

## **Chapter 50 LICENSES\***

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\***Cross reference(s)**--Movers license, § 10-221; business license for collection and disposal of solid waste, § 70-81 et seq.; taxicab vehicle license, § 102-56 et seq.; horse-drawn vehicle for hire licenses, § 102-161 et seq.

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### **ARTICLE I. IN GENERAL**

#### **Sec. 50-1. Definitions.**

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business activity* means any action acts of buying, selling, leasing, renting, or otherwise marketing, any goods, services, merchandise or commodities of any kind or description, whether or not conducted from a business establishment.

*Business establishment* means any lot, building or structure, or a part thereof, including, without limitation, leased or occupied space in a mall, store or building, permanently located within the corporate limits of the city, from which a person engages in or causes to be engaged in any act or acts of buying, selling, leasing, renting, or otherwise disposing of, performing or marketing, any goods, services, merchandise or commodities of any kind or description.

(Ord. No. 1166, § 1(5-2), 8-11-1998)

**Cross reference(s)**--Definitions generally, § 1-2.

#### **Sec. 50-2. Penalties and remedies.**

Any person violating any of the provisions of this chapter shall be responsible for a civil infraction. Each day on which any violation of this chapter shall continue shall constitute a separate offense. The city may utilize injunctive remedies to prevent further violations of this chapter and to require compliance with this chapter.

(Ord. No. 1166, § 1(5-17, 5-18), 8-11-1998)

#### **Sec. 50-3. Provisions complementary and supplemental.**

The provisions of this chapter, together with other relevant provisions of any other ordinance, or provisions authorized or required by state or federal law relative to business establishments or activity as defined in this chapter, shall be construed to be complementary and supplemental and, unless otherwise prescribed or inconsistent herewith, shall constitute a part of the regulations and conditions of certificates of registration under this chapter.

(Ord. No. 1166, § 1(5-1.2), 8-11-1998)

#### **Sec. 50-4. Moral character.**

- (a) In this chapter the phrase "good moral character" shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.
- (b) A judgment of guilt is a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:
  - (1) At the current time he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and
  - (2) Such person is rehabilitated, or that the substance of the former offense is not reasonable related to the occupation or profession for which he seeks a license or permit.

**State law reference(s)**--Moral character, MCL 338.41 et seq.

Secs. 50-5--50-30. Reserved.

## **ARTICLE II. REGISTRATION**

### **Sec. 50-31. Purpose.**

This chapter, concerning the registration of businesses in the city, is enacted to protect the health, safety and welfare of persons in the city by providing the city with the information necessary to ensure compliance with safety, structure and fire laws, identify business activities and establishments which affect or involve matters related to traffic, congestion, occupancy and density of occupancy, the presence, storage and handling of hazardous materials, the physical condition of places where persons are employed or carry on trade, and the enforcement of the law, including local, state and federal laws, rules and regulations, applying to the business activities and establishments located in the city.

(Ord. No. 1166, § 1(5-1.1), 8-11-1998)

### **Sec. 50-32. Required.**

No person shall operate or conduct, maintain or manage any business establishment, or carry on business activity within the corporate limits of the city without first obtaining a certificate of registration in the manner provided in this chapter. Any person licensed under a similar previous ordinance on the effective date of Ordinance No. 1166 shall be deemed registered hereunder for the balance of the current license year designated in this chapter. Persons with valid licenses for taxicabs, taxi driver's permit, or horse drawn vehicles shall not be required to register under this chapter.

(Ord. No. 1166, § 1(5-3), 8-11-1998)

### **Sec. 50-33. Application procedure.**

An applicant for a certificate of registration shall make application to the city clerk on a form prescribed by the city clerk, which shall contain at least the following

information:

- (1) The full names, business addresses and residence addresses of the owners, proprietors, officers and local addresses of all owners, proprietors and officers and managers of the applicant's business; the names and addresses of each officer, if the applicant is a corporation; the names and addresses of all partners, if a partnership; and members, if a limited liability corporation.
- (2) The nature and character of the business which is conducted at the business establishment.
- (3) A list of all assumed, trade or firm names under which the registered applicant intends to do business.
- (4) The location or locations of the business establishment and the location of all personal property utilized in the conduct of the business.
- (5) The name, telephone number and address of the person to notify in the event of an emergency.
- (6) Each application shall have attached a current fire safety audit worksheet or a document substituted by the city containing the same information. This form must be approved and signed by the personnel from the city fire department's fire prevention bureau, or successor division or bureau.

(Ord. No. 1166, § 1(5-15), 8-11-1998)

**Sec. 50-34. Terms.**

Each certificate of registration issued pursuant to this chapter shall be of a duration not to exceed one year and shall terminate on May 1, following issuance thereof.

(Ord. No. 1166, § 1(5-4), 8-11-1998)

**Sec. 50-35. Renewal.**

- (a) Any certificate of registration issued under this chapter must be renewed in the manner set forth in this article on or before May 1 of each year of existence of the business establishment or activity.
- (b) Applications for renewal of a certificate of registration shall be filed, considered and issued in the same manner as an original application.

