

CHAPTER 3. LICENSES

SECTIONS:

300 License

310 Retail Sale of Cigarettes

320 Peddlers, Solicitors, and Transient Merchants

SECTION 300 – LICENSE REQUIRED

Sec. 300.01 Purpose. The City is almost entirely a residential area and is a City that was organized for the purpose of providing mobile home living; and since the City does have a zoning ordinance, the Council finds that this Chapter is vital and necessary in order to control the use of property which is not devoted to mobile home residential use so as to protect the peace, tranquility and general welfare of the people residing in Landfall Village.

Sec. 300.02 License Required. No person shall engage in the operation of, or maintain, or conduct, any business, occupation or trade within the City without first obtaining from the City Council the license required for the business or occupation.

Sec. 300.03 Application to City Clerk. Except for licenses required under Chapter 4 of this code, or as otherwise specifically provided for in this Code, in order to commence a new business or continue the operation of any existing business designated in this licensing Chapter, each operator or owner shall make application for license to the City Clerk upon the application form provided by the City Clerk and shall fully and truthfully provide all information requested upon the application.

Sec. 300.04 License Fee. The license fee for any business operating out of homes, with no paid or commissioned employees, except the owner, the fee shall be determined by the Council but no less than \$10.00; and for any business not qualified above, the fee shall also be determined by the Council but no less than \$15.00, and these minimums shall be for the calendar year and shall not be pro-rated.

Sec. 300.05 Special Provisions Attached to Issuing License. The City Council may, at the time of granting any license, attach any special provisions as to' method of operation, hours during which business can be open, care of premises, landscaping treatment, parking provisions and other pertinent and reasonable requirements. Failure to comply with any or all of such conditions, qualifications, procedures, or pre-requisites shall be grounds for termination and cancellation of license.

Sec. 300.06 Hearing. Whenever any licensee fails to comply with provisions of this Chapter or any special orders of the City Council and the City Council has ordered the license canceled, the owner or holder of the license may be granted a hearing by the City Council, but only if requested and only upon at least ten (10) days written notice served upon the City Clerk.

SECTION 310 – RETAIL SALE OF CIGARETTES

Sec. 310.01 Purpose. Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of State laws; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this section shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in MN Statute § 144.391.

Sec. 310.02 Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term “shall” means mandatory and the term “may” mean permissive. The following terms shall have the definitions given to them:

Subd. 1 Tobacco or Tobacco Products. “Tobacco” or “Tobacco products” shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts. plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

Subd. 2 Tobacco Related Devices. “Tobacco related devices” shall mean any tobacco product as well as a pipe, rolling papers, or other device used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 3 Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any way where any person shall have access to the product without the assistance or intervention of an employee of the premise maintaining the self-service merchandising. Self-service merchandising shall not include vending machines.

Subd. 4 Vending Machine. “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

Subd. 5 Individually packaged. “Individually packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

Subd. 6 Loosies. “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7 Minor. “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8 Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 9 Moveable Place of Business. “Moveable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10 Sale. A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11 Compliance Checks. “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this section. Compliance checks may involve the use of minors as authorized by this section. Compliance checks shall also include those done for research, education, and training purposes as authorized or required by State and Federal laws.

Sec. 310.03 License. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

Subd. 1 Application. An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant’s residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk shall forward the application to the council for action at its next regularly scheduled council meeting. If the clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2 Action. The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.

Subd. 3 Term. All licenses issued under this section shall be valid for one calendar year from the date of issue.

Subd. 4 Revocation or Suspension. Any license issued under this section may be revoked or suspended as provided in the Violations and Penalties section of this section.

Subd. 5 Transfers. All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

Subd. 6 Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.

Subd. 7 Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

Subd. 8 Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Sec. 310.04 Fees. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for a license under this section shall be as set from time to time by action of the Council.

Sec. 310.05 Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, section provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, section, or other regulation, from holding such a license.

Sec. 310.06 Prohibited Sales. It shall be a violation of this section for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this section.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device.
- D. By means of loosies as defined in Subsection 310.02 of this section.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic, or toxic or controlled substance except nicotine and not naturally found in tobacco or tobacco products or added as part of a lawful production method.
- F. By any other means, or to any other person, prohibited by Federal, State, or other local law, section provision, or other regulation.

