

MEMORANDUM

TO: Safety & Licensing Committee

FROM: City Clerk's Office, Linda DeWitt & Cathy Bolwerk

SUBJECT: Refund Request from Nicole Tudury from Event Toyz, 4346 S. 27th Street, Milwaukee for \$663 for Commercial Solicitation licenses that were not issued.

At the end of October, 2013 Nicole Tudury called the City Clerk's office with questions regarding Commercial Solicitation licensing. After asking her a few questions, she led me to believe she wanted to walk the streets of Appleton selling children's toys. At no time did she indicate to me that she wanted to do this the day/night of the Appleton Christmas Parade. Applications were received on November 12, 2013 and the approval process started. November 18, 2013 Nicole called to let us know the applicants would be here on Tuesday, November 26 to get their pictures taken for their ID badges. The morning of November 26 Nicole called and we then informed her they were not allowed to solicit at the parade per Municipal Code Sec. 9-617.

Nicole called us back and said that she was never informed that they could not solicit during the "Holiday Festivities". Eric Maggio, City Sealer and Lt Steve Elliott also spoke with her regarding the applications.

Since the intention was to solicit during the Christmas Parade and the company is not able to, she is requesting a refund.

APPLETON CODE

applicant will fully comply with the ordinances of the City and laws of the state relating to peddlers, solicitors, canvassers or transient merchants and guaranteeing to any citizen of the City doing business with him or her that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.
(Code 1965, §11.04(4)(c), Ord 25-05, §1, 4-12-05)

Sec. 9-617. Issuance and term of license; restrictions on use; identification card.

Licenses required under this division shall be issued for six (6) month terms to run from April 1 through September 30 and October 1 through March 31. Any license that expires on December 31, 2007 may be renewed for 2008 for a nine (9) month period from January 1, 2008 through September 30, 2008. All licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license. Licenses issued under this division shall not be valid on public or private property located within the CBD Central Business District on the following special event days: Flag Day Parade, Octoberfest and Christmas Parade, or within a two (2) block radius of any other special event held within the corporate limits of the City. No license shall be granted to a person under eighteen (18) years of age unless a street trade permit is obtained pursuant to §103.25 and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months has elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every license holder, while exercising his or her license, shall post the license in a conspicuous place on the premises or his or her person and shall exhibit the license upon demand of any officer, customer or prospective vendee. A license shall not be assignable and any holder of such license who allows it to be used by any other person shall be in violation of this division. Whenever a license is lost or destroyed, a duplicate in lieu thereof may be issued by the City Clerk under the original application upon the filing with him by the license holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for the recovery of the license, and upon the payment of a fee. All licensees shall be issued a photo identification card by the City Clerk at the time the license is issued. Any agent or employee of the licensee shall obtain a photo identification card for a fee. The amount of the fee for the lost license and photo identification card shall be on file in the office of the City Clerk.
(Code 1965, §11.04(4)(D); Ord 48-89, §1, 3-15-89; Ord 125-89, §2, 9-20-89; Ord 83-90, §1, 9-20-90; Ord 18-94,

§1, 1-5-94, Ord 186-02, §1, 9-24-02, Ord 107-04, §1, 8-10-04, Ord 25-05, §1, 4-12-05; Ord 160-07, §1, 12-11-07; Ord 143-11, §1, 6-7-11)

Sec. 9-618. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail, return receipt requested, of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 108-04, §1, 8-10-04)

Sec. 9-619. Surrender of license; alteration of license; failure to display license.

On the expiration of a license issued under this division, the holder shall surrender the license to the Chief of Police. No person shall alter or change in any manner any license issued under the provisions of this division, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the premises or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.
(Code 1965, §11.04(5), Ord 25-05, §1, 4-12-05)

Sec. 9-620. Prepayments.

All orders taken by a license holder under this division who accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid.
(Code 1965, §11.04(6))

Sec. 9-621. Conduct of business generally – commercial solicitation licenseholders.

A transient merchant holding a license under this division shall be subject to the following:

(a) A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs, nor intentionally misrepresent to any prospective customer the purpose of his or her visit or solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, wares or merchandise which he or she sells or offers for sale or the disposition of the proceeds or profits of his or her sales.