

CHAPTER 15. OTHER LICENSES

SECTION 15.01 CIGARETTE LICENSE

- (1) No person shall in any manner, upon any premises, or by any device directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes to any person not holding a license or a permit as herein provided under s. 139.30 to 139.41, Wis. Stats., without first obtaining a license from the City Clerk.
- (2) Upon filing of a properly written application stating the name of the person and the place for which such license is desired, such licenses shall be issued on July 1st of each year or when applied for and continue in force until the following June 30th unless sooner revoked. The fee for such license shall be \$25.00 which shall be paid to the City Treasurer before the license is issued.
- (3) Each such license shall name the license and specifically describe the premises where such business is to be conducted. Such licenses shall not be transferable from one person to another nor from one premises to another.
- (4) Every person holding such license shall keep complete and accurate records of all purchases and receipts of cigarettes. Such records shall be preserved on the licensed premises for two (2) years in such a manner as to ensure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by any employee of the City Police Department.
- (5) Any person violating this section shall be fined not more than \$100.00 nor less than \$25.00 for the first offense and not more than \$200.00 nor less than \$25.00 for the second or subsequent offenses.

SECTION 15.02 LICENSES FOR NON-INTOXICATING AND SODA WATER BEVERAGE

(1) Definitions

- (a) The phrase “non-intoxicating liquors” shall be deemed to include all liquors, liquids, or compounds whether medicated, proprietary, patented, or not by whatever name shall call fit for beverages purposes containing less than $\frac{1}{2}$ of 1% of alcohol by volume.
- (b) The term “soda water beverage” means and includes all such beverages known as soft drinks, soda water, carbonated or un-carbonated or sweetened or flavored and mineral or spring waters, carbonated or un-carbonated; and shall not include strong, spirituous, vinous, malt, ardent, or intoxicating liquors.

(2) License Required

No person, firm or corporation shall maintain, operate or conduct within the City of Mondovi the business of selling non-intoxicating liquor or soda water beverages either at retail or at wholesale without first preparing a license to do so as provided in this section.

(3) Licenses

- (a) Application for license shall be made and filed with the City Clerk for a presentation to the Common Council at any regular or special meeting thereof. Such application shall state the location at which said business is intended to be conducted; whether the applicant has within three (3) years to the date of his/her application been licensed to sell non-intoxicating liquors in this state and if so where he/she conducted such business; and whether the applicant has been convicted of a felon or if violating any law or ordinance of any City regulating the conduct of his/her business.
- (b) Upon filing of a proper written application and upon approval by the Common Council such licenses shall be issued on July 1st of each year or when applied for and continue in force upon the following June 30th unless sooner revoked. Such license shall designate the specific premises for which granted, the fee for such license shall be \$10.00. The full license fee shall be charged for the whole or fraction of the year.
- (c) No license shall be granted to any person, unless to a domestic corporation, not a citizen of the U.S. and of this state and a resident of the City of Mondovi, nor to any person who has been convicted of a felony, unless such person has been restored to civil rights.
- (d) In case of removal of the place of business from the premises designated in the license to another location in the City within the license period, the licensee shall give notice of such change of location and the license shall be amended accordingly without payment of additional fee. No license shall be transferrable from one person to another.
- (e) Every such application shall provide that the applicant shall be deemed to have consented to the entry on the licensed premises of any Police Officer of the City of Mondovi at all reasonable hours without warrant for purpose of search and inspection and articles, substance and liquids then had or possessed on such licensed premises in violation of this section and have consented to the introduction of such things, articles, liquids or substances in evidence in any prosecution that may be brought under the provisions of this section.
- (f) All persons granted licenses under this ordinance shall cause such licenses to be prominently and permanently displayed in their place of business.