Sec. 310.07 Vending Machines. It shall be unlawful for any person licensed under this section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.

Sec. 310.08 Self Service Sales. It shall be unlawful for a licensee under this section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time the City Code is adopted shall comply with this Section within 30 days following the effective date of the Code. This Section shall not apply to any premises where persons under the age of eighteen (18) years are at all times prohibited from entering.

Sec. 310.09 Responsibility. All licensees under this section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the licensee holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State law, or other applicable law or regulation.

Sec. 310.10 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least twice per year, the city shall conduct compliance checks by engaging minors to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Other groups may conduct compliance checks as authorized, or as required, by State and Federal laws. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check, nor shall the minor be guilty of unlawfully purchasing or attempting to purchase tobacco or tobacco products. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification for which he or she is asked.

Sec. 310.11 Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this section.

Subd. 1 Illegal Possession. It shall be a violation of this section for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city, or who have only temporary possession during a legal sales transaction.

Subd. 2 Illegal Use. It shall be a violation of this section for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

Subd. 3 Illegal Procurement. It shall be a violation of this section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall also be violation of this section for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor, and it shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city,

Subd. 4 Use of False Identification. It shall be a violation of this section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Sec. 310.12 Violations and Penalties. Upon discovery of a suspected violation, the violator shall be issued a citation by the city police and given notice of his or her right to be heard on the accusation subject to the administrative penalty provisions of Chapter 1 of this Code. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. Any person found to be in violation of this section shall be guilty of a misdemeanor and shall also be subject to the maximum penalty authorized by State law for a misdemeanor.

Note: The pending State law will mandate administrative penalties with minimum fines. However, as the City has decided to adopt a comprehensive administrative penalty system, no additional language should be required here.

Sec. 310.13 Exceptions and Defenses. Nothing in this section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this section for a person to have reasonably relied on proof of age as described by State law.

SECTION 320 – PEDDLERS, SOLICITORS, and TRANSIENT MERCHANTS

Sec. 320.01 Definitions. Unless otherwise expressly stated, whenever used in this Section, the following words shall have the meaning given to them by this Section.

Peddler: Any person who goes from dwelling-to-dwelling, business-to-business, street-to-street, or 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.

Person: 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.

Solicitor: A person who goes from dwelling-to-dwelling, business-to-business, street-to-street, or 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 at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term "solicitor" shall mean the same as the term "canvasser."

Transient Merchant: Any person who engages in any temporary and transient business, either in one locality, or in traveling from place to place, selling goods, wares, and merchandise, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, vacant lot, or vehicle for the exhibition and sale of such goods, wares, and merchandise.

Sec. 320.02 Licensing of Solicitors, Peddlers, and Transient Merchants.

a. License. Except as otherwise provided for by this Section, no person shall conduct business as either a solicitor, peddler or a transient merchant without first having obtained a license from the City. Within seven (7) days after the expiration of a license the license must be returned to the Administrator.

b. Application. Application for a license to conduct business as a solicitor, peddler or transient merchant shall be made before the applicant desires to begin conducting business within City limits. Application for a license shall be made on a form provided by the City. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name, and any other names used or known by in the past.
- (2) All other names under which the applicant conducts business or which applicant officially answers.
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, etc.);
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operation(s) owned, managed, or operated by applicant, or for which

- the applicant is an employee or agent.
- (7) Full address of applicant's regular place of business (if any):
 - (8) Any and all business-related telephone number(s) of the applicant:
 - (9) The type of business for which the applicant is applying for a license.
 - (10) The dates during which the applicant intends to conduct business and the number of days her or she will be conducting business in the Township.
 - (11) Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the Township, including the location where a transient merchant intends to set up business.
 - (12) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
 - (13) A list of the 5 most recent locations where the applicant has conducted business as a peddler or transient merchant.
 - (14) Proof of any required county license.
 - (15) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
 - (16) A general description of the items to be sold or services to be provided.
 - (17) Any additional information deemed necessary by the Administrator.
 - (18) A list of all individuals to be covered by a group license.
 - (19) Source of items sold and the item's location at the time of licensing and time of sale.
 - (20) License plate and registration information for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
 - (21) Applicant's driver's license number or other acceptable form of identification.
 - (22) Recent passport style photograph of applicant.
 - (23) Applicant's social security number.
- c. License Fees. All applications for a license under this ordinance shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by resolution of the City Council. All fees should be paid to the City and said application should be delivered to the Administrator.
- d. Procedure. An application shall be determined to be complete only if all required information is provided. If the Administrator determines that an application is incomplete, then he or she shall inform the applicant of the information required to be provided prior to issuance of a license. The Administrator shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. The Administrator shall either approve or deny the license within seven (7) regular business days. If the application is approved the license shall be issued. If the application is rejected, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting, within twenty (20) days of the date of the denial, a public hearing to be heard by the City Council within twenty days (20) of the date of the request.
- e. Duration. A license granted under this Section shall be valid for ninety (90) days.

