and the solicitation occurs within the closed portion of the street.~~

**~~Sec. 78-111. Soliciting on private property.~~**

~~No person shall solicit funds on private property where the owner or person in possession has posted a sign which prohibits solicitation of funds.~~

**~~Sec. 78-112. Time of day.~~**

~~No person shall solicit funds on public property or private property from 9:00 p.m. until 8:00 a.m. the following day, except in connection with, during, and as a part of attendance at a public or private social, civic, or religious event, except that funds may be solicited in a skywalk corridor during actual hours of public operation, the foregoing notwithstanding.~~

**~~Sec. 78-113. Public property.~~**

- ~~(a) No person shall solicit funds in any public library.~~
- ~~(b) No person shall solicit funds in city hall, or any other city office building, except in~~

~~employee lounges or break areas or in accordance with work rules adopted by the city manager.~~

~~(c) No person shall solicit funds within the zoo or Botanical Center.~~

~~(d) No person shall solicit funds in any skywalk without complying with this article and chapter 102 of this Code.~~

**~~Sec. 78-114. License revocation.~~**


~~———— The city council may, upon complaint which indicates that the terms of a license or the terms of this article have been violated by the holder of a license granted under this article, direct the city clerk to cause notice to be mailed to the person whose name and address are shown by the organization's most recent filing to be the proper person, demanding that such person or other representative of the license holder appear for hearing before the city council at a set time, date, and place to show cause why the license should not be revoked. After such hearing, if the city council shall conclude that a violation has occurred and that the license should be revoked, it may revoke the license, and no further solicitation of funds shall be conducted in the city by or on behalf of that organization for a period of at least one year. For purposes of this section, the actions of authorized employees, agents, or representatives of a licensed organization in conducting solicitation of funds shall be deemed the actions of the organization. The actions available to the city council pursuant to this section are in addition to such other actions as are available for violation of city ordinances.~~

**~~Sec. 78-115. Copies provided.~~**

~~———— Any person or organization receiving a license pursuant to this article shall be provided a copy of sections 78-108 through 78-112 of this article by the city clerk.~~

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

FORM APPROVED:

  
Lawrence R. McDowell  
Deputy City Attorney