

TOWN OF MILLS
ORDINANCE No. 679

AN ORDINANCE ESTABLISHING TITLE 18
TEMPORARY OR TRANSIENT MERCHANTS AND RESIDENTIAL
DOOR TO DOOR SOLICITORS, OF THE TOWN CODE

WHEREAS, the Town of Mills is a duly authorized municipal corporation under the laws of the State of Wyoming;

WHEREAS, the Town of Mills has the authority under Wyoming State Statutes §15-1-103(a)(xiii) to regulate and license temporary and transient merchants and residential door-to-door solicitors;

WHEREAS, the Town of Mills has determined the present code concerning this subject, a part of Title 9, may be unconstitutional and that part of Title 9 should be repealed and the language below should be adopted by this ordinance as the Town Code concerning temporary or transient merchants and residential door-to-door solicitation;

WHEREAS, all parts of the existing Mills Town Code pertaining to Transient Merchants and Residential Door-To-Door Solicitors should be repealed;

WHEREAS, the Town of Mills has duly considered the various laws concerning the general laws of the Town; and

WHEREAS, the following shall be adopted in this ordinance and when passed shall be codified and incorporated as follows.

TITLE 18
TEMPORARY OR TRANSIENT MERCHANTS AND RESIDENTIAL
DOOR TO DOOR SOLICITORS

Titles: 18.01 Temporary Merchants, Transient Merchants, and Residential Door-to-door Solicitors

TITLE 18.01
GENERAL PROVISIONS AND DEFINITIONS

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18.01.010. General Provisions.

(a) The purpose of this Title is to establish laws and procedures regulating and licensing temporary or transient merchants and residential door-to-door solicitors conducting or soliciting sales and related activities within the Town of Mills.

(b) The Town of Mills is authorized by Wyo. Stat. Section 15-1-103(a)(xiii) to regulate and license sales by temporary or transient merchants and residential door-to-door solicitors for the public health, safety and welfare of its citizens.

(c) The Town Clerk may request supporting documentation in conjunction with applications for a temporary or transient merchant or residential door-to-door solicitor's business license and review requests for exemption from a license as set forth in this Title.

- (i) Prior to issuing a temporary or transient merchant business license, including a comprehensive temporary or transient license, the Town Clerk may request Town departments to review and inspect proposed temporary premises or sales sites for applicants proposing to sell goods, merchandise or services from fixed stands, tables, booths, vehicles or trailers.
- (ii) Prior to issuance of a residential door-to-door solicitor's business license the applicant must provide written acknowledgment the applicant has received, read and understands the provisions of this Title of the Town Code applicable to door-to-door solicitors. (*Ord. No. 679; 7-27-2016*)

18.01.020. Definitions.

(a) The following definitions shall apply in the interpretation and enforcement of this Title:

- (i) "Applicant" - means an individual who is at least eighteen (18) years of age. If an applicant is affiliated with a corporation, partnership, limited liability company, organization, association or other lawfully formed entity, the individual shall designate the name of the organization.
- (ii) "Charitable organization" - means any association, organization, corporation, partnership, limited liability company, or lawfully formed entity that is:
 - (A) A benevolent, educational, philanthropic, humane, patriotic, religious, or civic organization established for a charitable purpose, and
 - (B) Tax exempt under applicable provisions of the Internal Revenue Code, as amended, and qualified under federal law to solicit and receive tax deductible contributions from the public for charitable purposes.
- (iii) "Comprehensive license" - means an annual temporary or transient merchant business license issued to a permanent organization or business, or to an applicant in conjunction with a special local temporary event or activity, which allows any number of temporary or transient merchants to sell or offer for sale retail goods, merchandise or services from fixed stands, tables, booths, vehicles or trailers at the location identified on the application or renewal application. A comprehensive license pertains to sales activities involving temporary or transient merchants only and not residential door-to-door solicitors.
- (iv) "Contribution or Contributions" - means and includes the words alms, food, clothing, money, property, financial assistance or other things of value. A contribution, as defined herein, will also include a residential door-to-door solicitor selling or offering to sell any book, card, magazine, membership,

merchandise, subscription, ticket or other thing in connection with which an appeal is made for charitable or religious purposes.

