

Fee: **Solicitor** - no fee(need application filled)
Peddler - \$60.00 up to five days, \$115.00 annual
Transient Merchant - \$60.00 up to five days, \$115.00 annual

Date Application Received:

**CITY OF BLUE EARTH
APPLICATION FOR SOLICITOR, PEDDLER, OR TRANSIENT MERCHANT LICENSE**

ORGANIZATION NAME: _____

Mailing Address: _____ Telephone: _____

City: _____ State: _____ Zip Code: _____

ORGANIZATION REPRESENTATIVE'S FULL NAME: _____

Mailing Address: _____ City: _____ State/Zip Code: _____

Telephone: _____ DOB: _____ DL# _____ State/Zip Code: _____

DESCRIPTION OF PRODUCTS AND MEANS OF SALE: _____

Start date: _____ End date: _____

OTHER MEMBERS REPRESENTING THE ORGANIZATION

1. _____ 2. _____

3. _____ 4. _____

5. _____ 6. _____

7. _____ 8. _____

List all vehicles/color/license plate & state:

1. _____ 2. _____

3. _____ 4. _____

As authorized representative of the organization listed above, I assume full responsibility for the actions of the organization's representatives listed above. I understand and have explained to each organization's representatives the provisions of the City of Blue Earth Ordinance, Section 310, and hereby agree to abide in good faith with all provisions included therein.

Signature of Authorized Representative _____ **Date:** _____

(FOR OFFICE USE ONLY)

RECOMMENDATION OF POLICE CHIEF: GRANTED DENIED

DATE: _____ SIGNATURE OF POLICE CHIEF: _____

Signature of City Clerk - Administrator _____ **Date:** _____

Section 310 - Solicitors, Peddlers and Transient Merchants

310.01. Definitions. The following terms shall have the meanings given them herein as applied to this Section.

Subd. 1. Person. The term “person” means any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

Subd. 2. Peddler. The term “peddler” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term “hawker”.

Subd. 3. Solicitor. The term “solicitor” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, for which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term “canvasser”.

Subd. 4. Transient Merchant. The term “transient merchant” means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than five (5) consecutive days.

Subd. 5. Regular Business Day. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by State law shall not be counted as regular business days.

310.02. Exceptions to Definitions. For purposes of this section, the terms “solicitor”, “peddler” and “transient merchant” shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer or the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, nor shall they apply to any person making deliveries of such to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddler, solicitor, and transient merchant, as shall any person conducting an auction as a properly licensed auctioneer, or any officer of the Court conducting a Court ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory or local law.

310.03. Licensing.

Subd. 1. County License Required. No person shall conduct business as solicitor, peddler or transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as amended.

Subd. 2. City License Required. Except as otherwise provided for in this Section, no person shall conduct business as a peddler or transient merchant without first having obtained a license from the City.

Subd. 3. Application. Application for a City license to conduct business as a peddler or transient merchant shall be made at least fifteen (15) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available at the office of Clerk-Administrator. All applications shall be signed by the applicant.

Subd. 4. Fee. All applications for a license under this Section shall be accompanied by the fee established in the City’s fee schedule as adopted from time to time by resolution passed by the Council.

Subd. 5. Procedure. Upon receipt of the completed application and payment of the license fee, the Clerk-Administrator shall forward the application to the Police Department. An application shall be determined to be complete only if all required information is provided. The Police Department shall determine whether an application is complete within two (2) regular business days of receipt. If the application is incomplete, the Police Department shall inform the applicant of any information which is missing. If the application is complete, the Police Department shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Upon verification of the information, the application shall be forwarded to the Council for approval. The Council shall vote whether or not to issue the license at the next regularly scheduled Council meeting after receipt of the application. If the Council approves the application, the Clerk-Administrator shall issue the license to the applicant. If the application is not approved, the Clerk-Administrator shall notify the applicant in writing of the Council’s decision, the reason for denial, and of his or her right to appeal the denial by requesting within twenty (20) days of receiving notice of rejection a public hearing to be heard by the Council within twenty (20) days of the request.

The final decision of the Council following the public hearing shall be appealable to the Minnesota Court of Appeals for a Writ of Certiorari.

Subd. 6. Duration. An annual license granted under this Section shall be valid for one calendar year from April 15 to April 14. All other licenses granted under this Section shall be valid only during the time period issued on the license. (*Section 310.03, subd. 6 amended per Ordinance 99-08 dated 9-21-99.*)

310.04. License Exceptions. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights, except when such exercise of a right is merely incidental to a commercial activity. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

310.05. Ineligibility for License. The following shall be grounds for denying a license under this Section.

Subd. 1. No County License. The failure of the applicant to obtain and show proof of having obtained a County license.

Subd. 2. Inadequate Application. The failure of the applicant to truthfully provide any information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required application fee at the time of application.

Subd. 3. Prior Conviction. The conviction of the applicant within the past five (5) years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will adversely affect the health, safety, or welfare of the residents of the City. Such violations shall include, but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person. (*Section 310.05, subd. 3 amended per Ordinance 99-08 dated 9-21-99.*)

Subd. 4. Prior Revocation. The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a solicitor, peddler or transient merchant.

Subd. 5. Business Reputation. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the last five (5) preceding years.

310.06. Suspension or Revocation.

Subd. 1. Reasons For. Any license issued under this Section may be suspended or revoked at the direction of the City Council for violation of any of the following:

- A. Fraud, misrepresentation, or incorrect statements on the application form.
- B. Fraud, misrepresentation, or incorrect statements made during the course of the licensed activity.
- C. Conviction of any offense for which granting of a license could have been denied under this Section.
- D. Violation of any provision of this Section.

The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

Subd. 2. Notice. Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with a written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or be mailed to the permanent residential address listed in the license application, or if no residential address is listed, to the business address provided in the license application.

Subd. 3. Public Hearings. Upon receiving the notice provided in subdivision 2, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the Clerk-Administrator within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

Subd. 4. Emergency. If in the discretion of the City Council, imminent harm to the health and safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as proscribed in subdivision 3 of this Subsection.

Subd. 5. Appeals. Any person whose license is suspended or revoked under this Subsection shall have the right to appeal the decision in Court.

310.07. Transferability. No license issued under this Section shall be transferred to any person other than the person whom the license was issued.

310.08. Registration. All solicitors, and any person exempt from the licensing requirements of this Section shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the Clerk-Administrator shall issue the registrant the Certificate of Registration as proof of registration. Certificates of Registration shall be non-transferrable.

310.09. Prohibited Activities. No solicitor, peddler or transient merchant shall conduct business in any of the following manners:

Subd. 1. Noises. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

Subd. 2. Obstructions. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

Subd. 3. Public Safety. Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public. (*Section 310.09, subd. 3 amended per Ordinance 99-08 dated 9-21-99.*)

Subd. 4. Prohibited Times. Conducting business before 7:00 A.M., or after 9:00 P.M.

Subd. 5. No License. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

Subd. 6. Misrepresentation. Making any false or misleading statements about the product or service being sold, including untrue statements or endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

Subd. 7. Trespass. Remaining on the property of another when requested to leave, or otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

310.10. Exclusion by Placard. No solicitor, peddler or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a solicitor, peddler or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3 3/4) inches long and three and three quarter (3 3/4) inches wide with print of at least forty-eight (48) point type stating "No Solicitors, Peddlers or Transient Merchants", or "Solicitors, Peddlers or Transient Merchants Prohibited", or a comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.