

CHAPTER 35A

GARAGE SALES

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[HISTORY: Adopted by the Common Council of the City of Dunkirk 8-6-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Permits and licenses - See Ch. 51.

§ 35A-1 Definitions.

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

**GARAGE SALE** - Includes all sales entitled “garage sale”, attic sale”, “rummage sale”, “flea market sale” or any similar casual sale of tangible personal property which is promoted by any means whereby the public at large is, or can be, made aware of such sale.

**GOODS** - Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

**PERSON** - Includes individuals, partnerships, voluntary associations and corporations. For the purpose of the provisions of this chapter relating to licensing, “person” shall include family or household groups occupying the same dwelling unit.

§ 35A-2. License required; fee.

- A. It shall be unlawful for any person to conduct more than three (3) garage sales in a calendar year in the City of Dunkirk without first filing with the City Clerk the information hereinafter specified and obtaining from such City Clerk a license so to do, to be known as a "garage sale license."
- B. There shall be a fee of Ten Dollars (\$10.00) for such a license.

**§ 35A-3. Duration and display of license.**

- A. Such license shall be issued to one (1) person only twice within a twelve-month period, and no such license shall be issued for more than seven (7) consecutive calendar days.
- B. Each license issued under this chapter must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

**§ 35A-4. Application for license.**

The information to be filed with the City Clerk pursuant to this chapter shall be as follows:

- A. The name of the person, firm, group, corporation, association or organization conducting the sale.
- B. The name of the owner of the property on which the sale is to be conducted and the written consent of the owner, if the applicant is other than the owner.
- C. The location at which the sale is to be conducted.
- D. The number of days of the sale.
- E. The date and nature of all past garage sales in the City of Dunkirk.
- F. The relationship or connection the application has with any person, firm, group, organization, association or corporation conducting any past sale and the date or dates of such sales.
- G. Whether or not the applicant has been issued any other vendor's license by any local, state or federal agency.
- H. A sworn statement or affirmation by the applicant signing that the information therein given is full and true and known to the applicant to be so.

**§ 35A-5. Type of merchandise to be offered.**

The merchandise offered at the sale shall be only used, unwanted items of personal property acquired for normal use by the licensee.

**§ 35A-6. Hours of sale.**

All garage sales shall be conducted only between the hours of 9:00 a.m. and 9:00 p.m.

**§ 35A-7. Advertisement; signs.**

- A. Garage sales may be advertised through the newspaper or other news media.
- B. Signs not greater in size than two by two (2 x 2) feet may be installed.
  - (1) No sign shall be placed on the public right-of-way.
  - (2) No lighted signs may be used.
  - (3) Signs shall be displayed only during the sale and shall be removed within twenty-four (24) hours after completion of the sale.

**§ 35A-8. Exemptions.**

The provisions of this chapter shall not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number.
- D. Any sale conducted by a merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the City of Dunkirk

or under the protection of the nonconforming use provisions thereof, or any other sale conducted from properly zoned premises and not otherwise prohibited.

- E. Any bona fide charitable, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

**§ 35A-9. Investigation of violations; responsibility to maintain good order.**

- A. It shall be the duty of the Police Department of the City of Dunkirk to investigate any violations of this chapter brought to its attention by complaint or arising during the performance of its regular duties.
- B. The person to whom the license is issued and the owner of the premises, in the case of a license issued to a tenant of the premises on which such sale or activity is conducted, shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on that premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such persons shall obey the order of the Police Department of the City of Dunkirk in order to maintain the public health, safety and welfare.

**§ 35A-10. Penalties for offenses.**

Any person violating any provision of this chapter shall, upon conviction, be subject to a fine not exceeding One Hundred Dollars (\$100.00) and/or imprisonment not to exceed fifteen (15) days, or both, at the discretion of the court. The continuation of a violation against the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct violation.