(Ord. No. 1166, § 1(5-5, 5-16), 8-11-1998)

**Sec. 50-36. Fees.**

The fee for a certificate of registration and the fees for annual renewals thereof shall be set from time to time by resolution of the city commission. The city commission reserves the right, upon proper application, to authorize the issuance of certificates of registration without fee or cost for any nonprofit tax exempt organization. Registration fees not paid within 30 days of the due date will be subject to a late fee of \$15.00 per month for each month up to a maximum of six months, at which time all fees and late

fees are due and then a civil infraction violation may be issued each day thereafter until the registration is submitted and fees are paid.

(Ord. No. 1166, § 1(5-6), 8-11-1998)

**Sec. 50-37. Display.**

Any certificate of registration issued pursuant to this chapter shall be prominently displayed in the business establishment.

(Ord. No. 1166, § 1(5-7), 8-11-1998)

**Sec. 50-38. Transferability.**

No certificate of registration issued pursuant to this chapter shall be transferable. Material changes in operation or ownership of businesses shall require new certificates of registration.

(Ord. No. 1166, § 1(5-8), 8-11-1998)

**Sec. 50-39. General conditions for issuance and continuing in effect.**

- (a) *Compliance with other governmental requirements; preemption.* No certificate of registration shall be issued or continued in effect for any person who is required to obtain a license or permit from the United States of America, the state, or the county, until such person shall submit evidence that the required license or permit has been issued and continues in force, and that all fees pertaining to such license or permit have been paid. The fact that a person has received a license or permit from the United States, the state, the county, or other governmental entity for the business activities or establishment involved shall not exempt such person from the requirements of this chapter unless these requirements are clearly preempted by federal or state law.
- (b) *Compliance with all other laws.* A holder of a certificate of registration must be in continuing compliance with all local, county, state and federal laws as a condition of issuance or continued effect of a certificate of registration under this chapter.
- (c) *Conditions and activities on the premises.* The holder of a certificate of registration shall maintain a clean, neat and orderly establishment, take reasonable steps to provide security on the premises, and prevent unlawful conduct thereon.
- (d) *Advertising sales as executors, receivers, close-out, damaged goods, etc.* No person shall advertise or represent that any sale is an assignee's, executor's, administrator's, personal representative's, mortgagee's, receiver's, or closing-out sale of goods, or of goods, wares and merchandise damaged by fire, smoke, water or otherwise, unless he shall at the time of applying for a license, make and file with the city clerk an affidavit showing all facts in regard to the sale which he proposes to conduct, including a true statement of the names of the persons from whom the goods to be sold were obtained, the date of the delivery of such goods to the licensee, the place from which such goods were brought, and all details necessary to fully identify the goods.
- (e) *Engaging in fraudulent conduct.* A certificate of registration may be revoked if the

holder is found to have engaged in fraudulent business practices, misrepresented the nature of the goods or services offered to the public, or has violated the consumer protection act of the state, the retail installment sales act of the state, or any other federal or state statute or law concerning business practices.

- (f) *Payment of amounts owed city.* All personal property taxes and outstanding debts to the city, including without limitation fees for inspections or property services, water or sewer bills, civil infraction fines applicable to the business or its premises, current special assessment installments, but not including real property or income taxes, due at the time of issuance or renewal of a certificate related to the business activity or establishment must be paid in full.
- (g) *Standards for licenses.* Particular standards for licensees under this chapter may be determined, pursuant to subsection 50-40(b), from time to time in the form of regulations adopted by the city commission which shall be appended to the certificate of registration. The violation of such regulations will constitute a violation of this chapter.
- (h) *Standards in chapter.* Each holder of a certificate of registration shall comply with the requirements found in additional applicable articles of this chapter.

(Ord. No. 1166, § 1(5-9), 8-11-1998)

#### **Sec. 50-40. Additional conditions for issuance.**

- (a) *Compliance with applicable codes and regulations.* Any person applying for or holding a certificate of registration under this chapter shall demonstrate to authorized city personnel that the business establishment registered under this chapter complies with all construction and fire and safety codes of the city, all applicable health and safety laws, zoning laws and environmental laws and regulations of the city, the county, the state, or the United States, and including all provisions of this chapter. Further, affiant shall comply with special conditions promulgated pursuant to subsection (b) of this section.
- (b) *Special conditions.* In connection with the registrations pursuant to this chapter, regulations which are particularly adapted and appropriate to the business activity or establishment so registered, shall be promulgated by the city, approved by the city commission, and attached to or printed upon the registration issued. Such attachments and adoptions shall not be required for codes, ordinances and other regulations of general applicability which are in effect from time to time in the city and which affect the registered business. These regulations shall be uniform for all businesses of the same type and description.