- (v) "Door-to-door solicitor" or "solicitors" - means any individual, as approved in conjunction with a residential door-to-door solicitor's business license, attempting to make personal contact with any person at a place of residence within the Town, without prior invitation by or appointment with the resident, for the purpose of solicitation or sale of goods, merchandise or services.
- (vi) "License identification badge" - means the identification badge issued by the Town Clerk to an individual approved to conduct door-to-door solicitation. Each badge will contain a current color photograph of the individual to whom the badge is assigned.
- (vii) "No soliciting" or "no solicitation" sign - means a reasonably visible and legible sign posted upon residential premises stating "no soliciting," "no solicitors," "no trespassing," or words of similar import.
- (viii) "Permanent place of business" - means a recognized, fixed business location within the Town at which the business owner, manager or designated agent actively operates a business which is open to the public on a year-round basis with regularly established hours of business. A permanent place of business also includes a location within the Town in which a person conducts business as a home occupation and the person provides goods, merchandise or services, or delivers orders for the same, to a customer's residence upon the customer's prior request or invitation.
- (ix) "Religious" - means and includes the word "charitable," as herein defined, but will be given its commonly accepted definition.
- (x) "Residence," "residential" or "residential premises" - means any living unit contained within any building, structure, or manufactured housing unit predominantly occupied as a dwelling, together with the lot, or other real property on which the living unit is located.
- (xi) "Residential door-to-door solicitors business license" - means the license issued by the Town Clerk in connection with a valid application as outlined in this Title and applies only to solicitation activities involving personal contact at a place of residence within the Town, without prior invitation by or appointment with the resident, for the purpose of solicitation or sale of goods, merchandise or services. A residential door-to-door solicitor's business license is valid for a period of fourteen (14) consecutive days beginning the date of issuance.
- (xii) "Sale," "sales," "sell" or "offer for sale" of goods, merchandise or services - means any verbal or written agreement involving a solicitation between a residential door-to-door solicitor and an adult individual residing within a residence.
- (xiii) "Solicit" and "solicitation" - mean and include any one or more of the following activities:
 - (A) Attempting or offering to sell or taking sales orders, for present or future delivery, of any goods, merchandise or services of any kind, character or description, primarily for personal, family or household purposes;
 - (B) Attempting or offering to sell or taking sales orders, for present or future delivery, of books, magazines, periodicals, newspapers and every other type or kind of publication; or

- (C) Requesting directly or indirectly contributions on the plea or representation such contributions will be used for a charitable, educational or religious purpose; where any such offer, taking, attempt or request is personally solicited or a sale of goods or services is consummated in or upon the premises of an actual or prospective customer or donor.
- (xiv) "Temporary or transient merchant" - means all persons not having a permanent place of business within the Town who are engaged in selling or offering for sale retail goods, merchandise or services.
- (xv) "Temporary or transient merchant business license" - means a license issued by the Town Clerk in connection with a valid application as outlined in this Title and applies to merchants who wish to sell or offer for sale retail goods, merchandise or services from fixed stands, tables, booths, vehicles or trailers at the location identified on the application or renewal application form. A temporary transient business merchant license is only valid for a period of fourteen (14) consecutive days beginning on the date of issuance. (*Ord. No. 679; 7-27-2016*)

18.01.030 Temporary Merchant, Transient Merchant – License Required – Application.

(a) No person shall conduct business as a temporary or transient merchant within the Town unless:

- (i) The person has obtained a temporary or transient merchant business license from the office of Town Clerk; or
- (ii) The person is operating as a temporary or transient merchant pursuant to coverage under a comprehensive license; or
- (iii) The person meets one of the exemptions listed in this Title.

