

ORDINANCE NO. 15,640

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 amending Section 78-67, relating to application for a transient merchant premises permit.

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 amending Section 78-67, relating to relating to application for a transient merchant premises permit, as follows:

**Sec. 78-67. Application for a transient merchant premises permit.**

At least three business days prior to allowing a transient merchant or mobile food vender, currently licensed by the city, to operate on premises within the city, an owner or lessee of the premises must obtain a transient merchant premises permit from the city clerk. The application for the permit must be on a form provided by the city clerk and must demonstrate to the satisfaction of the city clerk and the zoning administrator that the premises meet the following requirements:

- (1) All applicable requirements of this article, the City Code, the Iowa Code and the Iowa Administrative Code.
- (2) The premises is within a commercial or industrial zoning district.
- (3) The premises is not on a parcel having a residential use as its principle use.
- (4) Trailers, vehicles, tents, equipment, and areas used for the storage, display or sale of food or merchandise will be located only on a paved surface outside required zoning setback for structures under chapter 134 and outside any required fire lanes and drive approaches.
- (5) The premises has at least three paved off-street parking spaces dedicated to the transient merchant or mobile vender operations and is served by a paved driveway from a public right-of-way. Property located in C-3, C-3A, C-3B, C-3R and D-R zoning districts are exempt from the off-street parking requirement. For purposes of this subsection, a transient merchant or mobile vender may share parking with an existing business on the site only if available parking is sufficient to serve the normal operations of both. If the operation of a transient merchant or mobile vender at the site has caused an overflow of customer or employee parking into the street or other private parking lots in the vicinity within the past year, shared

- parking is presumed to be insufficient.
- (6) The premises must have a dumpster enclosure unless the premises is legally in use by a licensed transient merchant on the effective date of this amendment, in which case a dumpster enclosure must be provided within one year after the issuance of a premises permit. The requirement for a dumpster enclosure may be waived if permit holder can establish to the satisfaction of the neighborhood inspection zoning administrator that it has a non-residential alternative location for taking its garbage.
  - (7) Only one transient merchant or mobile vender currently licensed by the city is allowed to operate on the parcel at any time.
  - (8) The permit holder must provide a paved area for display and sale by the transient merchant. This provision does not apply to premises that are covered by a valid transient merchant license on the effective date of this ordinance if a premises permit is applied for on or before the expiration of the existing transient merchant license. This exemption terminates when a premises permit is not timely renewed or is denied for any reason. The owner of the premises must comply with all zoning requirements relating to the premises.
  - (9) If the transient merchant or mobile vender is selling or serving food, the premises must also:
    - a. Assure that the transient merchant or mobile vender complies with the requirements established by Iowa Administrative Code §481-31 for a food establishment other than a food processing plant.
    - b. Provide bathroom facilities for the business workers and customers on the licensed premises or by agreement for the use of bathroom facilities located within a reasonable distance from the licensed facilities that are open the same hours as the transient merchant or mobile vendor.
    - c. The premises must not be located within 100 feet of any public entrance into the waiting of service area of any street level restaurant operating on the date of the application. This provision does not apply to premises permits issued to locations at which any transient merchant is legally operating within a 100 feet of an existing restaurant on the effective date of this ordinance; however, this provision applies if a permit lapses for any period of time or if a restaurant subsequently begins operations within 100 feet of the premises, then this provision applies to all future applications.

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

FORM APPROVED:

Thomas G. Fisher Jr., 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. 18-0137), passed by the City Council of said City at a meeting held January 22, 2018 signed by the Mayor on January 22, 2018 and published and provided by law in the Business Record on February 9, 2018. Authorized by Publication Order No. 10215.

Diane Rauh, City Clerk