

CHAPTER 308

TRANSIENT MERCHANTS, SOLICITORS, PEDDLERS, CANVASSERS AND GARAGE SALES

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308.01 SCOPE AND PURPOSE.

The purpose of this chapter is to prevent fraud, and criminal activity, such as burglary, theft and assault, and to protect the privacy of residents in their homes by requiring commercial hockers, peddlers, and transient merchants to be licensed and to impose restrictions on their operations within the city that are narrowly tailored to address the risks these operations pose to the public health, safety and welfare. It is not the purpose of this chapter to burden interstate commerce or interfere with constitutionally-protected rights under the First Amendment of the Unites States Constitution or Art. 1, Section 3 of the Minnesota Constitution.

(1987 Code, § 308.01) (Ord. 265, passed 1-25-1993)

308.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSER. Any person canvassing for funds door-to-door in this city on behalf of a charitable, religious or nonprofit organization as defined in IRS Code § 501(c)(3).

GARAGE SALES. Any isolated or occasional display and sale of used personal property or home-crafted items conducted on residential premises by the occupant of the residential property or the display and sale of the items or seasonal goods or merchandise on the premises of a church. **GARAGE SALES** shall include rummage sales, basement sales, yard sales, porch sales, craft sales and all other periodic sales at a residential location or church.

PEDDLER. Any person dealing in this city who travels around from place to place or street to street carrying or transporting goods or solicitation for all manner of wares, services and merchandise, offering the same for sale or making sales and delivering articles to purchasers.

SOLICITOR. Any person who goes from place to place and/or house to house soliciting or taking or attempting to take orders for the purchase of any foods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for delivery in the future or orders for the performance of a service in or about the home or place of business, such as furnace cleaning, roof repair or blacktopping.

TRANSIENT MERCHANT. Any person, individual, partnership or corporation, whether principal, employee or agent, who engages in, does or transacts any temporary or transient business in this city, either in one locality or traveling from place to place in this city selling goods, wares and merchandise; and who, for the purposes of carrying on the business, hires, leases, occupies or uses a building, structure, vehicle, property or other place for the exhibition and sale of the goods, wares and merchandise.

(1987 Code, § 308.02) (Ord. 265, passed 1-25-1993; Ord. 341, passed 9-14-1998)

308.03 LICENSE REQUIRED.

- Subd. 1. It shall be unlawful for any person to engage in the activities of peddling, soliciting, canvassing or transient selling without first having obtained a license in compliance with the provisions of this chapter.
- Subd. 2. A separate license shall be secured for each individual person engaged as a peddler, solicitor, canvasser or transient merchant.
- Subd. 3. Where provisions of this chapter are more or less restrictive than comparable provisions within any other portion of this code, rules or regulations of the city, the more restrictive provision, rule or regulation shall prevail. The City Administrator/Clerk shall determine which is more restrictive and appeals from the determination may be made in the manner provided herein.

(1987 Code, § 308.03) (Ord. 265, passed 1-25-1993) Penalty, see § 104.01

308.04 EXCLUSIONS.

Certain businesses may be exempt from the requirements of this chapter. Specific exclusions include:

- Subd. 1. *Business by appointment.* A solicitor or canvasser doing business by appointment. A bona fide appointment is one made in advance, not one that is not merely obtained by going door-to-door in conjunction with the taking of orders, offering for sale or selling;
- Subd. 2. *Sales to stores and/or professionals.* Salespersons selling goods to retail or wholesale stores or to professional or industrial establishments;
- Subd. 3. *Garage, rummage and craft sales.* Garage sales, rummage sales and craft sales, provided that:
- a. None of the items offered for sale shall have been obtained for resale or received on consignment for sale, except for the display and sale of seasonal goods and merchandise on the premises of a church;
 - b. Any sale shall be conducted solely within the boundaries of the property owned or occupied by the occupant who is conducting the sale;
 - c. There shall be no more than four garage sales conducted at any one residence during any period of 12 calendar months;
 - d. No garage or rummage sale shall be conducted during any part of more than three consecutive days, except that the display and sale of seasonal goods and merchandise on the premises of a church shall not exceed 30 consecutive days;
 - e. No garage sale may be conducted before 8:00 a.m. or after 10:00 p.m.;
 - f. Signage is limited to one nonilluminated temporary sign, not exceeding six square feet in area, advertising the garage sale, for which a sign permit is not required. The sign may be displayed for the duration of the sale only;
 - g. The display or sale of seasonal goods or merchandise on the premises of a church shall not take up required parking as provided for in § 1201.03, subdivision 5 of this code and shall comply with setback requirements for the zoning district in which the property is located.