(4) Revocation

Upon complaint made in writing under oath by any resident in and filing with the Clerk of the City of Mondovi that such licensed person therein has violated any provisions of this section or keeps or maintains a disorderly or riotous, indecent or improper house or that he/she has not observed and obeyed any lawful order of the Common Council or any police officer, the Common Council shall issue a summons

to be signed by the Clerk directed to any peace officer commanding the person so complained of to appear before them on a day and at a place as such the summons named, not less than three (3) nor more than ten (10) days from its date, and shall cause why his/her license shall be revoked. Such summons shall be served at three (3) days before the time at which such person is commanded to appear, and may be served either personally or upon the person in charge of the place to which such license relates.

(5) Penalty

Any person convicted of violating any of the provisions of this section shall be punished by a fine of not less than \$5.00 nor more than \$100.00.

SECTION 15.03 SALES BY TRANSIENT MERCHANTS

(Amended 05/1991)

(1) Registration Required

It shall be unlawful for any transient merchant to engage in sales within the City of Mondovi without first being registered for that purpose as provided herein.

(2) Definitions

In this ordinance:

- (a) "Transient merchant" means any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place.
- (b) "Sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conduct by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by resident of this state.
- (c) "Permanent Merchant" means any person who, for at least six (6) months prior to the consideration of the application of this ordinance to said merchant has continuously operated an established place of business in the local trade area among the communities bordering the place of sale or has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.
- (d) "Merchandise" shall include personal property of any kind and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.
- (e) "Charitable Organization" shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association, or corporation, or one purporting to be such.
- (f) "Clerk" shall mean the City Clerk.

(3) Exemptions

The following shall be exempt from all provisions of this ordinance:

- (a) Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on an established route; or
- (b) Any person selling merchandise at wholesale to dealers in such merchandise; or
- (c) Any person selling agricultural products which the person has grown; or
- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business; or
- (e) Any person who has established a place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person; or
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction such as a prior sale or credit arrangement with the prospective customer; or
- (g) Any person selling or offering for a sale a service unconnected with the sale or offering for sale merchandise; or
- (h) Any person holding a sale required by statute or by order of any Court and any person conducting a bona fide auction sale pursuant by law; or
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under s. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under s. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements shall be required to register under this ordinance; or
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the Clerk proof that such person has leased for at least on year, or purchased, the premises from which he/she has conducted business in the market area for at least six months prior the date the complaint was made; or
- (k) Any individual licensed by an examining board as defined in s. 15.01 (7) Wis. Stats.
- (l) This ordinance does not apply to transient merchants while doing business at special events authorized by the City Council.

(4) Registration

- (a) Applicants for registration must complete and return to the clerk a registration form furnished by the Clerk which shall require the following information:
 - (i) Name, permanent address, and telephone number and temporary address if applicable; and
 - (ii) Age, height, weight, color of hair and eyes; and
 - (iii) Name, address, and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold; and

- (iv) Temporary address and telephone number from which business will be conducted if applicable; and
 - (v) Nature of business to be conducted and a brief description of the merchandise and services offered; and
 - (vi) Proposed methods of delivery of merchandise if applicable; and
 - (vii) Make, model, and license number of any vehicle to be used by applicant in the conduct of his/her business.
 - (viii) Most recent cities, villages, and towns, not to exceed three (3) where the applicant conducted his/her business.
 - (ix) Place where the applicant can be contacted for at least seven (7) days after leaving this City.
 - (x) Statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, and the nature of the offense and the place of conviction; and
 - (xi) Wisconsin Seller's Permit is such permit is required by Wis. Stats.
- (b) Applicants shall present to the Clerk for examination;
- (i) A driver's license or some other proof of identity as may be reasonably required; and
 - (ii) A state certificate of examination and approval from the sealer of weights and measures where applicants business requires use of weighing and measuring devices approved by the state authorities.
 - (iii) A state Health Officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from contagious or infectious disease, dated not more than 90 days prior to the date the application license was made.
- (c) At the time the registration is returned, a fee of \$100.00 shall be paid to the clerk to cover the cost of processing and said registration.
- (i) The applicant shall sign a statement appointing the Clerk his/her agent to accept service of process in any civil action brought against the application arising out of any service, sale, or service performed by the applicant in connection with the direct sales activities of the applicant in the event the application cannot, after reasonable effort, be served personally.
 - (ii) Upon payment of said fee and the signing of said statement, the Clerk shall, not later than the beginning of the fourth business day after payment and signing, register the applicant as a transient merchant and date the entry. The waiting period shall be for the purpose of allowing the investigation and report to take place pursuant to Section (5) (a). Said registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in Sec. (5) (b) below.

