

CHAPTER 308 - BUSINESS LICENSES

308.01 PURPOSE AND APPLICABILITY

The purposes of this chapter are the protection of government, order, conduct, the general welfare, safety, morals, health and well-being of the persons and property of the City of Niagara Falls. It is adopted pursuant to the General City Law.

- (a) Applicability. This chapter shall apply to all business operating within the City of Niagara Falls.

308.02 DEFINITIONS

Whenever used in this chapter, the following terms shall have the meanings indicated:

- (a) Business. All kinds of trades, vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters which are conducted for profit within the City of Niagara Falls; provided, however, that this definition shall not include any and all professions licensed by the State of New York or otherwise licensed by the City of Niagara Falls.
- (b) Garage Sale. The sale of used household or personal items on a temporary basis from the seller's residence. The term "garage sale" does not include the sale of new items or any business conducted on a permanent basis.
- (c) Jurisdiction. Any governmental unit having some jurisdictional relevance to the licensee and to the intended business, including but not limited to the following:
 - (1) City of Niagara Falls City Council
 - (2) New York State Department of Health
 - (3) New York State Liquor Authority
 - (4) All agencies, boards, departments and authorities of Niagara County, New York State or Federal Government
- (d) Not-for-Profit Entity. A not-for-profit entity is an entity existing pursuant to Internal Revenue Code Section 501(c)(3) or an entity possessing some similar status and is duly organized pursuant to laws of the State of New York.
- (e) Person. Any individual, company, society, association, corporation, limited liability company, manager, contractor, subcontractor, partnership, joint venture, bureau, agency, service club, trust, office or the officer, agent or employee of the foregoing; provided, however that this definition shall not be deemed to include a business, the sole function of which is the sale of goods and merchandise to other businesses for the purpose of resale by such other business.

(f) City Council. The City Council of the City of Niagara Falls.

(g) City Clerk. The City Clerk of the City of Niagara Falls.

308.03 LICENSE REQUIRED; REGULATIONS

(a) No person shall open, keep, maintain, own, operate or carry on any business unless such person shall have first been issued a license therefor as provided in this chapter. A person conducting a garage sale pursuant to and in accordance with the provisions of 308.03(b) does not have to apply for a license, but must register the garage sale with the City Clerk on a form provided by the City Clerk. Existing businesses shall have until the 31st day of December, 2018 to procure a license effective January 1, 2019 for the calendar year 2019. Any new business commencing operation between the effective date of this chapter and December 31, 2018 must apply for a business license pursuant to this chapter and, if such license is approved and issued, such license shall be effective through and including December 31, 2019. Thereafter, any business license issued and any business license renewed pursuant to the provisions of this chapter shall be effective to and include the 31st day of December in the year for which the license or renewal is issued.

(b) The business license shall be posted in a conspicuous place upon the premises for which the license is issued.

(c) Application for a business license and renewal of business license.

(1) An application for a business license or for a renewal of a business license shall be made to the City Clerk by the person who is the owner of the business to be licensed. The application for the business license or for renewal of the business license shall be in the form and shall require such information as the City Clerk may require and shall be accompanied with a non-refundable application fee or a renewal fee in the amount of \$25.00. Within ten (10) days of receipt of any application for a business license or for the renewal of a business license, the City Clerk must either approve or renew such license or forward the business license application or renewal application to the City Council.

(d) The agent or other representative of nonresidents who are doing business in the City of Niagara Falls shall be personally responsible for compliance with this chapter by their principals and the businesses they represent.

(e) Joint license.

(1) A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of the businesses but rather, shall be issued one license which shall specify on its face all such businesses at that location.

(f) Exemption.

- (1) A license shall not be required of a person for delivery in the City of Niagara Falls of property purchased or acquired from such person at his or her regular place of business outside the City of Niagara Falls where no intent by such person is shown to exist to evade the provisions of this chapter.
- (2) A license shall not be required for the sale of agricultural products, including but not limited to produce, pumpkins and Christmas trees. Notwithstanding the foregoing, a person conducting such a sale of agricultural products must register with the City Clerk on a form provided by the City Clerk.