(Ord. No. 1166, § 1(5-13), 8-11-1998)

#### **Sec. 50-41. Inspections.**

Every business establishment registered shall afford authorized personnel from the city full access to the premises and the emergency plan records of the business for the purpose of inspection to determine compliance with the registration which has been issued, for determination in connection with the application for the issuance of the registration, and to determine continuing compliance with all ordinances, codes and

statutes applicable to the premises, the business establishment or the business activity. In the case of a proposed revocation or suspension, the holder of the registration shall afford reasonable opportunity for inspection by the city.

(Ord. No. 1166, § 1(5-14), 8-11-1998)

**Sec. 50-42. Use of streets for business purposes.**

Certificates of registration issued under this chapter or other ordinances shall not be construed as granting the right to park a vehicle at the curb for a longer period than is necessary to make deliveries. Persons who wish to sell or demonstrate articles while parked at the curb, or who desires to use the streets exclusively for their business, except as otherwise provided in this Code, shall make application to the city.

(Ord. No. 1166, § 1(5-10), 8-11-1998)

**Sec. 50-43. Denial, revocation and suspension.**

Holders of a certificate of registration applied for under this chapter may be denied, suspended, or revoked by the city clerk for any of the following causes:

- (1) The violation of any of the conditions of issuance or continuation of a certificate of registration.
- (2) Fraud, misrepresentation or any false statement made in the application.
- (3) Fraud, misrepresentation or any false statement made in the operation of the business.
- (4) Failure to pay personal property taxes, or timely file documentation or returns required for such taxes.
- (5) Failure to pay any outstanding amounts owed the city (such as fees for inspections or property services, water or sewer bills, civil infraction fines applicable to the business or its premises, current special assessment installments, etc.).
- (6) Failure to pay registration fees imposed pursuant to this chapter and resolution of the city commission.
- (7) Conducting a business in an unlawful manner or in such manner as to constitute a breach of peace or to constitute a menace to the health, morals, safety or welfare of the public.
- (8) Failure or inability of an applicant to meet and satisfy any of the requirements and provisions of this chapter.
- (9) Failure to allow inspection of the business premises or hazardous material storage records at a reasonable time.

(Ord. No. 1166, § 1(5-11), 8-11-1998)

**Sec. 50-44. Procedure for revocation or suspension.**

- (a) Written notice of suspension or revocation stating the cause or causes therefor shall be personally delivered or mailed to the address as shown in the

application.

- (b) Any person whose certificate or registration is revoked or suspended, or any person whose application is denied, shall have the right to a hearing before the city manager, or a hearing officer appointed by the city manager, provided a written request therefor is filed with the city clerk within ten days following the mailing of a notice of revocation or suspension, or within ten days following the denial of the application. The hearing shall be public, a record shall be made and preserved, and the person or applicant shall have the right to counsel. The hearing shall be held within 30 days of the filing of the request.
- (c) The city manager may reverse or affirm any determination to deny, revoke or suspend the issuance of a certificate of registration. No person may carry on or operate a business establishment or any business activity during any time when the certificate of registration for such activity or business has been suspended, revoked or denied, except that the filing of an appeal to the city manager or, subsequently, to a court having jurisdiction, shall act to stay a suspension or revocation except in the event a condition threatening the life, health or safety of any person exists in the business establishment or is involved in the business activity. The action of the city manager and his or her reasons therefor shall be stated in writing.
- (d) Any person aggrieved after decision by the city commission designee shall have the right of review in the circuit court for the county. The circuit court shall review the determination made by the city manager de novo on the record, not more than 21 days after the city manager's final action, and either reverse or affirm by remand for further findings, retaining jurisdiction in its discretion.

(Ord. No. 1166, § 1(5-12), 8-11-1998)

Secs. 50-45--50-70. Reserved.

### **ARTICLE III. DANCES AND DANCE HALLS**

#### **Sec. 50-71. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Municipal dance* means any teenage dance which is sponsored by the department of leisure services of the city.

*Person* means any person, copartnership, firm, corporation, society, club, organization or association sponsoring or conducting any public or teenage dance.

*Public dance* means any dance to which admission is granted by payment of a fee, or by purchase, possession or presentation of a ticket or token, obtained for any consideration, or in which a charge is made for checking clothing or other property, or any other dance to which the general public may gain admission, with or without payment of a fee.

*Public dance hall or area* means any hall, room or any other place at which a

public or teenage dance shall be held.

*Teenage dance* means any dance where admission is granted exclusively to minors, 13 to 19 years of age inclusive, and to which all such general teenage public may gain admission, with or without payment of a fee.

(Code 1975, § 5-134; Ord. No. 1166, § 1(art. IV), 8-11-1998)

**Cross reference(s)**--Definitions generally, § 1-2.

#### **Sec. 50-72. Penalties.**

Any person violating the provisions of this article concerning licensing of dances and dance halls shall be responsible for a civil infraction.