- (d) Based on health and safety implications of food items and in accordance with state health officers' certification requirements found under 15.04 (b) (3) a fee of \$100.00 shall be paid to the clerk to cover the costs of processing said registration for transient merchants engaging in the selling of food items.
 - (i) The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the application arising out of any sale or service performed by the applicant, in the event the applicant, after reasonable effort, cannot be served personally.
 - (ii) Upon payment of said fee and the signing of said statement, clerk shall, not later than the beginning of the 4th business day after signing the payment, register the applicant as a transient merchant and date the entry. The waiting period shall be for the purpose of investigation and report to take place pursuant to Sec. (5) (a). Said registration shall be valid for only a period of ninety (90) days from the date entry, subject to subsequent refusals provided in Sec. (5) (b) below.
 - (iii) Upon each registration processing, an updated State Health Certificate must be provided in order to verify and assure the health, safety, and welfare of Mondovi residents.

(5) Investigation

- (a) Upon receipt of such application, the Clerk may refer it immediately to the chief of police who may make and complete an investigation of the statement made in such registration.
- (b) The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the application by authorities in the most recent cities, villages, and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation, or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provisions of section (4) (b) above.

(6) Appeal

Any person refused or denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the common council, or if none had been adopted under the provisions of s. 68.07 through 68.16, Wis. Stats.

(7) Regulation of Transient Merchants

(a) Prohibited Practices

- (i) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment;

calling at any dwelling or other place where a sign is displayed bearing the words “No Peddlers”, “No Solicitors”, or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

- (ii) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (iii) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (iv) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100 ft. radius of the source.
- (v) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements

- (i) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identify of merchandise or services he/she offers to sell.
- (ii) If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in s. 423.203 Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of s. 423.203 (1) (a) (b) and (c) (2) and (3), Wis. Stats.
- (iii) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

(8) Records

The chief of Police shall report to the Clerk all convictions for violation of this ordinance and the Clerk shall note any such violations on the record of the registrant convicted.

(9) Revocation of Registration

- (a) Registration may be revoked by the Common Council after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive, or misleading statement or representation on the course of engaging in transient sales, violated any provision of this ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.
- (b) Written notice of the hearing shall be served personally or pursuant to (4) (c) above on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

(10) Penalty

Any person adjudged in violation of any provisions of this ordinance shall forfeit not less than ten (10) dollars nor more than one thousand dollars for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense.

(11) Effective Date

This ordinance shall take effect upon passage and publication

(12) Severance Clause

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

SECTION 15.04 LICENSURE OF JUNK DEALERS

(Amended 08/1998)

(1) Definitions

- (a) "Junk" means, without limitation because of enumeration hereinafter, waste paper, scrap, machines and machine parts, rags, metal, glass, paper, cardboard, packaging or other similar materials.
- (b) "Junkyard" means any premises used for the placement of or storage of worn-out or discarded materials (junk), motor vehicle junk whether purchased, donated, or abandoned.
- (c) "Junk dealer" means a person who engages in, keeps, conducts, or carries on a business for the purpose of collecting and selling junk, who is not licensed by the State to operate nor is operating a licensed solid waste disposal facility.
- (d) "Motor Vehicle" shall have the definition set forth in s. 10.01 (1) (c), of this Code.