(g) Not-for-Profit

- (1) A person may operate a not-for-profit entity in the City without applying for a business license but must register the not-for-profit entity with the City Clerk on a form provided by the City Clerk.

(h) Garage Sales.

- (1) Notwithstanding any other provision of this chapter, a person may conduct up to two (2) garage sales in a calendar year without paying a fee. For the purpose of this chapter, a garage sale may last up to two consecutive weekend days plus one consecutive non-weekend day for a total of three (3) consecutive days (i.e., Friday, Saturday and Sunday or Saturday, Sunday and Monday). The person conducting the garage sale does not have to apply for a business license but must register the garage sale with the City Clerk on a form provided by the City Clerk. The person conducting the garage sale may put up a temporary sign advertising the garage sale on the premises of the garage sale, each day the garage sale is conducted.
- (2) A person conducting a garage sale more than two times in a calendar year will be deemed to be a business as defined in this chapter and must comply with all provisions of this chapter, including applying for a business license and paying the application fee.

308.04

CONTENTS OF BUSINESS LICENSE APPLICATION AND RENEWAL APPLICATION

- (a) The written application for a business license or renewal thereof shall contain the following information as well as such additional information as may be reasonably required by the City Clerk:
 - (1) Name and address of the person applying for the license.
 - (2) Name of business or proposed business, place of business or proposed business and type of business.
 - (3) Prior criminal convictions of the person applying for the business license if the applicant is an individual, other than minor traffic infractions.

- (4) The application must contain a copy of the New York State sales tax number and certificate as well as documents pertaining to the formation of any business entity operating the business such as a certificate of incorporation, limited liability company certificate, a partnership agreement or "d/b/a" (doing business as) registration.
 - (5) The application must disclose the names of all principals/owners of the business including all officers, directors, shareholders, members and partners together with addresses.
- (b) The application shall also contain such other information as the City Clerk or the City Council may from time to time reasonably require to fulfill the purpose of this chapter.

308.05 APPLICATION PROCEDURE

- (a) Upon receipt of the business license application, the City Clerk must either approve the license application and issue a license or forward it to the City Council. The City Clerk must act upon each license application or renewal application presented to him or her within ten (10) days of his or her receipt thereof.
- (b) The City Council, upon receipt of a business license application or renewal application from the City Clerk, may either approve a business license application or reject the business license application. Any business license application forwarded by the City Clerk to the City Council shall be reviewed by the City Council at a regularly scheduled City Council meeting or a special meeting thereof. Such review shall be held within thirty (30) days of the City Clerk forwarding such business license application or renewal application to the City Council. The City Council may extend this thirty (30) day period of time by majority vote should it require additional time to review the license application. In the event the City Council votes to approve the business license application, the City Clerk shall then issue the business license.

308.06 PUBLIC HEARING

- (a) When a business license application or renewal application is forwarded by the City Clerk to the City Council for action thereon, the City Council, at the time of its review of such application may, in its discretion, schedule a public hearing to be held upon such application. In such event, the City Council shall have an additional sixty (60) days within which to hold the public hearing and then either approve the business license application or reject the business license application. Notice of such public hearing shall be published at least once, no less than fifteen (15) days before the date of such hearing, in a newspaper of general circulation within the County of Niagara. The notice shall state the name of the applicant, the name of the proposed business, the type of the proposed business, the location of the proposed business and the date, time and place of the hearing. Following the close of such public hearing, the City Council shall then approve the business license application or reject the business license application.

- (b) In the event the City Council votes to approve the business license application, the City Clerk shall then issue the business license.

