

REVISED ORDINANCE NO. 20

A REVISED ORDINANCE REGULATING SOLICITORS, PEDDLERS, HAWKERS, ITINERANT MERCHANTS, TRANSIENT VENDORS, and/or SALE OF GOODS ON LAND PARCELS USED FOR RESIDENTIAL PURPOSES, WITHIN THE CITY OF CARSON CITY.

THE CITY OF CARSON CITY ORDAINS:

CHAPTER 20.1
AUTHORITY, PURPOSE AND DEFINITIONS

20.101 Authority. Pursuant to the City Charter this Ordinance is enacted pursuant to the cities authority to regulate trade and occupations within the City and to prescribe terms and conditions upon which licenses may be granted.

20.102 Purpose. The purpose of this Ordinance is:

- A. To prohibit any person to travel from place to place within the City limits of Carson City for the purpose of exposing for sale any goods, ware or merchandise or to take orders for goods, wares or merchandise by sample lists without first having procured a license as provided herein; provided, however, that nothing contained herein shall prevent any manufacturer, farmer, mechanic or nurseryman from selling his work or produce by sample, nor shall any wholesale merchant be prohibited by anything herein contained from selling to dealers by samples without a license.
- B. To control the duration and frequency of the sale of goods on lands which are used for residential purposes including houses, apartments (vacant or occupied), residential units above commercial buildings and open lots. No area at the ground level of any commercial building may be used as residential.

20.103 Definitions. As used in this Ordinance, the following terms shall mean:

- A. Application. Refers to a form to be filed with the City Comptroller under the business name of applicant specifying the sales to be performed with the City of Carson City.
- B. Garage Sales. As used in this Ordinance shall include all sales entitled "attic sale", "basement sale", "flea market sale" "garage sale", "lawn sale", "rummage sale", "yard sale" or any similar, casual sale of tangible personal property where used, second hand, damaged or discarded, goods, not otherwise regulated by any other codified ordinance of the City of Carson

- City, which is advertised by any means whereby the public at large is or can be made aware of the sale.
- C. Goods. Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.
 - D. Hawker. Refers to an itinerant or traveling trade or salesperson who carries goods about, in order to sell the, and who actually sells them to purchasers, in contradistinction to a trader who has goods for sale and sells them from a fixed place of business.
 - E. Itinerant Merchant. Refers to a person, whether an owner, agent, consignor or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering of goods, wares and merchandise within the City, and who in furtherance of such purpose hires, leases, uses or occupies in a building, structure, motor vehicle, tent, public room in a hotel, apartment, shop or any street alley or place within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction.
 - F. License. Refers to authority or permission to do or carry on some trade or business which is regulated by this Ordinance.
 - G. Peddler. Refers to any person, whether a resident of the City or not, who travels by foot, wagon, motor vehicle or other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, or merchandise, offering and exposing the same for sale, or offers something free as a lead to a sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, motor vehicle, or other vehicle or conveyance. However, one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provision of this Ordinance shall be deemed to be a peddler.
 - H. Person. Individuals, partnerships, voluntary associations and corporations.
 - I. Solicitor. Refers to an agent who travels from door to door for exhibiting samples for the purpose of selling goods, wares or merchandise, to secure orders for future delivery.
 - J. Transient Vendor. Refers to a person, whether a owner, agent, consignee or employee, whether a resident of the City or not, who engages in the temporary sale of goods, wares or merchandise, in any place within the City.
 - K. Vehicle. Any device used for carrying passengers, goods or equipment, that requires a license or registration

and any other item that has a motor and wheels that does not require a license or registration.

**CHAPTER 20.2
DURATION AND FREQUENCY OF YARD SALES**

20.201 Duration and Frequency. No person shall have a yard sale in the City for a period exceeding three consecutive days.

20.202 Exceptions.

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Community sponsored sale events.

20.203 Time of Sales. Permitted sales shall only be held between the hours of 8:00 a.m. to 8:00 p.m.

20.204 General.

- A. That no sales activities may take place on any public sidewalk area nor within the curb lawn area of the property, or if there is no public sidewalk on the premises, within ten feet from the edge of the roadway.
- B. A vehicle being sold by the occupants of the property must be owned by the occupants or their immediate family (father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, son, daughter, son-in-law, daughter-in-law).
- C. In addition, not more than five (5) such vehicles may be sold by the occupants of a property in a calendar year.
- D. A vehicle shall not be offered for sale for a period longer than thirty (30) consecutive days.
- E. Signs advertising a vehicle for sale may not be larger than nine (9) square feet and may not be placed in the right of way.