- (e) “Motor Vehicle Junk” means any junked motor vehicle or part thereof accumulated for storage or stored outside for any building, but shall not include the temporary storage of motor vehicles no longer than required for the making of accident settlements, where no salvage, dismantling, demolition or abandonment of such motor vehicles occurs they are ultimately transferred to a junk dealer, or to another entity for repair.
- (f) “Motor vehicle junk dealer” shall mean a person, firm, partnership or corporation which accumulates or stores any junked motor vehicle or part thereof outside of any building.
- (g) “Person” means any natural person, firm, corporation, partnership, proprietorship or other entity.

(2) Purpose

This Ordinance is deemed to be in the interest of the public health, welfare and safety for the purpose of regulating operations of and licensing junk dealers in the City.

(3) State Law Adopted by Reference

To the extent that it has not been altered under this Ordinance, S. 175.25 Wis. Stats. is adopted by reference as if set forth in its entirety.

(4) License is Required

It is unlawful for any person to operate as a junk dealer or motor vehicle junk dealer for the purpose of buying, selling, or trading in junk or motor vehicle junk for the purpose of accumulating junk or motor vehicle junk at any place within the corporate limits of the City without first obtaining a license thereof as hereinafter provided. No premises may be maintained in connection with such an operation except in strict accord with all applicable provisions in the Zoning Ordinances of the City.

(5) License Fees and Additional Licenses

The license fee hereunder shall be \$100.00 per year or part thereof. Separate licenses shall be required for each junkyard maintained on a separate and legally described premises.

(6) License Terms and Conditions

- (a) The license year shall run from July 1st to June 30th. Applications for licenses hereunder shall be filed, together with the license fee, with the City Clerk on or before May 31st of each year, for the license year beginning the following July 1st.
- (b) All licenses issued hereunder shall be issued by the City Clerk and shall specify the location of the premises licensed.
- (c) No license issued hereunder shall be transferred to another person nor shall the described premises on which junkyard operations are authorized to be conducted shall be changed.
- (d) No licensee hereunder shall purchase any junk or motor vehicle junk as herein defined, except old rags and waste paper from any minor under 18 years of age, without the written consent of the parent or guardian.

(7) License Revocation and Hearing

Any license issued hereunder may be revoked or suspended at any time by the Common Council after a hearing at which it has been found that the licensee has failed or refused to comply with the provisions of this chapter. Such hearing may be held by the Common Council upon its own motion or upon the complaint writing duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with the provisions hereof. A copy of the complaint, together with a notice of hearing, shall be served upon the licensee not less than ten (10) days previous to the date of the hearing.

(8) License Must be Displayed

Each licensed junk dealer and motor junk dealer shall display his/her/its license at all times in a conspicuous place on the licensed premises.

(9) Junk Hauling Regulations

Any truck, wagon, or other motor vehicle used in collection or hauling junk or automobile junk shall be of such construction and shall be operated so that there is no spilling, dropping, or scattering of any material therefrom along the streets, alleys or public ways of the City.

(10) Storage Regulations

(a) Unbaled paper and rags shall be stored at all times inside enclosed buildings.

(b) Junk and motor vehicle junk shall be stored at all times as follows:

(i) When stored outside of enclosed buildings:

- (1) In areas fenced from view of person walking or riding upon adjacent sidewalks or streets, said fences being of standard design, construction and finish and certified as having been approved by the city building inspector.
- (2) In areas complying with (a) above, neatly arranged in rectangular rows, all materials being easily accessible and such rows being separated according to type of material contained therein.

(ii) When stored inside enclosed buildings in compliance with State and City building codes and in compliance with all other applicable provisions of law and ordinance.

(c) Junk and motor vehicle junk shall be stored in such a manner as not to create a public nuisance.

(11) Violation and Penalty

Any person violating any of the provisions hereof shall, on conviction thereof, forfeit not exceeding \$25.00 for each violation together with the costs of prosecution and in default of the payment of such forfeiture and costs shall be imprisoned in the county

jail for a term of not more than 30 days. Each day that a violation of this chapter continues shall be deemed a separate offense.