

CHAPTER 290

RELATING TO THE LICENSING OF PEDDLERS, CANVASSERS AND TRANSIENT MERCHANTS AND PROVIDING PENALTIES

[History: Ord 370]

290.01 LICENSE REQUIRED. It shall be unlawful for any peddler, canvasser or transient merchant as defined in section 290.02 of this Chapter, engage in any such business within the City of Richland Center without first obtaining a license therefor in compliance with the provisions of this Chapter.

290.02 DEFINITIONS. (1) When used in this Chapter, the following terms shall have the following meanings:

(a) "Peddler" shall include any person, whether a resident of the City of Richland Center or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers. It shall not include vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes.

(b) "Canvasser" shall include any person, whether a resident of the City of Richland Center or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel or motel room, lodging house, apartment, shop or other place within the City for the primary purpose of exhibiting samples and taking orders for future delivery.

(c) "Transient merchant" shall include any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City of Richland Center or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box car, or boat, public room in a hotel or motel, lodging house, apartment, shop, or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm or corporation, who while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. the person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of associating temporarily with any local dealer, trader, merchant, auctioneer or resident or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant auctioneer or resident.

290.03 EXEMPTIONS. The terms of this Chapter shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the

acts of merchants or their employees in delivering goods in the regular course of business, nor shall the terms of this Chapter be held to include or apply to any farmer or truck gardener who shall vend, sell or dispose of, or offer to sell, vend or dispose of the products of the farm or garden occupied and cultivated by him. Nothing contained in this Chapter shall be held to prohibit any sale required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

290.04 APPLICATION. Applicants for a license under this Chapter must file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk which shall require the following information:

- (a) Full name, date of birth, physical description of applicant;
- (b) Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- (c) A brief description of the nature of the business and the goods to be sold;
- (d) If an applicant is an employee, the name and address of the employer, together with credentials therefrom establishing the exact relationship between the employer and the applicant;
- (e) The length of time for which the right to do business is desired;
- (f) The source of supply of the goods or property proposed to be sold, or for orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (g) A recent photograph of the applicant, which picture shall be approximately 2" by 2" showing the head and shoulders of the applicant in a clear distinguishing manner;
- (h) The names of at least two real property owners of Richland County, Wisconsin, who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to good character and business responsibility of applicant as will enable an investigator to properly evaluate such character and business responsibility;
- (i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor;
- (j) The last cities or villages, not to exceed three, where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities;
- (k) At the time of filing the application, a fee of \$2.00 shall be paid to the City Clerk to cover the cost of investigation of the facts stated therein.

290.05 RELIGIOUS AND CHARITABLE ORGANIZATIONS EXEMPT. Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money, or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose shall be exempt from the provisions of Sections .04,.07 and .08 of this Chapter, provided there is filed a sworn application in writing on a form to be furnished by the City Clerk which shall give the following information:

- (a) Name and purpose of the cause for which permit is sought;
- (b) Names and addresses of the officers and directors of the organization;
- (c) Period during which solicitation is to be carried on; Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization the Clerk shall issue a permit without charge to such organization,

association or corporation to solicit in the City. Such organization, association or corporation shall furnish all of its members, agents, or representatives conducting solicitation credentials in writing stating the name of the organization, the name of such agent and the purpose of the solicitation.

290.06 INVESTIGATION AND ISSUANCE. (1) Upon receipt of each application, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this section within 72 hours after it has been filed by the applicant with the Clerk.

(2) If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.

(3) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return the application to the City Clerk, who shall upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The Clerk shall keep a permanent record of all licenses issued.

290.07 FEES AND TAXES. (1) Every applicant for a license under this Chapter who owns real or personal property located within the City or Richland Center used primarily for the business for which license application is made and which property is on the tax rolls of the City of Richland Center or who is any agent or representative of a person, firm or corporation who owns property located within the City of Richland Center used primarily for the business for which license application is made and which property is on the tax rolls of the City of Richland Center shall pay the following license fees and taxes: \$1.00 per day, \$4.00 per week, \$10.00 per month or \$50.00 per year.

