



RESOLUTION NO. 2009-45

MARGARET HENKLE, COUNTY RECORDER
FREMONT IOWA

BE IT HEREBY RESOLVED that the Fremont County, Iowa, Board of Supervisors shall hold a final public hearing, final consideration and final vote on August 12, 2009, at 10:00 a.m. for the purpose of reviewing and adopting an ORDINANCE concerning **Solicitation Policy**. First consideration and vote on the ORDINANCE shall occur at 10:00 a.m. on July 29, 2009. Second consideration and vote shall occur at 10:00 a.m. on August 5, 2009. The proposed ORDINANCE is printed in full at the end of this resolution, and will be so printed in the county's official newspapers for legal publications, and will be made available for public inspection during regular business hours at the County Auditor's Office, Courthouse, Sidney, Iowa.

**FREMONT COUNTY, IOWA ORDINANCE 2009-1
SOLICITORS**

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1. PURPOSE. The purpose of this chapter is to protect residents of unincorporated Fremont County, Iowa against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating solicitors.

2. DEFINITIONS. As used in this chapter, the following terms are defined:

Solicitor: Any person who represents themselves, any business, organization, or group soliciting or attempting to solicit from residences and/or upon the highway, right-of-way or street, monies, contributions or orders for goods, subscriptions, services or merchandise to be delivered immediately or at a future date.

3. LICENSE REQUIRED; FEES. Any person or organization engaging in solicitation in the County shall first obtain a license as provided in this chapter.

A. Application and License Fees:

- i. At the time of license application, the applicant shall pay \$25.00 to the Fremont County Sheriff, or his Designee for each person making application for a 90-day solicitor's license.

- ii. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

4. EXEMPTIONS. The following exemptions are to be permitted:

- A. Newspaper carriers.
- B. Members of local boy-scout, girl-scout, campfire or 4-H clubs, Future Farmers of America and similar nonprofit organizations, if the sales are to benefit the parent organization in its recognized operation and programs.
- C. Farmers who offer for sale products of their own raising.
- D. Students representing local schools conducting projects sponsored by organizations recognized by the schools.
- E. Persons who make regularly scheduled route deliveries in residential areas of goods or services, e.g., lawn service, cable services, dairy product delivery service.

5. CHARITABLE AND NONPROFIT ORGANIZATIONS.

- A. Representatives of charitable organizations exempt from federal taxation and/or nonprofit organizations shall be subject to the requirements of this chapter except that they shall not be required to submit permit or application fees.
- B. If the Fremont County Sheriff or his designee shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license free of charge.

6. PEDESTRIAN USE OF THE ROADWAY FOR THE PURPOSE OF SOLICITING CHARITABLE CONTRIBUTIONS, DONATIONS OR BUSINESS.

- A. No person shall stand in a street as defined in *Iowa Code §321.1*, including the roadway medians, curbs, traffic islands, shoulders, sidewalks or crosswalks for the purpose of soliciting contributions, donations or business from any person, without first meeting the requirements specified in this Ordinance.
- B. Solicitation on public right of way or street shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way, or in any other

way negatively impacting safety of vehicular or pedestrian traffic on public right of way.

7. APPLICATION FOR LICENSE.

An application for a solicitor's license shall be filed with the Fremont County Sheriff, or his designee. At the time of the application, the applicant shall pay to the Fremont County Sheriff, or his designee, the non-refundable sum of twenty-five dollars (\$25.00) to cover administrative costs. The application shall contain the following information:

- A. Name, permanent and local address, and local phone number for the solicitor;
- B. Date of birth and physical description of the solicitor;
- C. Company name and address;
- D. Make, year, color and license plate information of any vehicle(s) to be used by the solicitor;
- E. Description of merchandise;
- F. Last three (3) places of business;
- G. Solicitor's supervisor or manager, phone number and his/her local address;
- H. A list of all convictions for criminal offenses (excluding traffic offenses) during the five (5) years prior to application, including any charges currently pending.
- I. An Iowa Division of Criminal Investigation criminal history report to be supplied by each solicitor which is dated no more than thirty (30) days prior to the application.

8. PHOTOGRAPHING OF APPLICANT.

Each solicitor is required to be photographed and a photo kept on file as well as placed on the solicitor's license.

