

Chapter 3 Licensing and Municipal Regulation

Section 300 - General Licensing and Permit Provisions

300.01 Licenses and Permits.

Subd. 1 General Rule. Except as otherwise provided in this Code, the provisions of this Section govern the granting of all licenses and permits by the City.

Subd. 2 Acts Prohibited. No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use.

300.02 Application. Except as otherwise provided, every application for a license or permit shall be made to the Administrator on a form the Administrator provides. It shall be accompanied by payment to the Administrator of the prescribed fee. If the Administrator decides that the application is incomplete, the Administrator shall inform the applicant of the required necessary information that is missing. If the application is complete, the Administrator shall issue the license as provided in this Chapter.

300.03 Procedure for Issuance. If, after investigation, the Administrator is satisfied that all requirements of law and this Code have been met, the Administrator will present the application and a report of the investigation and findings to the Council for action. If the license or permit does not require Council approval, the Administrator may issue the license or permit. If a license is denied, the Council shall inform the applicant of its decision and the reason for the denial along with a notice of the applicant's right to appeal the decision. Otherwise, the Council shall order the issuance of the license.

300.04 Not Transferable. A license is not transferable without permission of the Council. When the Council permits the transfer of a license, it may waive any residency requirement but only for the required term of the license.

300.05 Bond. Where a bond is required for a license or permit, the bond will be a corporate surety bond executed on a form approved by the City Attorney and shall be filed with the Administrator before the license or permit is issued. The bond will be in the amount and with the penalty provisions as required by the Code.

300.06 License Period. All licenses and permits will terminate on December 31 of the year issued, unless otherwise indicated.

300.07 Renewal. Applications for renewal of a license shall be made to the Administrator on forms provided. The renewal application will contain the information required for the original application plus any additional information required by the Administrator.

300.08 Duplicates. A duplicate license certificate or tag may be issued by the Administrator to replace any license certificate or tag previously issued which has been lost, stolen, defaced or destroyed, without any willful conduct by the licensee, if the licensee files an affidavit with the Administrator attesting to such fact and pays to the Administrator a fee as established by the Council.

300.09 Suspension and Revocation. Any license or permit may be suspended or revoked by the Council for a violation of the section or chapter under which it is issued or any of the provisions of this Code or law. However, the revocation must follow any procedure provided in the section or chapter under which the license or permit was issued.

300.10 Appeal. Any person who has made application for a license or permit that has been denied or not acted upon within 30 days after the application may apply directly to the Council for a license or permit. The application to the Council shall contain the same information required in the original application and any additional information that the Council may require or that the applicant may feel is pertinent. The Council may grant the license or permit, after a hearing, if the requirements of this Section and underlying Code provisions are complied with and granting the license or permit would be in the best interests of the public.

Section 310 - Cigarettes and Tobacco

310.00 Purpose. The Legislature of the State of Minnesota has found that:

- 1. Smoking causes premature death, disability, and chronic disease, including cancer, heart disease and lung disease;**
- 2. Smoking related diseases result in excess medical care costs;**
- 3. Smoking initiation occurs primarily in adolescence; and**
- 4. It is in the public interest to protect the public health, comfort and environment by prohibiting smoking in areas where children or ill and injured persons are present, and by limiting smoking in public places and at public meetings to designated smoking areas.**

310.01 Adoption and Incorporation of Statute. The City accepts and adopts the findings of the Legislature as set forth in Minnesota Statutes §§ 144.391. Minnesota Statutes §§ 144.412 through 144.417 and 461.12 are adopted by reference and incorporated herein as if set out here in full.

310.02 Definitions. "Tobacco" and "tobacco related devices" shall have the meanings set forth in Minnesota Statutes § 609.685, which statute is adopted by reference and incorporated herein as if set out here in full.

310.03 Prohibitions.

Subd. 1. Sale to Minors. No person shall sell or furnish tobacco or tobacco related devices to a person under the age of 18 years.

Subd. 2. Tobacco use by Minors. Whoever uses tobacco or tobacco related devices and is under the age of 18 is guilty of a petty misdemeanor.

Subd. 3. Vending Machines. No person shall permit a person below the age of 18 years to purchase cigarettes through a cigarette vending machine. Such purchase shall be presumed to be with the knowledge and consent of the licensee of the vending machine, the lessee of the machine or occupant of the premises where the machine is located.

Subd. 4. Public Places. No person shall smoke in a public place or public meeting except in a designated smoking area.

310.04 License Required. No person shall directly or indirectly or by means of automatic vending machines or other devices kept for retail sale, sell at retail or otherwise dispose of any tobacco or tobacco related devices within the City unless a license shall first have applied for and obtained as provided in this Chapter.

310.05 Fees. The license fee shall be as established by Resolution of the Council.

310.06 Penalties. In addition to the penalties provided for in this Code, Administrative Penalties shall be imposed for violation of this Section.