(Code 1975, § 5-141; Ord. No. 1166, § 1(art. IV), 8-11-1998)

#### **Sec. 50-73. Application of article.**

The provisions of this article are intended to apply to public and teenage dances, and such provisions shall not apply to any dances given in private homes or by any religious, charitable, fraternal or other society, association or organization, where the attendance is restricted to the members of such religious, charitable, fraternal or other society, association or organization. Municipal dance sponsors, or the sponsors of any public or teenage dance, when such dance is sponsored by any of the public or parochial schools of the city, or the student bodies thereof, or by religious or charitable organizations, including the YMCA and YWCA, shall be exempted from paying any license fee as required in section 50-74, but shall be required to make application as stated in section 50-74 and shall be subject to all other restrictions, limitations and provisions contained within this article.

(Code 1975, § 5-135; Ord. No. 1166, § 1(art. IV), 8-11-1998)

#### **Sec. 50-74. Licenses and permits.**

- (a) It shall be unlawful for any person to hold a public or teenage dance in any place within the limits of the city until such place in which the dance is to be held shall first be licensed for that purpose. The owner, operator or sponsoring organization of a such public or teenage dance or public dance hall shall apply to the city clerk for a license, which application shall be made in the form and manner required by the city clerk. Before any license is granted, the application shall be approved by the chief of police and the city manager.
- (b) Upon the approval of the application for a license under this section by the chief of police and the city manager, the applicant shall pay to the city treasurer the sum specified by resolution of the city commission for each and every public or teenage dance conducted or held by the applicant, which fee shall be paid to the city treasurer at least one day previous to the day on which any such dance is to be conducted or held, or the applicant shall pay the annual fee as prescribed by resolution of the city commission. Any annual license issued under this article shall expire on April 30 following the issuance of such annual license.
- (c) No license for any public or teenage dance or dance hall shall be issued until the city manager, or other duly authorized city officials appointed by the city

manager, shall inspect the premises and determine that such place where the dance is to be held complies with and conforms to all ordinances and health and fire regulations of the city, and that such place is properly ventilated and supplied with adequate toilet conveniences, and is a safe, sanitary and proper place for the purposes for which it is to be used.

- (d) Upon the approval of the application for a license under this section, the city clerk shall issue the license and the person in charge of conducting or sponsoring the public or teenage dance shall post the license in a conspicuous place in or about the area in which the dance is to be held.
- (e) The license for any public or teenage dance or dance hall may be suspended or revoked by the city manager for disorderly or immoral conduct therein, or for the violation of any of the provisions set forth in this article, or in any ordinance, law or regulation affecting such dance hall or dance; and such dance hall may be entered for inspection at any time by the city manager or any member of the police department or any other person duly authorized by the city manager for that purpose. Any police officer may cause any such dance to be discontinued and the dance hall vacated during the progress of the dance for any reason for which a license may be suspended or revoked, and if any license granted under the provisions of this section shall be suspended or revoked as provided in this article, at least six months shall lapse before another license is issued to the person having made application therefor.
- (f) It shall be unlawful for any person to hold any public or teenage dance in any place other than one licensed for such purpose, without having first obtained a permit therefor from the city manager, and no person having been granted such license, who fails to enforce at such dances the requirements of any statute or ordinance relative to such dances and public dance halls, shall be granted a second permit within six months from the date of such dance. Any failure or neglect, on the part of a manager, proprietor or other person in charge of any place used for such dances, to secure the required license or permit shall be subject to the penalty provided in section 50-20. Failure of the owner of the premises upon which such dance is held to ascertain that the license has been issued to the sponsoring organization shall subject such owner to the same penalties as provided in this section.

(Code 1975, § 5-136; Ord. No. 1166, § 1(art. IV), 8-11-1998)

#### **Sec. 50-75. Floor manager; prohibited conduct.**

Whenever any public or teenage dance is conducted in the city, a floor manager shall be present at all times, as well as other adult supervision to be determined and approved by the chief of police upon his investigation of the application for the license under this article. No licensee, by himself, directly or indirectly or by any servant, agent, employee or floor manager, shall:

- (1) Permit any disorderly conduct or any language that will cause an immediate breach of the peace.
- (2) Permit the licensed premises to become a resort for disorderly persons of any type.
- (3) Permit smoking in the area designated for dancing.

- (4) Permit gambling or the use, possession or presence of gambling paraphernalia on the premises.
- (5) Permit overcrowding in the area designated for dancing. For purposes of this subsection, "overcrowding" shall mean any number of persons in excess of the maximum number approved for the hall or place by the city fire department.
- (6) Permit any person under the influence of intoxicating liquor or narcotics to participate in, be admitted to, or remain on the premises.
- (7) Employ any person who is under the age of 18 years.
- (8) Permit the possession or use of any alcoholic liquor on the premises, nor shall the licensed premises be accessible in any way to any place where alcoholic liquor is sold, distributed or given away. This prohibition shall not apply while a state liquor commission special beer and wine license is in effect at the licensed premises.

(Code 1975, § 5-137; Ord. No. 1166, § 1(art. IV), 8-11-1998)

**Sec. 50-76. Closing hours.**

All public dances and public dance halls shall be closed between the hours of 2:00 a.m. and 7:00 a.m.. All such dances and dance halls shall be closed on or before 2:00 a.m. on Christmas Day and remain closed until 7:00 a.m. of the following day.

