

PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE
FOOD VENDORS

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SEC. 53.1 DEFINITIONS. For use within this chapter, the following terms are defined:

1. "Peddler" means any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street an order for goods or merchandise to be delivered at a future date.
3. "Transient merchant" means any person, firm, or corporation who engages in a temporary or itinerant merchandising business, intending to remain in business in the City of Waverly for less than one year, and in the course of such business hires, leases, or occupies any building or structure whatsoever or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person, firm, or corporation from being considered a transient merchant.
4. "Mobile food vendor" means any person who prepares, stores, or sells any food item in or from a vehicle or unit which is either parked in a permanent location or which moves from place to place and stops temporarily for such sales.

SEC. 53.2 LICENSE REQUIRED. It shall be unlawful for any person to engage in peddling, soliciting, mobile food vending or in the business of a transient merchant in this City without first obtaining a license as provided in this chapter.

SEC. 53.3 LICENSE APPLICATION. An application for a license under this chapter shall be made with the Waverly City Clerk or the clerk's authorized representative and shall give the following information:

1. The name, permanent address, local address, phone number, and email address of the applicant; whether such person will act as proprietor, agent, consignee or employee and the credentials establishing such relationship.
2. The name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.
3. Applicant's federal identification number and the federal identification number of any business for which applicant claims to be peddling as an agent, employee, or otherwise.
4. The place or places in the City where it is proposed to carry on applicant's business and the length of time during which it is proposed said business shall be conducted.
5. A statement of the nature and character of the tangible personal property or service to be sold or offered for sale by the applicant in the City; whether the goods are new, damaged or rejects; whether the same are proposed to be sold from stock in possession or by sample, or at auction, or by direct sale, or by taking orders for future deliveries; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.
6. Whether or not the applicant or the person having management or supervision of the applicant's business has been convicted of a felony within the five (5) years immediately preceding the date of the application or of the violation of any laws or ordinance relating to the same or similar business proposed to be conducted by the applicant, the nature of such offense and the punishment therefore.
7. Whether the applicant has ever applied for a license under this chapter which has been denied.
8. Whether the applicant has ever held a license under the chapter which has been revoked.
9. A copy of the driver's license and provided the social security number.
10. If the applicant's business is to be conducted through employees, the application shall include the information specified at paragraphs 6 through 9, inclusive, above for each employee who will be conducting applicant's business in this City as well as the name and address of each such employee.

SEC. 53.4 LICENSE ISSUANCE. The Clerk shall forward the application to the Police Chief and if the Police Chief finds the application is made out in conformance with this chapter and the facts stated therein are correct, the Chief shall sign the same noting approval and return the application to the City Administrator for approval. The City Clerk shall issue, within ten (10) days and upon the posting of a bond as required by this chapter, a license and charge a fee therefore as determined by this chapter. The license shall authorize the applicant to engage in the activities of a "solicitor" for the period stated in the license with a maximum of one (1) year, provided that nothing herein shall authorize any act or practice which is contrary to any law or ordinance. The license issued hereunder shall not be transferable. There shall be no refund of the license fee.

SEC. 53.5 APPLICATION FEES. A nonrefundable fee as established by resolution of the City Council shall be paid to the City Clerk at the time of filing such application to cover the cost of investigating the facts set forth therein.

SEC. 53.6 LICENSE BOND. Before a license under this chapter shall be issued, each applicant shall post a Peddlers bond with a five thousand dollars (\$5,000) limit with the City Clerk. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the City and the statutes of the State of Iowa regulating and concerning the sale of goods, subscriptions, wares, merchandise or personal property of any nature, including food stuffs, or for services, including advertising, and will pay all judgment rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against said applicant by any person or persons for damage growing out of any misrepresentations or deception was made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the City for any penalties or costs occasioned by the enforcement of this ordinance and shall not be retired until after a lapse of one year from the expiration of each license.

SEC. 53.7 DUPLICATE AND INDIVIDUAL LICENSES, WHEN REQUIRED. A license under this chapter may be issued to a person carrying on the business of solicitor, peddler or transient merchant in this City through employees. Such employees shall carry a duplicate license issued to the employee, which license shall be obtained at the office of the City Clerk upon compliance with the requirements of the chapter. If the business of solicitor, peddler or transient merchant in this City is carried on through agents who are not employees, or by consignees, or by an unincorporated firm or association, each person so conducting the business in this City shall be required to have a separate license, but not post a separate bond if one is posted by the corporation.

SEC. 53.8 LICENSE DISPLAY. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the license provided for by this chapter and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly the license in his or her place of business.