Sec. 320.03 License Exemptions. The licensing requirements of this Section shall not apply to:

- a. Any person selling or attempting to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm or garden. Such person must comply with the City's zoning ordinance and other applicable ordinances.
- b. Persons exercising that person's State or Federal Constitutional rights, except if that person's exercise of Constitutional rights is merely incidental to a commercial activity.

- c. Persons selling personal property at wholesale to retailers.
- d. Daily newspaper sales.
- e. Merchants or their employees delivering goods in the regular course of business.
- f. The sale of plants, flowers, cookies or Christmas trees by a non-profit group.
- g. Social, political and religious canvassing which does not include the sale of goods.

Sec. 320.04 Ineligibility for License. The following shall be grounds for denying a license under this Section:

- a. 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.
- b. 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 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; or
- c. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

Sec. 320.05 Suspension and Revocation.

City Council Action. Any license issued under this Section may be suspended or revoked by the Council for violation of any of the following:

- (1) Fraud, misrepresentation, or incorrect statements on the application form.
- (2) Fraud, misrepresentation, or false statements made during the course of the license activity.
- (3) Conviction of any offense for which granting of a license could have been denied under this Section.
- (4) Violation of any provision of this Section; or
- (5) 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.
- (6) Failure to return previously issued license to the City within seven (7) days after expiration of the license.

Notice. Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of the licensee's right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, the business address provided on the license application.

Public Hearing. Upon receiving the notice provided in Subdivision B of this Section, the licensee shall have the right to request a public hearing. If no request for a public hearing is received by the City within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of 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 timeframe, 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 City shall notify the licensee of its decision.

Emergency. If, in the discretion of the Administrator, imminent harm to the health or safety of the public may occur because of the actions of a peddler, solicitor, or transient merchant licensed under this Section, the Administrator may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subsection B of this Section.

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

Sec. 320.06 Transferability. No license issued under this Section shall be transferred to any person other than the person to whom the license was issued.

Sec. 320.07 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 the purpose of 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 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 tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

Sec. 320.08 Prohibited Activities. No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- a. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- b. Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public.
- c. Entering upon any residential premises for the purpose of carrying on the licensee's or registrant's trade or business between the hours of 6:00 p.m. and 9:00 a.m. of the following day, unless such person has been expressly invited to do so by the owner or occupant thereof.
- d. Failing to provide proof of license and identification when requested or using the license of another person.
- e. Failing to display the certificate of licensure provided by the Township on the licensed or registered individual's outermost clothing.
- f. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license to that person.
- g. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive
- h. Entering upon any premises or attempting to enter in or upon any premises wherein a sign or placard bearing the notice "peddlers or solicitors prohibited" or language similar thereto, is located.
- i. Selling or soliciting sales by transient merchants from public property or right-of-way or from private property unless they own the property or have written permission from the owner.

Sec. 320.09 Identification. All solicitors, peddlers and transient merchants must display identification conspicuously: showing their name and the organization for which they are soliciting or peddling and must display on their outermost clothing the license provided by the City.

The license issued by the City is the property of the City and must be returned to the City Administrator within seven (7) days after the expiration date of the license. Failure to do so will result in the denial of any future license application for 12 months.

CHAPTER 3 CHANGE RECORD:

11-15-21 Revising Chapter 3 to include Section 320 – Peddlers, Solicitors and Transient Merchants in its entirety.
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