(Code 1975, § 5-138; Ord. No. 1166, § 1(art. IV), 8-11-1998)

**Sec. 50-77. General restriction as to admission of persons under seventeen.**

No person under the age of 17 years shall be admitted to or allowed to remain at a public dance or in a public dance hall after 9:00 p.m. of any day, unless accompanied by a parent or legal guardian. This age limitation shall not apply to those persons licensed to conduct teenage dances, but shall be restricted by the provisions for such teenage dances as stated in this article.

(Code 1975, § 5-139; Ord. No. 1166, § 1(art. IV), 8-11-1998)

**State law reference(s)**--Children in dance halls serving liquor, MCL 750.141.

**Sec. 50-78. Special provisions relative to teenage dances.**

All teenage dances shall be subject, in addition to the other restrictive provisions of this article for any public dance or public dance hall, to the following restrictions:

- (1) No teenage dance or place where a teenage dance is held shall permit dancing between the hours of 11:00 p.m. and 7:00 a.m., in addition to, and in further limitation of, the closing hours of public dances and public dance halls as provided in section 50-76.
- (2) The licensee shall provide proper and adequate adult supervision. Such supervision shall be determined and approved by the chief of police upon investigation of the application for the license.

(Code 1975, § 5-140; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Secs. 50-79--50-100. Reserved.

## **ARTICLE IV. TRANSIENT BUSINESS ACTIVITIES**

### **Sec. 50-101. Application and definitions.**

This article applies to transient business activities, such as those carried on by persons soliciting funds or selling merchandise door-to-door, or in the public, persons temporarily located in malls or shopping centers, parking lots and on vacant lots at various places in the city. The following activities shall be considered transient business activities (even if charitable in nature) and are further defined as follows:

*Auctioneer* means a person carrying on the business of auctions of tangible personal property, except for an auction house in the city utilized as a permanent establishment for the carrying on of such auctions, or a person operating such an establishment.

*Charitable solicitor* means a solicitor who goes from place to place, or appears in public, soliciting funds or services on behalf of licensed, registered charitable organizations. A person, in order to qualify as a charitable solicitor, must be able to demonstrate that the charitable organization for which or on whose behalf the charitable solicitor acts is duly licensed or registered by the state, if required by law.

*Religious solicitor* means a person who carries on the activities of a charitable solicitor, but on behalf of a religious organization duly incorporated or permitted to operate in the state and having one or more established locations or places of worship in the state.

*Solicitor* means a person who goes from place to place, or house to house, or who stands in any street or public place taking or offering to take orders for merchandise or services to be performed in the future or for the making, manufacturing or repairing of any articles or things. The term "solicitor" does not apply to persons selling or delivering newspapers. The term "solicitor" includes the term "peddler."

*Transient merchant* means a person who establishes, for a period less than 90 days, a business activity at any location, building or lot.

(Ord. No. 1166, § 1(5-142), 8-11-1998)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 50-102. Application; activities not covered.**

This article shall not apply, nor shall a business registration certificate be required, from the following persons:

- (1) Veterans qualifying for a state peddlers license issued by the county clerk pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq.);
- (2) Newspaper or literature carriers selling or delivering newspapers or literature to subscribers;

- (3) Farmers, truck gardeners, or their employees or affiliates, selling merchandise and farm products in established farmers markets;
- (4) Persons participating or selling merchandise or food, or advertising, at organized athletic events, conventions, or at community celebrations or events.

(Ord. No. 1166, § 1(5-143), 8-11-1998)

**State law reference(s)**--Veteran's license for peddlers, MCL 400.271 et seq.

**Sec. 50-103. Location restrictions.**

The city commission may restrict locations of transient business activities or types of such activities by resolution or regulation stating the reasons for such restrictions.

(Ord. No. 1166, § 1(5-149), 8-11-1998)

**Sec. 50-104. Registration certificate duration.**

Except in the case of auctioneers, no registration certificate issued under this article shall have a duration of more than 30 days, and no registration certificate shall be issued more than twice per calendar year, and a period of at least 60 days shall pass between the expiration of the first certificate and the issuance of the second.

(Ord. No. 1166, § 1(5-148), 8-11-1998)

**Sec. 50-105. Solicitors.**

Solicitors shall be required to have a business registration certificate. No such certificate shall be issued for such business activity, however, except where the following requirements are met:

- (1) In the event the solicitation is for advance payment of services or merchandise to be delivered later, the solicitor shall deposit with the city clerk a bond, certified check or cash in the amount of \$500.00 in favor of the city, such bond, check or cash (hereinafter "security") to be available for any claim made by any person who has not received the services or merchandise within the time and in the manner promised by the solicitor. The security shall be conditioned upon performance by the solicitor or the company or entity represented by the solicitor in delivering the services or merchandise in accordance with the agreement. Such security shall remain in full force and effect or retained by the city for a period of 90 days after the expiration of the business registration issued to the solicitor.
- (2) All other requirements and information required in connection with the application and issuance of a business registration certificate shall be complied with before issuance.
- (3) No solicitor, except a charitable or religious solicitor, shall represent that any monies received from a customer will be devoted to charitable or religious purposes.