(1987 Code, § 308.04) (Ord. 265, passed 1-25-1993; Ord. 316, passed 11-25-1996; Ord. 341, passed 9-14-1998)

308.05 NO FEE FOR CANVASSING, RELIGIOUS, POLITICAL, EDUCATIONAL AND CHARITABLE ORGANIZATIONS.

The fee imposed by this chapter does not apply to any organization, society, association or corporation if the organization is registered with the Secretary of State pursuant to the provisions of M.S. § 309.515 if the organization intends to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind or intends to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of the organizations upon the streets, in office or business buildings, by house to house canvass or in public places. To qualify for this exemption, the organization or individual shall provide a sworn application in writing on a form furnished by the city which shall include the following information:

- Subd. 1. Names and addresses of the officers and/or directors of the organization;
- Subd. 2. Name and purpose of the cause for which the license is sought;
- Subd. 3. The period during which the solicitation is to be conducted;
- Subd. 4. A complete list of those to do canvassing from outside the South Lake Minnetonka Public Safety Department area giving full name, address and date of birth for review and permit approval by the Police Department.

(1987 Code, § 308.05) (Ord. 265, passed 1-25-1993)

308.06 LICENSE APPLICATION.

- Subd. 1. The application for the license provided in this section should be made to the City Administrator/Clerk by filing the annual license fee and by completing an application form or forms as provided by the City Administrator/Clerk.
- Subd. 2. The application shall include, in addition to the information as the City Administrator/Clerk may require:
 - a. Name of the applicant and all persons associated in business in the city;
 - b. Permanent home address and full local address of the applicant and permanent and local telephone numbers of applicant;
 - c. A brief written description of the nature of the business, goods to be sold and the applicant's method of operation;
 - d. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

- e. The length of time which the applicant intends to do business in the city, with the approximate dates;
- f. The location where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where the goods or products are located at the time the application is filed and the proposed method of delivery;
- g. A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishable manner;
- h. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature, place and date of the offense and the punishment or penalty assessed therefore;
- i. If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- j. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant, the invoice value and quality of the goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale or by taking orders for future delivery;
- k. Transient merchants shall include the addresses of all places where the business is to be located along with written consent of the owners or occupants.

(1987 Code, § 308.06) (Ord. 265, passed 1-25-1993)

308.07 ISSUANCE OF LICENSE.

- Subd. 1. There may be a seven day waiting period between the application and issuance of the license, during which period the City Administrator/Clerk and Police Chief or designated employee shall make the investigation of the applicant's business moral character as he or she shall deem necessary for the protection of the public good. The license may be issued by the City Administrator/Clerk when the foregoing investigation is completed or within seven days of application, whichever is earlier.
- Subd. 2. The issuance of the license shall be denied if the applicant has been convicted of a felony, a misdemeanor involving moral turpitude or a violation of M.S. Chapter 329 or of this chapter.

(1987 Code, § 308.07) (Ord. 265, passed 1-25-1993)

308.08 LICENSE FEE AND LICENSURE.

The annual license fee for engaging in a transient business, peddling or soliciting shall be established by ordinance by the City Council, from time to time, and shall be payable at the time of application for a license. A license, unless revoked, is for the calendar year or part thereof for which it has been issued. License fees may not be prorated. Upon denial of any application for a license, the city shall refund 50% of the annual fee paid.