308.07 APPLICATIONS REQUIRING CITY COUNCIL ACTION

The City Clerk shall forward the business license application or renewal application for the following businesses to the City Council for action thereon in accordance with the provisions of this chapter:

- (a) Gasoline stations.
- (b) Sale of food products of any kind or beverages of any kind that are proposed to be dispensed from any counter or window on the side of a building or structure to consumers outside the building or structure including but not limited to drive-in restaurant service.
- (c) Restaurants, bars, grills or any establishment selling alcoholic beverages and/or food which have entertainment by an orchestra, band and/or by mechanical means which produces music or sounds.
- (d) Any manufacturing business.
- (e) Any amusement business or rides, carnival slide, merry-go-rounds or any device or event for individual or group participation for recreation or amusement.
- (f) Any retail store selling alcoholic beverages for off-premises consumption.

308.08 STANDARDS FOR APPROVAL OR ISSUANCE OF LICENSE

- (a) When reviewing a business license application or renewal application, the City Council shall consider the following criteria but shall in no way be limited thereby:
 - (1) The character of the neighborhood where the business would be established.
 - (2) The changes such business would bring to the neighborhood and whether these changes would be to the public good, welfare, health, safety or morals.
 - (3) The nuisance, refuse, litter, noise and adverse health conditions that such business might or will bring.
 - (4) The requirements for police protection and traffic control.
 - (5) The criminal record of the persons applying for the license.
- (b) The City Clerk shall consider the criteria contained herein when processing and reviewing a business license application or renewal application and making a determination to approve or renew such license or forward the business license application or renewal application to the City Council.

308.09 APPROVAL OF LICENSE; ISSUANCE

- (a) Approval of license. When the City Clerk and/or the City Council approves a business license application, this means that the general concept of the business to be licensed is acceptable to the City Clerk and/or the City Council and that only compliance with the intent and content of this chapter has been met. All such other laws and requirements of any jurisdictions relevant to said business must be met before said business license may be issued by the City Clerk.
- (b) Issuance of license. No such business license will be issued by the City Clerk until the applicant for such license demonstrates to the City Clerk that it has complied with the laws and requirements of all jurisdictions involved. Upon demonstrating such compliance, the license will be issued by the City Clerk.

308.10 DUTIES OF LICENSEE

Every person to whom a license is issued pursuant to this chapter shall:

- (a) Permit all inspections of the person's business by all City departments including but not limited to Police, Fire, Code Enforcement and the Department of Public Works. Such inspections will be limited to the review of any fact that would endanger the public good, welfare, health, safety or morals and be done on reasonable prior notice to the person named on the license.
- (b) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
- (c) Avoid all forbidden, improper, illegal and unnecessary practices or conditions which could or may affect the public good, welfare, health, safety or morals.

308.11 REVOCATION OF LICENSE

- (a) After a public hearing at which the licensee shall have an opportunity to be heard, the City Council may revoke any business license issued pursuant to this chapter to any person when the City Council makes a determination by majority vote that the person to whom the business license was issued is not conducting the business licensed in such a manner so as to not adversely affect the public good, welfare, health, safety and morals; or that the nature, environmental impact or character of the business licensed is such that it constitutes a danger to the public good, welfare, safety, health or morals. The public hearing shall be held pursuant to notice to be published no less than fifteen (15) days before the date of such hearing in a newspaper of general circulation within Niagara County. Such notice shall state the date, time and place of such hearing, the business whose license is proposed to be revoked and the name of the person to whom the license was issued.
- (b) Summary action

- (1) When the conduct of any licensee, agent or employee is so detrimental to the public good, welfare, health, safety or morals so as to constitute an immediate danger to public good, welfare, health, safety or morals and thus gives rise to an emergency, the City Administrator shall have the authority to order the cessation of the business immediately and/or the revocation of the license. Within ten (10) days after the City Administrator has acted summarily, the City Council shall conduct a special public hearing during which the City Council may, by majority vote, either vote to continue the revocation of the business license or reissue the license subject to whatever terms and conditions the City Council may impose.

308.12 PENALTIES FOR OFFENSES

Any violation of this chapter shall be punishable, for each violation, by a fine of not more than \$250 or imprisonment for not more than fifteen (15) days, or both.

308.13 SEVERABILITY

If any part of this chapter shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect or impair in any way any other provisions, and all other provisions shall remain in full force and effect.

308.14 WHEN EFFECTIVE

This chapter shall take effect immediately.