(2) Every applicant for a license under this Chapter who does not own real or personal property located within the City of Richland Center used primarily for the business for which license application is made and which property is not on the tax rolls of the City of Richland Center, or who is an agent or representative of a person, firm or corporation who does not own property located within the City of Richland Center used primarily for the business for which license application is made and which property is not on the tax roll of the City of Richland Center shall pay the following license fees and taxes: \$1.50 per day. \$6.00 per week, \$18.00 per month or \$90.00 per year.

(3) The annual fees herein provided shall be assessed on a calendar basis and on or after July 1st the amount of such fee for an annual license shall be one-half the amount stipulated above for the remainder of the year.

(4) None of the license fees, provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce.

Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume of business and such other information as the Mayor may deem necessary in order to determine the extent, if any, of undue burden on such commerce. The Mayor shall then conduct an investigation comparing applicant's business with other businesses and shall fix as the license fee for the applicant, and amount over and above the fee so fixed. In fixing the fee to be charged the Mayor shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by section 7 (a) and (b) of this Chapter.

(5) Any veteran who holds a special state license issued pursuant to section 129.02(2) of the Wisconsin Statutes shall be exempted from the securing of a license as provided herein but shall be required to comply with sections (9),(10) and (11) and shall be subject to the penalties provided in section 19 for violation of the applicable portions of the ordinance.

290.08 BOND. Every applicant not a resident of Richland County, Wisconsin, or who being such resident, represents a firm whose principal place of business is located outside the State of Wisconsin, shall file with the City Clerk a surety bond, running to the City in the amount of \$500.00 if license is issued for less than six months and \$1,000.00 if license is issued for six months or longer, with surety acceptable to and approved by the Mayor, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Richland Center and the statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and guaranteeing to any citizen of the City of Richland Center that all money paid as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing to any citizen of the City of Richland Center doing business with said solicitor, that the property purchased will be delivered according to the representations of the solicitor. Action on such bond may benefit, among others, the bond is given, but the surety may by paying, pursuant to order of the court, the face amount of the bond to the clerk of court in which suit is commenced, be relieved without costs of all further liability.

290.09 LOUD NOISES AND SPEAKING DEVICES. No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the street, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

290.10 USE OF STREETS. No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such street. For the purpose of this ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

290.11 EXHIBITION OF LICENSE. Licensees are required to exhibit their certificate of license at the request of a citizen or any law enforcement officer.

290.12 DUTY OF POLICE TO ENFORCE. It shall be the duty of the police of the City of Richland Center to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this Chapter

against any person found to be violating the same.

290.13 RECORDS. The Chief of Police shall report to the City Clerk all convictions for violations of this Chapter and the City Clerk shall maintain a record for each license issued and record the reports of violation therein.

290.14 REVOCATION OF LICENSE. (1) Licenses issued under the provisions of this Chapter may be revoked by the Common Council of the City of Richland Center after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for license;
- (b) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
- (c) Any violation of this Chapter;
- (d) Conviction of any crime or misdemeanor;
- (e) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a license shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

290.15 APPEAL. Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit or license as provided in section 290.05 of this Chapter or the action of the Mayor in the assessing of the fee as provided in section 290.06(c) of this Chapter shall have the right to appeal to the Common Council of the City of Richland Center. Such appeal shall be taken by filing with the Common Council within fourteen days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 290.14 of this Chapter for notice of hearing on revocation.

290.16 REAPPLICATION. No licensee whose license has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous revocation.

290.17 EXPIRATION OF LICENSE. All annual licenses issued under the provisions of this Chapter shall expire at midnight the 31st day of December in the year when issued. Other than annual licenses shall expire at midnight on the date specified in the license.

290.18 PENALTY. Any person, firm or corporation that shall violate any of the provisions of this Chapter shall forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) together with the cost of prosecution and any applicable penalty assessment, and in default of payment of such forfeiture, costs of prosecution and assessment, shall be imprisoned in the County Jail until said fine and costs of prosecution shall be paid but not to exceed 90 days. Each day that a violation of any of the provisions of this Chapter occurs shall constitute a separate offense.

290.19 SEVERANCE CLAUSE. The provisions of this Chapter are declared to be severable and if any section, sentence, clause or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Chapter but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the invalidity of any part hereof.

290.20 EFFECTIVE DATE. The provisions of this Chapter shall take effect August 1, 1950.