(1987 Code, § 308.08) (Ord. 265, passed 1-25-1993)

308.09 REVOCATION.

Subd. 1. Permits and licenses issued under the provisions of this chapter may be revoked by the City Administrator/Clerk for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in the application for license;
- b. Fraud, misrepresentation or false statement made in the course of carrying on his or her business;
- c. Any violation of this chapter;
- d. Conviction of any felony or of a misdemeanor involving moral turpitude;
- e. Conducting the business licensed in an unlawful manner or in 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.

Subd. 2. Any license may be revoked without notice if in the opinion of the City Administrator/Clerk or the Police Chief the good order of the city requires action.

(1987 Code, § 308.09) (Ord. 265, passed 1-25-1993)

308.10 APPEAL.

Any person aggrieved by the action of the city or any person whose license has been revoked without notice may appeal to the City Council by filing, within 14 days after notice of the action complained of, a written statement setting forth fully the grounds for appeal. The Council shall set a time and place for a hearing on the appeal, and notice of the hearing shall be given to the person appealing by mailing to the address set forth on the application written notice at least seven days prior to the hearing.

(1987 Code, § 308.10) (Ord. 265, passed 1-25-1993)

308.11 LICENSE LIMITATIONS.

- Subd. 1. All license holders are required to exhibit their licenses at the request of any citizen.
- Subd. 2. No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it is issued.
- Subd. 3. No license holder, nor any person in their behalf, shall shout, blow a horn, ring a bell or use any sound devices upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city.
- Subd. 4. It shall be the duty of any police officer of the city to require any person seen peddling or engaging in like activities and whom is not known to the officer to be duly licensed, to produce his or her license and to enforce the provisions of this chapter against any person when in violation of the same.
- Subd. 5. Failure of any person to comply with any of the ordinances of the city or the laws of the state shall be grounds for suspending or revoking a license granted under this chapter.
- Subd. 6. Door-to-door activities allowed under the provisions of this chapter shall be restricted to hours between 9:00 a.m. and 9:00 p.m.

(1987 Code, § 308.11) (Ord. 265, passed 1-25-1993; Am. Ord. 318, passed 1-13-1997)

308.12 PEDDLERS, CANVASSERS AND SOLICITORS MAY BE PROHIBITED BY PLACARD.

- Subd. 1. Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by the resident may place upon or near the usual entrance to the premises a printed placard or sign bearing the following notice: "Peddlers, Canvassers and Solicitors Prohibited." The placard shall be at least three and one-half inches long and three and one-half inches wide and the printing thereon shall not be smaller than one-half inch in height. No peddler, canvasser or solicitor shall enter in or upon any premises, or attempt to enter in or upon any premises, where a placard or sign is placed and maintained.
- Subd. 2. No person other than the person occupying the premises shall remove, injure or deface the placard or sign.
- Subd. 3. Violation of this section shall result in the revocation of a duly issued license.

(1987 Code, § 308.12) (Ord. 265, passed 1-25-1993)

308.13 REGULATIONS, TRANSIENT MERCHANTS.

Subd. 1. *Public property.* It shall be unlawful to sell or offer for sale any goods, wares or merchandise on any public land or public right-of-way within the city except as provided for in § 902.02.

Subd. 2. *Private property.* No transient merchant shall sell or offer for sale any goods, wares or merchandise within the Commercial Zoning Districts within the city from a stationary location on private property without first obtaining a conditional use permit pursuant to the provisions of Shorewood's Zoning Code. It shall be unlawful to sell or offer for sale any goods, wares or merchandise from a stationary location in any noncommercial zoning district.

(1987 Code, § 308.13) (Ord. 265, passed 1-25-1993) Penalty, see § 104.01