

CHAPTER 10-12

DOOR-TO-DOOR SALES AND SOLICITATION

Source: Ord. 945, Sec. 1 (2013)

SECTIONS:

- 10-12-01. Declaration of Purpose and Intent.
- 10-12-02. Door-to-Door Sales Regulated.
- 10-12-03. Door-to-Door Sales; Permit Required; Application.
- 10-12-04. Issuance of Permit and Terms Thereof.
- 10-12-05. Revocation of Permits.
- 10-12-06. Sales or Solicitations Without a Permit.
- 10-12-07. Hours of Sales Solicitation.
- 10-12-08. Locations Where Solicitations Prohibited.
- 10-12-09. License to be Carried by Licensee and Exhibited on Demand.
- 10-12-10. Penalty.

10-12-01. DECLARATION OF PURPOSE AND INTENT. The Board of City Commissioners finds and declares that for the safety, privacy and protection of residents of the community and for the preservation of the rights of people conducting protected speech, it is necessary and proper that certain door-to-door solicitations in residential areas be regulated and that permissible sales or solicitations be restricted to daylight or early evening hours.

10-12-02. DOOR-TO-DOOR SALES REGULATED. The practice of going door-to-door at private residences without being requested or invited to do so for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services is allowed only as permitted by this chapter.

10-12-03. DOOR-TO-DOOR SALES; PERMIT REQUIRED; APPLICATION. Any person or organization desiring to engage in door-to-door sales in residential areas for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services, may do so provided they comply with the provisions of this chapter and obtain a permit to do so by filing an application with the Office of City Auditor. The application must be on a form provided by the City and contain the following:

- 6. Applicant's name, present residence, present home address, present business address, and current telephone number.
- 7. A general description of the applicant's business, including the goods, wares, merchandise, magazines, periodicals or personal services that will be sold in the City.

8. Applicant's residence and business address for the prior two-year period, if different from the present residence and address.
9. The name and address of the organization the applicant represents or by whom they are employed.
10. If the applicant is a business and the application is for multiple sales persons, a complete listing of the name, local address and telephone number of each sales person that will conduct sales in the City must be provided.
11. The application must include a copy of the applicant's North Dakota sales tax permit and if applicable, a copy of the applicant's transient merchant license.
12. Such other information as is required by the city.

An application for a door-to-door sales permit may not be granted if the applicant or sales persons included in the application have:

1. Pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government under circumstances which indicate the person poses a threat to the public interest, or has pled guilty to or been found guilty of a felony violation of NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, 12.1-23 or an offense of other states or the federal government equivalent to the offenses defined in these chapters. This restriction applies for five years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.
2. Pled guilty to or been found guilty of a misdemeanor offense in violation of NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, or 12.23, or an offense of other states, the federal government, or a municipality equivalent to these offenses. This restriction applies for two years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.
3. Been found in violation of a prior door-to-door sales permit issued by the City of West Fargo. The City Auditor shall issue or deny door to door sales permit within a reasonable time of receipt of the application. Written notice of a denial must be mailed to the applicant at the address listed as current on the application. The notice shall contain a statement of the facts upon which the denial is based.

Denial of a door to door sales permit is subject to an appeal to the Board of City Commissioners upon written notice of appeal filed within 10 days of receipt of the notice of denial. If no appeal is filed within the time specified the action shall be final.

Upon receipt of a notice of appeal, the Board shall set a date for a hearing within 15 days of receipt of the notice of the appeal. Notice of the time and place for the hearing must be served upon the applicant personally or by certified mail at least five days before the hearing. The Board shall hear such testimony and other evidence as it deems necessary and expedient, and thereupon make its findings and decision, which shall be final.

10-12-04. ISSUANCE OF PERMIT AND TERMS THEREOF.

1. Upon approval of the application, the City Auditor shall issue a permit to the applicant.
2. The permit is to be in the form of an identification badge and must be worn and visible at all times by the applicant when selling. Duplicate permits may be issued to each employee or agent of the applicant that will engage in sales.
3. The permit must have a number on it which shall also be placed on the applicant's application file. The permit or permits must also contain the name of the applicant and the name of the sales person. Each sales person shall wear a permit in a visible manner during all sales activities.
4. The permit shall be issued for a period of one year. The permit fee shall be \$200 plus an additional \$25 for each additional sales person to be included on the permit.

10-12-05. REVOCATION OF PERMITS.

1. Permits issued under the provisions of this chapter may be revoked by the Board of City Commissioners after notice and hearing, for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for a permit.
 - b. Fraud, misrepresentation or false statement made in the course of carrying on business.
 - c. Any violation of this chapter.
 - d. Conviction of any crime involving theft or dishonesty.

- e. Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of the hearing for revocation must be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice must be mailed, registered mail, to the address of the licensee as contained in the application, at least five days prior to the date of the hearing.

10-12-06. SALES OR SOLICITATIONS WITHOUT A PERMIT. Any person or organization desiring to engage in door-to-door solicitation in residential areas for the purpose of soliciting charitable or religious contributions, the sale of religious articles or publications or the sale of other articles if the proceeds are used for charitable or religious purposes, persons soliciting for or in support of any non-profit organization or public interest, political candidates, or persons campaigning for or against a political candidate or issue may do so without a permit providing they comply with the provisions of this chapter.

10-12-07. HOURS AND SALES OF SOLICITATION. Door-to-door sales or solicitation allowed pursuant to this chapter are permitted only between the hours of 9:00 a.m. and 5:30 p.m. and between the hours of 7:00 p.m. and 9:00 p.m. daily.

10-12-08. LOCATIONS WHERE SOLICITATION PROHIBITED. Notwithstanding the sales or solicitations allowed under this chapter, no person may solicit or sell at any private residence, business or establishment if there is placed on the premises in an observable location, a sign at least 10 square inches in size bearing the words "No Trespassing", "No Soliciting", or similar notice.

10-12-09. LICENSE TO BE CARRIED BY LICENSEE AND EXHIBITED ON DEMAND. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest.

10-12-10. PENALTY. Any person violating any provision of this chapter shall be guilty of a class B misdemeanor and subject to the imposition of penalties under Section 1-0211 of the Revised Ordinances of 1990 of the City of West Fargo.