Subd. 1 Administrative Penalties; Licensees. If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75.00. An administrative penalty of \$200.00 shall be imposed for a second violation at the same location within 24 months after the initial violation.

For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250.00 shall be imposed, and the licensee's authority to sell tobacco at that location shall be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred shall be in writing.

Subd. 2 Administrative Penalties; Individuals. An individual who sells tobacco to a person under the age of 18 years shall be charged an administrative penalty of \$50.00. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Section 320 - Public Dance Halls and Public Dancing

320.01 Definitions:

Subd. 1 Public Dance. A public dance shall mean any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing or a fee for membership in a club or organization, and shall include any manner of holding a dance in which the public participates through payment of money either directly or indirectly. By way of illustration and not limitation, a dance shall be considered a public dance if the public is generally admitted or invited either orally or by advertisement although no admission or fee is charged. A wedding dance not limited by special invitation to a select group shall be considered a public dance.

Subd. 2 Public Dancing Place. A public dancing place shall mean any room, place, or space open to the public in which a public dance is held.

Subd. 3 Private Dance. A private dance shall mean a dance conducted by a social or fraternal organization or conducted at private premises primarily for social or recreational purposes by private invitation only where the public is not generally admitted or invited either orally or by advertisement. A private dance may become public if the public is generally admitted by open invitation.

320.02 License Required. No person shall conduct a public dance within the City unless a license has been applied for and obtained from the Administrator as provided in this Section.

320.03 License Fee. The license fee shall be as established by Resolution of the Council.

320.04 Hours. No public dance shall be conducted between the hours of one o'clock a.m. and six o'clock a.m. on any day. No public dance shall be conducted on Sunday between the hours of one o'clock a.m. and 12 o'clock noon.

320.05 Exemption. A dance held at any church or school shall not require a license but notice of the dance shall be given to the Police Department at least one week before the dance is held. No license shall be required for schools of instruction in dancing.

- AMENDED 08/04/03 -

~~**320.06 Officer Must Attend.** As provided in Minnesota Statutes § 624.50, it shall be the responsibility of the permittee to have an officer of the law designated by the Chief of Police present at all public dances. The peace officer need not be a police officer of the City but shall act as a special deputy of the City Police Department at the public dance for the limited purposes of maintenance of peace and order and enforcing applicable City Ordinances and State Statutes. The peace officer shall have the authority to call upon the City police or other law enforcement officers for assistance and for taking persons who may be charged with an offense into custody.~~

320.07 Rules and Regulations. The City Council may adopt rules and regulations for conduct of dances that shall be incorporated in this Chapter and have the same force and effect as if set forth fully in this Chapter.

Section 330 - Circuses, Carnivals and Shows

330.01 License Required. No person shall give or maintain any show or public entertainment circus, carnival, games or concert to which an admission is charged without applying for and obtaining a license from the Administrator as provided in this Section. No license shall be required for entertainment given for the benefit of any school, church, benevolent or charitable purpose.

330.02 Application and Issuance. Application for the license shall be made to the Administrator on the forms provided at least seven days before the time when the show or entertainment is intended to be given. The Police Department shall investigate the facts set forth in the application and report to the Administrator its recommendations. The applicant or any other person shall be given an opportunity to be heard for or against granting the license.

330.03 Fee. The license fee shall be as established by Resolution of the Council.

330.04 Restrictions. No obscene, vulgar, immoral, or disorderly shows or entertainment shall be licensed or permitted. No person shall conduct, permit, or take part in any activity regulated by this section. No gambling or games of chance are allowed concerning any activity regulated by this Section unless specifically authorized by the Council.

Section 340 - Peddlers

340.01 Definitions and Interpretation.

Subd. 1 Person. The term "person" shall mean 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" shall mean 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" shall mean 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, of 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 later. The term solicitor shall mean the same as the term canvasser.

Subd. 4 Transient Merchant. The term "transient merchant" shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, 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 does not remain or intend to remain in any one location for more than five consecutive days.

340.02 Exceptions to Definitions. For the requirements of this Section, the terms "peddler," "solicitor," 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 of 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 such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route. In addition, persons conducting sales commonly known as garage sales, rummage sales, or estate sales, and those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants. Anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale are also exempt. Exemption from the definitions in this Section shall not excuse any person from complying with any other applicable statutory provision or other local Codes.

340.03 Licensing.

Subd. 1 License Required. No person shall conduct business as a peddler, solicitor, or transient merchant within the City without first having applied for and obtained a license from the Administrator as provided in this Section. If the Council rejects the application, the applicant shall be notified in writing of the Council's decision, the reason for the denial, and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving the Council's notice of rejection, a public hearing to be heard by Council within twenty (20) days of the date of the request. The final decision of the Council following the public hearing shall be appealable to the appropriate Court.