(Ord. No. 1166, § 1(5-144), 8-11-1998)

**State law reference(s)**--Home solicitation sales, MCL 445.111 et seq.; refund of down payments, MCL 445.141 et seq.; transient merchants, MCL 445.371 et seq.

**Sec. 50-106. Charitable and religious solicitors.**

Charitable and religious solicitors shall be required to have a business registration certificate, provided that no fee shall be required for such business registration certificate. The applicant shall show, to the satisfaction of the city, the following:

- (1) The charity being represented is fully registered with the state to the extent required by law.
- (2) The religious organization meets the standards set forth in the definitions in section 50-101.
- (3) Any merchandise or services involved in the solicitation are described in full and examples of such merchandise or services are supplied with the application.
- (4) No security shall be required of a charitable or religious solicitor, provided the requirements of this section are met.

(Ord. No. 1166, § 1(5-145), 8-11-1998)

**Sec. 50-107. Auctioneers.**

Auctioneers shall obtain a separate business registration certificate for each auction held in the city. No auction shall be held at the same location for a period of more than three successive days in one period of 12 months, except that the city clerk may, upon reasonable showing by the auctioneer, provide for repeated licenses at a location of a sale of the contents of an estate or large building or property if the city clerk determines that the sale cannot be completed in one period of three successive days.

(Ord. No. 1166, § 1(5-146), 8-11-1998)

**State law reference(s)**--Auctioneers and duties upon sales at auctions, MCL 446.51 et seq.; sale by auction, MCL 40.2328.

**Sec. 50-108. Display of business registration certificate.**

Every person having a registration certificate under this article shall be required to display such registration certificate upon demand of any other person who is approached as a customer, or upon demand of the city clerk, his assistant, or a city police officer. Failure to carry such registration certificate on the person by any solicitor, whether regular, charitable or religious, shall constitute a violation of this chapter.

(Ord. No. 1166, § 1(5-147), 8-11-1998)

Secs. 50-109--50-130. Reserved.

**ARTICLE V. ALCOHOLIC LIQUOR\***

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**\*Cross reference(s)**--Loitering in places where liquor is sold without license, § 54-122.

**State law reference(s)**--Michigan Liquor Control Code of 1998, MCL 436.1101 et seq.

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## **DIVISION 1. GENERALLY**

Secs. 50-131--50-145. Reserved.

## **DIVISION 2. LICENSE APPROVAL AND REVOCATION RECOMMENDATIONS\***

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**\*State law reference(s)**--License approval and revocation recommendations, MCL 436.1501.

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### **Sec. 50-146. Applications for issuance or renewal, transfer of ownership or location, or revocation of license to sell beer, wine or spirits--Submission; contents.**

Applications for approval by the city of the issuance, transfer of owner or location, or renewal of any license to sell beer, wine or spirits shall be made to the city commission, in writing, signed by the applicant, and shall contain the following information:

- (1) Applications for issuance of a new license, or transfer of an existing license to a new licensee or transfer of an existing license to a new location:
  - a. The name, age and address of the applicant, in the case of an individual; or, in the case of a copartnership, the persons entitled to share in the profits thereof, in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person;
  - b. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization;
  - c. The character of business of the applicant, and in the case of a corporation, the object for which it was formed;
  - d. The length of time such applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued;
  - e. The location and description of the premises or place of business which is to be operated under such license;
  - f. A statement of whether the applicant has made application for a similar or other license on premises other than described in this

application, and the disposition of such application;

- g. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article or the laws of the state;
- h. A statement that the applicant will not violate any of the laws of the state or of the United States or any ordinances of the city in the conduct of its business;
- i. The application shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening, and noise control;
- j. A statement that the applicant is in possession of a certificate of occupancy, as required under city ordinances, permitting occupancy of the licensed premises or of the premises to be licensed;
- k. A statement from the applicant and, when applicable, the applicant's transferor that all personal property taxes and other fees and charges lawfully due the city from either applicant or the applicant's transferor are fully paid.

(2) Applications for renewal, if an existing license:

- a. The length of time such applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued;
- b. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any in matter or thing contained in this article or the laws of the state;
- c. A statement that the applicant will not violate any of the laws of the state or of the United States or any ordinances of the city in the conduct of its business;
- d. A statement that the applicant is in possession of a current certificate of occupancy, as required under city ordinances, permitting occupancy of the licensed premises;
- e. A statement from the applicant that all personal property taxes and other fees and charges lawfully due the city from the applicant are fully paid.

(3) Applications for revocation of an existing license:

- a. The name and address of the applicant;
- b. The name and address of the licensee and the location of the licensed premises;
- c. A statement of the reasons why the city commission should

recommend revocation of the license.