(b) Persons desiring a temporary or transient merchant business license, including an annual comprehensive temporary or transient merchant license, must submit a written application on forms provided by the Town Clerk, together with payment of the licensing fee, to the office of the Town Clerk. Each application shall be signed by the applicant before a notary public and notarized. The licensing fee for a temporary or transient merchant license for a fourteen (14) consecutive day period, or portion thereof, will be one hundred dollars (\$100.00); the licensing fee for an annual comprehensive temporary or transient merchant license will be three hundred dollars (\$300.00) per year. Such application will include the following information, or any additional information requested by the Town Clerk or Chief of Police, or their designee:

- (i) Applicant's name, home address, telephone number and date of birth and, if applicable, affiliated business or organization name, business physical and mailing address and business telephone number.
- (ii) Whether the applicant, or affiliated business or organization, has ever had a similar type of business license, whether within Wyoming or elsewhere, revoked, suspended or denied.
- (iii) Proposed date(s) of temporary or transient sales; hours of proposed sales; sales address location and zoning classification, as defined by the Mills Zoning Code and description of the item(s) to be sold.
- (iv) If applicable, whether the applicant is authorized by the Wyoming Secretary of State to do business within the State of Wyoming and whether the applicant has contacted the Wyoming Department of Revenue and Taxation to acquire a state sales tax license.

(v) Authorization for the Town and its agents and employees to seek information and conduct investigations of the applicant to verify information contained upon the application is true and correct.

(vi) Affirmation the applicant agrees to comply fully with the rules and regulations of the Town governing the license requested and the applicant further declares the information contained in the application is true and correct.

(c) Upon receipt of an application and payment of the required license fee, the Town Clerk will forward the application to the Chief of Police, or designee, for an applicant background review and recommendation. The Chief of Police shall have the authority to recommend approval or denial of any application for a temporary or transient merchant or comprehensive temporary or transient merchant business license for the general health, safety and welfare of the community.

(i) The Chief of Police may recommend the denial of any application that contains false, misleading or incomplete information. The Town Clerk may require additional inspections and approvals by other Town agencies.

(d) Every person licensed as a temporary or transient merchant, or comprehensive temporary or transient merchant, must at all times possess and display such license in a conspicuous place to the public while conducting sales pursuant to the license issued. (*Ord. No. 679; 7-27-2016*)

18.01.040 Residential Door-to-door Solicitors – License and Identification BADE Required – Application.

(a) No person shall conduct residential door-to-door soliciting or solicitation activities unless:

(i) The person has obtained a residential door-to-door solicitors business license from the office of Town Clerk; and

(ii) A license identification badge for each solicitor has been approved and issued; or

(iii) The person meets one of the exemptions listed in this Title.

(b) Persons desiring a residential door-to-door solicitor's business license must submit a written application on forms provided by the Town Clerk, together with payment of the business license fee and request for a license identification badge fee, to the office of the Town Clerk. Each application shall be signed by the applicant before a notary public. The licensing fee for an individual residential door-to-door solicitor's business license for a fourteen (14) day period shall be one hundred dollars (\$100.00) per individual applicant. Such application will include the following information, or other additional information requested by the Town Clerk or Chief of Police, or their designee:

(i) Application for Individuals, agents of businesses or organizations and businesses and organizations:

(A) Applicant's name, home address, telephone number and date of birth. If applicable, the affiliated and responsible business or organization name with which the applicant is associated; business physical and mailing address; business telephone number, and the name of the individual, including current contact information, who will be responsible on behalf of the licensee for supervising any individual receiving a license identification badge to conduct activities as a door-to-door solicitor pursuant to the business license. A license is also required to be held in the name of a business or organization or the management point of contact person, with current contact information. A business or

organization license is required, in addition to individual licenses, for the business or organization which the individuals are agents or associated.

- (ii) Identification of each individual includes proof the individual is at least eighteen (18) years of age and two current front-face portrait color photographs of the individual approximately two inches by two inches in size. One photograph will be retained by the Town Clerk and one photograph will be affixed to the license identification badge.
- (iii) Whether the applicant, or affiliated business or organization, has ever had a similar type of business license, whether within Wyoming or elsewhere, revoked, suspended or denied.
- (iv) Proposed date(s) of door-to-door solicitation activities within the limits described herein; description of the goods, merchandise or services to be offered for sale or involved in the taking of sales orders by a door-to-door solicitor, and a copy of any advertising materials (i.e. brochures, flyers, etc. describing the goods, merchandise or services that will be offered) and any written contract or agreement that may be entered into with a customer.
- (v) Whether the applicant is authorized by the Wyoming Secretary of State to do business within the State of Wyoming, and whether the applicant has contacted the Wyoming Department of Revenue and Taxation to acquire a state sales tax license.
- (vi) Authorization for the Town and its agents and employees to seek information and conduct investigations of the applicant to ascertain information contained upon the application is true and correct.
- (vii) Affirmation the applicant agrees to comply fully with the rules and regulations of the Town governing the license requested and the applicant declares the information contained in the application is true and correct.