SEC. 53.9 EXEMPTIONS. Persons engaged in the following described activities are exempt from the duty of applying for a license under this chapter:

1. Persons selling at wholesale to merchants for the purpose of resale.
2. Persons selling or distributing newspapers.
3. Persons selling tangible personal property or services to business enterprises.
4. Persons who sell at their permanent residence in the City, works of art or craft made or created by such person or a member of each such person's immediate family.
5. Persons licensed by the State of Iowa to sell real estate or insurance or licensed as transient vendors of drugs.
6. Persons selling or distributing livestock feeds as defined by the laws of the State of Iowa.

7. Persons selling or delivering tangible personal property or services through a permanent business licensed through the City.
8. Persons selling or distributing fresh fruit or vegetables cultivated by such person.
9. Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved and such sales are made on the premises where the event is to be conducted.
10. Persons selling tangible personal property at a garage, basement, or yard sale held at one of the person's premises.
11. Persons selling food and beverages at a food establishment regulated pursuant to the Code of Iowa.
12. Persons selling consumer fireworks and novelties. Please see Section 104.4 of this Code book.
13. Auctions conducted by auctioneers licensed by the state.
14. Resident school, Girl Scout, Boy Scout and other such organizations shall be exempt from the application of this chapter.

14a. A religious, charitable, patriotic, social service, civic, or political non-profit organization, other than those listed above shall receive a license for activities regulated under this chapter where its authorized representative volunteers are to undertake such activities without remuneration and where the entire proceeds of the activities will go to the organization and not for private profit. The organization shall file the information required for a license under this chapter in the office of the City Clerk. The City Clerk shall issue, free of charge, and without bond, a license for the requested activity which shall be valid for a period of one year and may be renewed on or before the expiration date.

SEC. 53.10 DENIAL OR REVOCATION OF LICENSE PROCEDURE.

1. Denial of license. The City may deny within ten days a license to any applicant who has:
 - a. Held a license under this chapter that has been revoked within two years of the date of the present application.
 - b. Failed to make a complete, truthful application.
 - c. During the past two years a history of:
 - (1) Fraudulent applications of similar licenses;
 - (2) Misrepresentation of the quality of merchandise or services offered for sale;
 - (3) Crimes involving personal property.

2. Revocation of license. The Police Chief may revoke any license issued under the provisions of this chapter by sending a Notice of Revocation by certified mail to the license holder at his or her last known address, return receipt requested, or by personal service on the license holder or its officers for any of the following causes:
 - a. Information showing the license was erroneously issued initially;
 - b. For any violation of the provisions of this chapter;
 - c. For any violation of any City or State law regulating the sales activities of the license holder;
 - d. For making any fraudulent statement in connection with the application for a license under this chapter.
3. The license shall stand denied or revoked unless within five (5) days after denial or receipt of the Notice of Revocation from the Police Chief the license applicant or holder files a written request for a public hearing on the Police Chief's action. The public hearing shall be conducted before the City Administrator which shall forward to the full City Council a recommendation on whether a license should be denied, reinstated or revoked, as the case may be. The City Council may order the license issued or reinstated either conditionally or unconditionally, or revoke the license.
 - a. Ten (10) days' notice of the time and place of the public hearing shall be given the license applicant or holder, who shall have an opportunity to appear before the committee and who shall have an opportunity to appear before the committee and present any evidence or arguments he or she may have why the action taken by the Police Chief should not be approved by the City Council.

SEC. 53.11 SALES REGULATIONS.

1. No person shall engage in activities regulated under this chapter on public property owned by the City without first procuring special authorization from the City.
2. No person shall shout or use any sound device upon any of the public places of the City or upon any private premises in said City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard from the public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.
3. No person shall engage in business under this chapter in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or are not invited.
4. No person shall engage in the activities regulated under this chapter from door to door prior to 9:00 a.m. or after 8:00 p.m. on any weekday or Saturday, or at anytime on a Sunday or on a State or National holiday.
5. A written receipt for all orders taken within the City shall be given to the customer, which

receipt shall be signed by the person making the sale and shall set forth a brief description of the goods, wares, merchandise or service or services ordered, the total purchase price thereof, and the amount of the down payment received from the purchaser.

SEC. 53.12 PENALTY. Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days and may also be punishable as municipal infractions subject to a civil penalty as set forth in this Code of Ordinances. Each day a municipal infraction occurs and/or is permitted to exist constitutes a separate offense. Police officers and code enforcement officers shall have the authority to issue citations for violations of this chapter, and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction.

SEC. 53.13 MOBILE FOOD VENDOR.