(Code 1975, § 5-270)

**Sec. 50-147. Same--Standards to be applied by the city commission in approving or denying applications.**

The following are standards which shall govern the city commission in granting or denying any application for issuance, renewal, transfer to a new licensee or a new location, or revocation of any license to sell beer, wine and spirits:

- (1) The applicant, or the partners or shareholders of the applicant, must be of good moral character whose criminal record evidences the applicant's willingness and ability to obey city ordinances, state and federal laws, and the regulations of the state liquor control commission;
- (2) The chief of police has recommended granting of the application; provided, however, that the chief of police, in determining whether or not to recommend granting of the application, shall apply as standards in so doing, those standards set forth in this article;
- (3) The applicant must demonstrate, upon request of the city manager, that he has sufficient assets for the successful operation of the licensed premises;
- (4) The licensed premises has not caused nor will be likely to cause law enforcement problems to the degree or extent that effective law enforcement in the remainder of the city has been, or will be, impaired or denied;
- (5) The licensed premises, or premises proposed to be licensed, has in full force and effect a certificate of occupancy as required pursuant to city ordinances;
- (6) The applicant or applicant's transferor is current in payment to the city of personal property taxes, assessments, utilities and any other lawful charges due the city;
- (7) That the licensed premises, or premises proposed to be licensed, has adequate off-street and on-street parking, lighting, refuse disposal facilities, screening, and noise or nuisance control.
- (8) The licensed premises, or premises proposed to be licensed, is reasonably harmonious with adjacent land uses and with the attitudes of adjacent residents and property owners; and that the premises have convenient access from abutting roads which are capable of accommodating increased commercial activity.

(Code 1975, § 5-271)

**Sec. 50-148. Procedure following objection to issuance, renewal, transfer to new licensee or new location, and request for revocation.**

- (a) Before filing an objection to the issuance, renewal, or transfer to new licensee or new location, or a request for revocation of a license with the state liquor control

commission, the city commission shall serve the licensee, and, when applicable, his transferor, by first class mail, mailed not less than ten days prior to hearing, with notice of a hearing, which notice shall contain the following:

- (1) Notice of proposed action;
  - (2) Reasons for the proposed action;
  - (3) Date, time and place of hearing;
  - (4) A statement that the licensee or proposed licensee may present evidence and testimony and confront adverse witnesses.
- (b) Following the hearing, the city commission shall submit to the license holder and, when applicable, proposed licensee, and the state liquor control commission, a written statement of the city's findings and determination.

(Code 1975, § 5-272)

## **ARTICLE VI. NUISANCE BUSINESS**

### **Sec. 50-171. Definitions.**

As used in this article:

*Business activity* means any action or acts of buying, selling, leasing, renting, or otherwise marketing, any goods, services, merchandise or commodities of any kind or description, whether or not conducted from a business establishment.

*Business establishment* means any lot, building or structure, or a part thereof, including, without limitation, leased or occupied space in a mall, store or building, located within the corporate limits of the city, from which a person engages in or causes to be engaged in any act or acts of buying, selling, leasing, renting, or otherwise disposing of, performing or marketing, any goods, services, merchandise or commodities of any kind or description.

*Nuisance* means any act or acts or omission to act on the part of any person or group of people which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons, private property or public property, including public sidewalks, parking lots, streets and alleyways surrounding business establishments within the city. A nuisance results from disorderly and/or dangerous behavior, including but not limited to increased noise, loitering, littering, fighting, jostling, roughly crowding, use and/or display of weapons, public intoxication, public indecency, obscene conduct, collecting in crowds for unlawful purposes, or any other disruptive, obnoxious, offensive, threatening or intimidating behavior that contributes to the disturbance of the peace and quiet.

*Owner* means any person who possesses or has any legal or equitable interest in a business establishment. "Owner" also means any person who has or exercises control, custody or dominion over any property and/or business establishment. As used in this chapter, for purposes of notification, "the owner," "an owner" or "owner" shall mean the "owner/manager" indicated on the business registration application filed with

the city clerk to obtain a certificate of registration pursuant to Section 50-33 of the City of Muskegon Code of Ordinances.

*Property* means any land, structure, house, building, premises or any part thereof.

**Sec. 50-172. Findings with respect to disorderly and/or dangerous conduct.**

The city determines that whenever repeated instances of disorderly and/or dangerous behavior occur on or near any business establishment and that business establishment is repeatedly the site of disruptive public behavior a public nuisance results. Such a public nuisance results from the increased criminal activity that occurs in the neighborhood surrounding the relevant business establishment, the fear engendered in the minds of the public and the disturbance of the peace and quiet of those people living, recreating, shopping and/or doing business in the neighborhood surrounding the business establishment.

A public nuisance is created where a business establishment or its effect on the neighborhood in which it is located is not reasonably harmonious with adjacent land uses and with the attitudes of adjacent residents and property owners. A public nuisance may be one that causes law enforcement problems to the degree that effective law enforcement in the remainder of the city has been or will be impaired or denied. A finding that a business establishment is a public nuisance is not dependent upon any wrongdoing attributed to the owner, but rather a showing that the disorderly and/or dangerous conduct continues to exist at the owner's business establishment.