Subd. 2 Fee. The license fee shall be as established by the Council by Resolution.

340.04 License Exemptions. 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 for persons engaged in casual solicitations or sales for local charitable or community fund raising purposes such as Boy, Girl and Cub Scouts or school activities. 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 exercising that person's State or Federal Constitutional rights (i.e., freedom of speech, press, religion etc.) except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity. Professional fund raisers working on or for an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

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

- A. The failure of the applicant to obtain and show proof of having obtained any required County license.**
- B. The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.**
- C. The conviction of the applicant within the past five 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 not adversely affect the health, safety, and 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.**
- D. The revocation within the past five years of any license issued to the applicant for conducting business as a peddler, solicitor, or transient merchant.**
- E. The applicant is found 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 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, or by the City, within the preceding twelve (12) months, or two (2) such complaints filed against the applicant within the preceding five (5) years.**

340.06 Suspension and Revocation. Any license issued under this Section may be suspended or revoked by the Council for fraud, misrepresentation, or incorrect statements on the application or during activity or violation of any of the provisions of this Section.

Subd. 1 Notice. Before revoking or suspending any license issued under this ordinance, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of the right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the address listed on the license application.

Subd. 2 Public Hearing. Upon receiving the notice provided in Subdivision 1, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the Administrator within ten (10) regular business days following the service of the notice, the City may suspend or revoke the license. For 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 period, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the Council shall notify the licensee of its decision.

Subd. 3 Emergency. If in the discretion of the Council imminent harm to the health or 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 public hearing as prescribed in Subdivision 2 of this Section.

Subd. 4 Appeals. Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision to the appropriate court.

340.07 Transferability. A license issued under this Section may not be transferred without approval of the Council.

340.08 Registration. 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 Administrator shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

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

- A.** 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, to be unreasonably audible within an enclosed structure.
- B.** Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- C.** Conducting business in a way that creates a threat to the health, safety, and welfare of any individual or the public.
- D.** Conducting business before seven o'clock in the morning (7:00 a.m.) or after nine o'clock at night (9:00 p.m.).
- E.** Failing to provide proof of license or registration and identification, when requested, or using the license or registration of another person.

F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement.

G. Claims to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

H. Remaining on the property of another when requested to leave.

I. Conducting business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

340.10 Exclusion by Placard. No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for conducting business as a peddler, solicitor, 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 in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or occupant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

340.11 Violations and Penalties. Besides penalties provided by this Code, each day a violation exists shall be a separate violation for the purposes of this Section.

Section 350 - Taxicabs

350.01 License Required. No person, firm or corporation shall operate or cause to be operated upon the public streets of the City any motor vehicle for hire as a taxicab or auto livery without first applying for and obtaining a license for such operation from the Administrator as provided in this Section.

350.02 Insurance. A policy of liability and property damage insurance against loss by accident to any passenger or other person injured through the negligence of the applicant or driver of such vehicle or vehicles shall be submitted with the application. The insurance protection of the policy holder shall be not less than Fifty Thousand Dollars (\$50,000.00) for any one person or One Hundred Thousand Dollars (\$100,000.00) for any one accident for each vehicle.

350.03 Fee. The license fee shall be as established by the Council by Resolution.

350.04 Inspection. A Certificate of Inspection showing that a qualified mechanic has inspected the vehicle and is in good working order shall be submitted with the application.

350.05 Exemption. This Chapter shall not apply to motor vehicles operated under permit from the Minnesota Railroad and Warehouse Commission.

Section 360 - Snow Removal

360.01 License Required. No person shall carry on the business of snow removal for hire, except hand shoveling, within the City without first having applied for and obtained a permit from the Administrator as provided in this Section.

360.02 Restrictions. No person shall deposit snow upon the property of another without the property owner's consent or upon the City streets except in the manner prescribed by the City Street Commissioner.

360.03 Regulations and Enforcement. The Street Superintendent, with approval of the Council, shall prescribe rules and regulations regarding snow removal and methods of disposal. After notice by the Superintendent to any person who has refused or failed to comply with this Section and the rules hereunder, the Street Department, shall remove and dispose of any improperly deposited snow and charge the cost for such removal to the person in violation.

Section 370 – Gambling

370.01 License required. No person shall conduct any gambling within the City of Silver Bay without having applied for and obtained a license as provided in Minnesota Statutes Chapter 349.

370.02 Exemptions. Bingo, raffles and other lawful gambling may be conducted within the City as provided by Minnesota Statutes § 349.166 without securing a permit or license from the City.

370.03 Local Gambling Tax. The City Council may by Resolution adopted under this section impose a local gambling tax on any State licensed organization operating local lawful gambling, as provided in Minnesota Statutes § 349.213, Sub.3.

Section 371 – Adult Oriented Business.
02/03/03 ADDED