(c) Upon receipt of an application and payment of the required license fee, the Town Clerk will forward the application to the Chief of Police, or designee, for an applicant background review and recommendation. The Chief of Police shall have 5 working days in which to complete the background check which may include a full criminal background check. The Chief of Police shall have the authority to recommend approval or denial of any application for a residential door-to-door solicitor's business license and any affiliated license identification badge for the general health, safety and welfare of the community. In addition, the Chief of Police may recommend the denial of any application that:

- (i) Contains false, misleading or incomplete information.
- (ii) Is related to any past door-to-door solicitor's business license or license identification badge issued by the Town Clerk involving complaints associated with of this Title.

(d) The Town Clerk's shall issue or deny a license within 72 business hours after the Chief of Police provides information concerning the background check or other information concerning criminal background. (*Ord. No. 679; 7-27-2016*)

18.01.050 Residential Door-to-door Solicitor Restrictions – Prohibited Practices .

(a) No solicitor shall solicit without wearing or displaying the assigned license identification badge, as issued by the Town Clerk, viewable by the public at all times when conducting door-to-door solicitation. Upon request by the public or law enforcement officer, proof of a current and valid residential door-to-door solicitor's business license and license identification badge shall be made available for inspection. No solicitor shall allow another individual to use his or her assigned badge and the badge shall not be worn or used for any other purpose by the solicitor at times other than conducting door-to-door solicitation under the business license.

(b) No person shall engage in or conduct activities as a door-to-door solicitor upon any residential premises without a prior invitation from the occupant or resident if the premises is posted or signed with a notice displayed upon which is printed "no solicitors" or similar words. For the purposes of this subsection, residential premises will be deemed to be posted against solicitation if the notice is exhibited on or near the main entrance to the premises or on or near the main door to any residence located on the property.

(c) No residential door-to-door business licensee or solicitor shall initiate solicitation activities for potential customer services affiliated with installation of any equipment involving electrical wiring, plumbing, replacement windows, siding of any type or remodeling any portion of a residential structure, without first contacting the Town's building safety department to determine whether a license or permit is required.

(d) No person will contact, engage in or conduct activities as a door-to-door solicitor after having been asked by the owner or occupant to leave the premises or residence.

(e) No person shall solicit upon any residential premises, other than prior invitation by the occupant or resident of the premises, prior to ten a.m. or after six p.m., local time, of any week day or Saturday, and one p.m. to five p.m. Sundays.

(f) Not more than two door-to-door solicitors will engage in or conduct activities as a solicitor at the same location and time for the same goods, merchandise or services, or for religious or charitable purposes. When conducting door-to-door solicitor activities, no solicitor will be accompanied by an individual who has not been approved to receive a license identification badge. Each individual in violation of this provision will be deemed to have violated such provision.

(g) No solicitor shall, at the time of initial contact with a prospective customer or donor, fail to verbally identify himself or herself and the business or company he or she represents, if applicable, and the purpose of the solicitation.

(h) No person engaged in or conducting activities as a door-to-door solicitor will misrepresent the purpose of the solicitation or use any false, deceptive, misleading or untrue information or practices, including any reference to orders placed by or sales entered into by other residents or neighbors, to induce a sale, contribution, or placement of an order, or use any plan or scheme which misrepresents the true purpose of the solicitation.

(i) No door-to-door solicitor shall conduct solicitor activities in a disrespectful, discourteous, aggressive, rude, offensive or inappropriate manner, including the use of abusive language. No solicitor shall enter any residence without invitation or block the passage of any resident.

(j) No door-to-door solicitor shall finalize any sale or allow a customer to enter into or sign any written agreement pertaining to the purchasing, delivery, including future deliveries from orders taken, of goods, merchandise or services without informing the potential customer of Town licenses or permits required as the result of the purchase, and the customer may have, pursuant to Wyoming law, three days in which to cancel the item(s) or services purchased or ordered.