9. ISSUANCE OF LICENSE.

The Fremont County Sheriff, or his designee, upon review of said license application request, shall determine whether a license will be issued to the applicant. A waiting period of not less than three (3) working days from the date of application shall be in effect to provide sufficient time for the Sheriff's (or designee's) decision making

process. In making his/her decision, the Sheriff or his designee, shall consider the following factors:

- A. The information in the application is found to be correct.
- B. The applicant has not been convicted of a felony or any offense involving theft or fraud, or sexual abuse and/or a crime requiring sex offender registration, or any crime involving force or violence, moral turpitude or any violation of any law relating to the act of soliciting.

10. DISPLAY OF LICENSE. Each Solicitor shall at all times while doing business in the unincorporated county display the license provided for in this chapter.

11. TIME RESTRICTION. All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.

12. LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferrable in any situation and are to be applicable only to the person or organization to whom issued.

13. UNLAWFUL ACTS.

- A. **Fraudulent Representation/Harassment:** No licensee shall falsely or fraudulently misrepresent themselves, the business they represent, the quality, character or quantity of any article, item or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce or threaten any individual to induce a sale.
- B. **Prohibited Soliciting:** No solicitor shall do business or attempt to do business upon any property on which there is posted notice that peddling and/or soliciting is prohibited.
- C. **Soliciting Without A License:** It shall be unlawful to solicit without a valid license except as permitted in Section 4 of this Ordinance.
- D. **Supervisor or Employer:** No person supervising or employing another to solicit shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this section. Each such unlawful act by each employee or supervised person may be charged as a separate offense. There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer gives notice to the supervisor or employer of such unlawful acts and, subsequently, further unlawful acts are committed by the employee or person supervised.

- E. Solicitation on public right of way or street shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right of way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right of way.
- F. Each seller shall at all times while doing business in the unincorporated Fremont County display the license provided for in this chapter.
- G. All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.

14. REBATES ON LICENSE. No rebate shall be made upon revocation or upon surrender of any licenses before the expiration of the period for which it was issued.

15. SUSPENSION OR REVOCATION OF LICENSE:

A. Grounds; Notice:

- i. The Sheriff may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:
 - 1. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - 2. The licensee has violated this Ordinance or any other ordinance, or the *Iowa Code*, or has otherwise conducted his/her business in an unlawful manner.
 - 3. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order or morals.
 - 4. The Sheriff has received and investigated three (3) or more written complaints during the licensed period from residents of the county who are dissatisfied with the manner in which the licensee is conducting business.
- ii. The Sheriff shall immediately serve notice to the licensee either in person or by regular mail to the licensee's local address of the license suspension, the specific reason(s) for such action, and the date and time of hearing with the Fremont County Board of Supervisors to review the particulars of the suspension.

- B. Hearing: A hearing shall be conducted by the Fremont County Board of Supervisors, with the assistance of the Sheriff, or his designee, not more than seven (7) days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the Board of Supervisors may proceed to a conclusion.
- C. Revocation: After the Board of Supervisors has reviewed the facts, they shall revoke a license if they find that a violation of this chapter has occurred. The revocation shall be effective immediately.
- D. If the Board revokes or refuses to issue a license, the County Auditor shall make a part of the record the reasons therefore.

Effect of Revocation or Denial: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of at least one (1) year from the date of the revocation or denial. If the reason for revocation involves repeated offenses or a criminal offense, the revocation period may become permanent.

- 16. **PENALTY.** Commission of any act declared unlawful under ORDINANCE 2009-1 is a simple misdemeanor punishable as provided in Iowa Code Section 903.1.
- 17. **EXPIRATION OF LICENSE.** All licenses granted under this chapter shall expire at 7:00 p.m. on the last day for which the license was issued.

Dated: 7-22-09

Attest:

Chuck Larson ~~aye nay~~
 Chuck Larson, Chairman

Joan Kirk
 Joan Kirk
 Fremont County Auditor

Earl Hendrickson ~~aye nay~~
 Earl Hendrickson

by June Hardy, Aud. Auditor

Cara Morgan ~~aye nay~~
 Cara Morgan