20.205 Advertising and Signs.

- A. On site signs advertising yard sales shall not be larger than nine (9) square feet. They must include the date(s) and the address of the sale.
- B. Off property signs advertising yard sales shall not be larger than nine (9) square feet. They must include the date(s) of the sale and the address and must have the permission of the property owner at the location where they are placed. Signs may not be placed where they would obstruct the vision of vehicle drivers.
- C. Political signs shall not be placed in any right of way.

- D. All signs in the right of way will be removed after three days.
- E. Inappropriate or offensive signs shall not be placed in any right of way and will be immediately removed.
- F. Housing rental signs shall not be larger than nine (9) square feet and may not be placed in the right of way.

**CHAPTER 20.3
APPLICATION AND LICENSE**

20.301 License Required.

- A. Every solicitor, peddler, hawker, itinerant merchant or transient vendor who advertises, exposes or sells goods, ware or merchandise, shall obtain a license from the City Comptroller's Office prior to initiating such activity.
- B. No license is required for garage sales as described herein.

20.302 Application for License.

- A. Applicants for a license under this Chapter must file with the City Comptroller a sworn application in writing (in duplicate) on a form to be furnished by the City Comptroller, which form shall contain the following information:
 - (1). The name and a description of the applicant;
 - (2). The applicant's address (legal and local);
 - (3). A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;
 - (4). If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - (5). The length of time for which the right to do business is desired;
 - (6). If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
 - (7). A photograph of the applicant, taken within sixty days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner;
 - (8). The fingerprints of the applicant and the names of at least two reliable property owners of the County who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an

investigator to properly evaluate such character and business responsibility; and

(9). A statement as to whether or not the applicant has been convicted of any crime and, if so, the nature of the offense and the punishment or penalty assessed therefore.

B. At the time of filing the application, a fee as set forth in the schedule provided for in Section 20.307(a) shall be paid to the City Comptroller for the cost of investigation.

20.303 Investigation of Applicant; Issuance of License.

A. Upon receipt of the application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

B. 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 application to the City Comptroller, who shall notify the applicant that his or her application is disapproved and that no license will be issued.

C. 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 such application to the City Comptroller, who shall, upon payment of the prescribed license fee, issue a license. Such license shall contain the seal of the City and the signature of the issuing officer and shall show the name, address and photograph of the 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 peddling. The City Comptroller shall keep a permanent record of all licenses issued on a numerical basis.

20.304 Service of Process. Such application form shall also contain a statement whereby the applicant nominates and appoints the City Comptroller his true and lawful agent with full power to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under or pursuant to the license thereby applied for.

20.305 Food Peddlers.

- A. No license to peddle food in the City shall be issued under this Chapter or under any other provision of this Revised Ordinance, except to a person holding a current food handler's certificate issued by the City or the County. Every applicant shall be sixteen years of age or over.
- B. No person shall use any vehicle in peddling food unless such vehicle is licensed for such food peddling and unless a vehicle tag issued for such vehicle by the City Comptroller is attached conspicuously on the exterior of such vehicle.
- C. No licensee shall sell or offer for sale any unsound, unripe or unwholesome food or drink or defective, faulty or deteriorated article of food.
- D. No food peddler shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale, or remain, barter, sell or offer or expose for sale any food or drink in front of or at the side of any property against the wish or desire of the property owner or the occupant of such property, or within 1,000 feet of the entrance to any school building between the hours of 8:00 a.m. and 5:00 p.m. on the days when school is in session or at any time within the Central Business District, as defined in Article IV Section 4.2 of the City Zoning Ordinance, or on those portions of streets on which a public park abuts. No food peddler shall stop his or her vehicle for the purpose of consummating a sale within fifty feet of any street intersection in the City. No licensee shall peddle any food or drink upon or within a public park unless he or she has been granted a concession therefore by the City Council pursuant to an agreement entered into between the Council and the peddler.
- E. No licensee shall make a sale to any person under the age of twelve years on any property nearer the traveled portion of any street than the side of the public sidewalk nearest to the pavement, or, where no public sidewalk exists, nearer than ten feet from the outer edge of such pavement. Where streets are unpaved, this restriction shall be deemed to apply to that portion of the street set aside for, or used by, vehicular traffic.