(k) No door-to-door solicitor shall make statements to potential customers or contributors indicating or implying the residential door-to-door solicitor's business license or license identification badge issued by the Town Clerk constitutes an endorsement by the Town of the goods, merchandise or services to be offered. (*Ord. No. 679; 7-27-2016*)

18.01.060 Exemptions.

(a) The following are exempt from the licensing provisions of this Title:

- (i) Any person participating in fairs and bazaars on public property when such fair or bazaar is sponsored or entirely operated by the Town;

- (ii) Any person participating in non-profit fund-raising activities, including religious, educational and charitable activities, in which the items to be sold or raffled have been hand-crafted or hand-made by local residents;
- (iii) Charitable, non-profit and religious organizations and persons representing them; provided the proceeds from sales are used for charitable, non-profit or religious events and purposes;
- (iv) Fund-raising sales by a recognized local school or local educational organization where profits solely benefit student members or a school/organization sponsored event;
- (v) Distribution of free literature or information which is not affiliated with attempting or offering to sell, or taking orders for present or future delivery, of any goods, merchandise or services, or that meets the definition of "solicit."
(Ord. No. 679; 7-27-2016)

18.01.070 Terms of License

(a) Each initial annual comprehensive temporary or transient merchant business license will be effective for one year from date of issuance with a renewal application processed and license issued as provided in this Title. Any change in location for an annual comprehensive license will be pursuant to the requirements of the Town Code. No change of ownership involving an annual comprehensive license is allowed.

(b) Each non-annual temporary or transient merchant or residential door-to-door solicitor's business license will be effective for fourteen (14) consecutive days. Residential door-to-door licenses are available once within a 12 month period.

(c) Each license identification badge issued in affiliation with a residential door-to-door solicitor's business license will be effective for the term of the business license.

(d) Temporary or transient merchant business licensees may submit application(s) for one additional fourteen (14) consecutive day license by fulfilling the application requirements for an initial applicant under the provisions of this Title.

(e) It is unlawful for anyone issued a badge to retain the badge past the expiration date of the license. (Ord. No. 679; 7-27-2016)

§ 18.01.080 Violations

(a) A person who violates a provision of this Title shall be charged and cited with a misdemeanor punishable pursuant to the general penalty provisions of the Town Code. A person who violates a provision of this Title and who is a non-resident of Natrona County may be arrested if the law enforcement officer has reasonable belief the person will not appear for a court hearing or flee the jurisdiction of Mills. Each violation shall be deemed a separate offense.

(b) Any person holding a valid temporary or transient merchant business license, comprehensive license or residential door-to-door solicitor's business license issued under this Title who violates any provision of this Title will be subject to suspension or revocation of the license.

(c) Upon investigation and following a probable cause determination by a police officer a door-to-door solicitor has violated a provision outlined in this Title the Chief of Police or designee shall have the authority to revoke the individual's license identification badge and issue a citation.

- (i) No person charged with violating the identification requirement of this Title shall be convicted if he produces in court a valid residential door-to-door solicitor's business license and the license identification badge previously issued to him valid at the time the citation was issued.
- (ii) The Chief of Police is authorized to conduct compliance investigations using non-police confidential informants and out of uniform police officers. (Ord. No. 679; 7-27-2016)

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MILLS, WYOMING the above laws set out as they shall be codified is passed as the Town of Mills Town Code Title 18 Temporary or Transient Merchants and Residential Door to Door Solicitors.

IT IS FURTHER ORDAINED all parts of the Town of Mills Town Code concerning Transient Merchants and Door-To-Door Solicitors are repealed.

PASSED AND APPROVED on the first reading this 22 day of JUNE, 2016.

PASSED AND APPROVED on the second reading this 13 day of July, 2016.

PASSED AND APPROVED on the third reading this 27 day of July, 2016.

Marrolyce Wilson
Marrolyce Wilson, Mayor

Seth Coleman
Seth Coleman, Council

Cecil Engels
Cecil Engels, Council

Sara McCarthy
Sara McCarthy

Ruth Pitts
Ruth Pitts, Council

ATTESTED:

Christina Trumbauer
Town Clerk