**Sec. 50-173. Declaration of public nuisance.**

(a) Whenever repeated instances of disorderly and/or dangerous conduct, as outlined in Section 50-172, occurs on or near any business establishment, the City Commission may declare, by resolution, that the business establishment is a public nuisance and order that the nuisance be abated as provided in this chapter. Such a declaration may occur only after there has been notice given to the owner of the business establishment and the owner has had an opportunity to be heard at a public hearing.

(b) Notice of the public hearing shall be given to the owner and shall consist of personal service or the mailing of a certified letter to the owner at the mailing address indicated on the business registration application filed with the city clerk to obtain a certificate of registration for the business establishment pursuant to Section 50-33 of the City of Muskegon Code of Ordinances. The notice shall state the nature of the alleged nuisance and the time, date and location of the hearing. If the notice is served by certified mail, it shall be delivered with a return receipt requested according to the practices of the post office. Receipt of the return receipt card by the city indicating the owner or a representative of the owner has received such notice shall be deemed notice to the owner. It shall not be necessary that the card be returned if the certified mail has been refused or there is other evidence that the owner has received notice. Such notice to an owner shall occur by the said mailing with postmark or personal delivery at least fourteen (14) calendar days prior to the date of the public hearing.

(c) The City Commission may appoint a hearing officer to conduct the public hearing. The hearing officer, acting in a quasi-judicial capacity, shall make a determination as to whether a public nuisance exists under the standards established by this Article. The hearing officer shall make this determination based solely upon the evidence presented at the public evidentiary hearing. In conducting the public evidentiary hearing, the hearing officer shall afford the owner, city personnel, other witnesses, and interested parties an opportunity to present relevant and material evidence and to make arguments as to factual or legal issues. Cross-examination of opposing witnesses shall be permitted. The owner may appear in person and be represented by an attorney. Lay representation is not permitted. In conducting its public evidentiary hearing, the hearing officer shall not be bound by the rules of evidence and may admit and give weight to probative evidence of a nature that is commonly relied upon by reasonably prudent individuals in the conduct of their affairs. Irrelevant, incompetent and immaterial evidence and unduly repetitious evidence shall be excluded. A record of said hearing shall be made.

**Sec. 50-174. Abatement of nuisance and costs; posting; recording and listing of public nuisances.**

If the hearing officer determines by a preponderance of the evidence that a business establishment is a public nuisance, the City Commission may, by resolution, in addition to any other remedies available to the city at law or in equity, order abatement of the nuisance. The resolution shall state the factual findings and the basis for the decision of the hearing officer in writing.

(1) The abatement process shall be conducted as follows:

(a) If it is determined that the business establishment is to be closed temporarily, the City Commission shall order that all business activity end and declare that all business activity is prohibited and authorize the Police Department to prohibit any business activity from occurring at the business establishment for a period of up to thirty (30) days for the first offense, up to sixty (60) days for a second offense committed by the same owner within twelve months from the last day of the first closure, up to ninety (90) days for a third offense committed by the same owner within twelve months from the last day of the second closure; and/or,

(b) Determine that the owner shall be liable for the full cost of any materials and personnel (including police and any other city employees or contractors) involved in ensuring that no business activity occurs at the business establishment; and/or,

(c) Determine that the costs set out herein shall be a personal debt of the owner and/or assess those costs against the business establishment as a lien as provided for in this ordinance and by law, or both.

(2) The posting, recording and listing of public nuisances shall be as follows:

(a) Whenever the City Commission shall have ordered a business establishment to be closed temporarily, the Police Department shall post a notice so stating at each entrance to any building on the property and shall replace any notices that are missing or unreadable.

(b) The City Clerk shall maintain a list of those business establishments that have been declared to be a public nuisance and of the remedy ordered by the City Commission. Immediately upon a declaration of public nuisance as provided for herein, the City Clerk shall add the business establishment to the list. A list of such properties shall be available for public inspection at the City Clerk's office.

(c) No person other than an authorized city employee shall tamper with, damage, alter, destroy or remove any notice posted by the City.

(d) The City may, at its discretion, record an affidavit setting forth its findings under this Article and the remedies determined to apply to the property at the Muskegon County Register of Deeds.

**Sec. 50-175. Appeal.**

(a) An owner aggrieved by any final determination by the City Commission under this Chapter may appeal the determination to the Circuit Court within twenty-one (21) days of the date of the decision.

(b) The Circuit Court shall review the City Commission's decision to determine whether it is in violation of the law, has been procured by fraud, if an abuse of discretion exists, and whether the decision is supported by competent, substantial and material evidence on the record as a whole. The Circuit Court's review shall be made upon the record made before the hearing officer. It is the responsibility of the appealing party to demonstrate error, and to present and settle the record. The Court may return the matter for further hearing, reverse or modify the decision of the City Commission, or affirm the same. If the court affirms the action of the City, or modifies it, the Court may provide any order or relief it deems appropriate to enforce and aid in the enforcement of this ordinance and the action of the City.

(Ord. No. 2245, 7-22-2008)