20.306 Exhibition of License. All licenses granted under this Ordinance are required to be exhibited at the request of any resident of the City.

20.307 Fees.

- A. Every applicant, before being granted a license shall pay the following fees: \$75.00 for each day, if the license application expresses an intended license

- duration of less than one week; \$250.00 per week, if for less than one month, \$500.00 for each month, if less than one year; or \$1,000.00 for one year.
- B. No fee shall be required from a person who sells products actually grown, raised or produced on or from his or her own farm or orchard.
 - C. No fee shall be required from any person who is a war veteran and who has first obtained a peddler's license pursuant to Public Act 359 of 1921, as amended, provided that the goods, wares and merchandise proposed to be sold by such person are his or her own.
 - D. For the purpose of this chapter, any period of more than one calendar day and not more than thirty calendar days shall be considered one month.

20.308 Loud Noises and Speaking Devices. No peddler or other person in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loudspeaker, radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee purposes to sell, without the express consent and permission of the City Council.

20.309 Use of Streets. No peddler shall have any exclusive right to any location in the public streets or be permitted a stationary location or be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

20.310 Duties of Police. Police officers of the City shall require any person seen peddling, and who is not known by such officers to be duly licensed, to produce his or her peddler's license and shall enforce this Ordinance against any person found to be violating any of the provisions of the same.

20.311 Records. The Chief of Police shall report to the City Comptroller all convictions for violations of any of the provisions of this chapter and the City Comptroller shall maintain a record for each license issued and record the reports of violations in such record.

CHAPTER 20.4
VIOLATION OF REVISED ORDINANCE

20.401 Appearance Tickets. The police chief and appointed officers of the Carson City Police Department or other officials as are designated by the City Administrator, are hereby authorized to issue and serve appearance tickets with respect to violations of this Revised Ordinance, pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended MCLA 764.9c(2); MSA 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. Any time an officer issues an appearance ticket, the officer shall clearly mark the box entitled civil infraction.

20.402 Penalty. Any violation or failure to comply with this Revised Ordinance shall be deemed a civil infraction and any person found to be in violation of this Revised Ordinance by a court of competent jurisdiction, besides being assessed the statutory court cost if any, shall be subject to a fine of up to \$500.00 per day that the violation has occurred, the activity constituting violation of this Ordinance separate counts in each complaint and information.

20.403. Injunctive Relief. In the event that any person shall be in constant and continuous violation of this Revised Ordinance, the City may seek injunctive relieve and costs from a court of competent jurisdiction to enforce this Revised Ordinance.

CHAPTER 20.5 SEPARABILITY

If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 20.6 CONFLICTING ORDINANCES AND AMENDMENTS SUPERCEDED

Any City Ordinance and/or Amendments thereto that are in conflict with this Ordinance is hereby superceded on the date of the effective date of this Ordinance.

CHAPTER 20.7 EFFECTIVE DATE

The Revised Ordinance to regulate solicitors, peddlers, hawkers, itinerant merchants or transient vendors, and/or sale of goods on land parcels used for residential purposes in the City of Carson City, Michigan shall become effective 30 days after publication of

the Ordinance or 30 days after publication of a summary of its provisions in a local newspaper of general circulation..

**CHAPTER 20.8
PUBLICATION**

This Ordinance was published in the Carson City Gazette on October 14, 2004 pursuant to Section 7.4 of the Charter of the City of Carson City.

We the undersigned, as Mayor and City Comptroller of the City of Carson City, Michigan, do hereby certify that this Revised Ordinance NO. 20, of the City of Carson City, was introduced at a regular meeting of the City Council held on May 18, 2004, and was thereafter adopted at a regular meeting on September 21, 2004, by a vote of six (6) for; zero (0) against; zero (0) absent; and zero (0) abstaining.



Daniel C. Herald, Mayor



Janet Kelly, City Comptroller