1. It is unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility within the corporate limits of the City without first obtaining a mobile food unit license from the City, in addition to any other State, Federal, or County permits, certificates and licenses.
 - a. A mobile food unit license is valid for the length of time designated on the application for a maximum of one (1) year.
 - b. Each mobile food unit shall be licensed separately. No license transfer is allowed.
 - c. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the City is expected to comply with all other local, county and state requirements for health inspections, licensing, safety and fire code requirements.
 - d. The following shall be exempt from this requirement:
 1. Catering businesses.
 2. Grilling and food preparation activities of brick and mortar establishments on the establishments' premises for immediate consumption by patrons or employees.
 3. Concession stands associated with sports or recreational venues that have been approved as part of a site plan.
 4. Vendors that are permitted in conjunction with a community special event.
2. License Fee(s). At the time of submittal of a license application, the applicant shall pay to the City Clerk the applicable license fee. The City Council shall establish the amount of the nonrefundable license application fee by resolution.
3. Mobile Food Vendor License Application:
 - a. Submission Time Frame. Applications must be submitted not less than 10 business days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any applications that have not been timely submitted to the City. The City Clerk shall have the discretionary right to accept an application made less than 10 business days prior to desired start date.
 - b. Additional Approvals. Receiving approval of a mobile food unit license from the City shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state, and federal regulations.
 - c. Application Contents. Application shall be made on a form provided by the City and shall include:
 1. Full name of the applicant.
 2. Applicant's contact information including mailing address, phone numbers

and email address.

3. Business name, address, and FEIN No.
 4. Copy of driver's license.
 5. State health inspection certificate with the classification level of the state license identified.
 6. Description of the kitchen facilities, cooking facilities, preparation area, safety features (suppression system, etc.) of the mobile food unit.
 7. Photographs of the mobile food unit.
 8. Make, model, year, and license plate number of vehicle to be used.
 9. Overall size of the vehicle; length and width.
 10. Copy of the Fire Department's Self Inspection form.
 - i. All mobile food units that have cooking facilities with grease laden vapors (class III and class IV state licenses) shall be inspected by the Black Hawk County Board of Health prior to initiation of business operations within the City. (Class I and class II state license classifications are not required to meet this inspection requirement.)
 - ii. All class III and IV mobile food units shall have an acceptable fire suppression system as listed on the Self-Inspection form.
 11. Statement whether or not the applicant has been convicted of a felony within the five (5) years preceding the date of the application or violated any laws or ordinance relating to the same or similar business.
 12. Application Fee
- d. Issuance of License. Upon completion of the review process and a determination of compliance with the applicable regulation, the City Clerk will issue a mobile food unit license. The license shall be placed in the upper left (passenger side) of the front windshield or the left front side of a trailer to aid in the visual verification of the licensing for that year.
- e. Modification of License After Issuance. Should the mobile food vendor change the food or beverage being offered during the term of an issued license that would change the designation of the mobile food unit to a higher state licensing level classification, a new application and fire inspection shall be required.
4. Mobile Food Units on Public Property. No mobile food unit may be operated on public property except as part of an event approved under a Special Event Permit by the City Clerk's office or as authorized by the respective Department Head for public property.
 5. Unattended Mobile Food Unit. No mobile food unit shall be left unattended or stored on any site overnight unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done in compliance with all other City Code requirements or if the mobile food unit is a participant in a multiple (contiguous) day, City permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, towing, or any other action legally allowed.
 6. Music and Sound Making Devices. The use of music or sound making devices shall follow Section 53.11 paragraph 2.
 7. Mobile Food Unit Performance Standards. Persons conducting business from a mobile food unit must do so in compliance with the following standards:
 - a. The mobile food vendor must obtain written consent of the property owner to use the business property on which they propose to operate. The written consent must be kept in the unit at all times that the unit is on the property, and copy of the written consent shall be

included with the application.

- b. The mobile food unit shall only be allowed on nonresidential properties, except in the case of a residential block party or private catering arrangement approved by the City.
 - c. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by city staff after a review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include, but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.
 - d. Mobile food units within 300 feet of a residential use or residentially zoned property shall be limited to hours of operation between 7:00 a.m. and 10:30 p.m. Exceptions approved by City Administrator.
 - e. Mobile food units shall serve patrons which are on foot only; no drive-up service to the mobile food unit itself shall be provided or allowed.
 - f. No mobile food unit may operate within 200 feet of a permanent restaurant, business offering food or beverage services or special event unless they have received written consent of the restaurant, business owner or special event coordinator.
 - g. All mobile food units shall maintain a minimum 15-foot separation from a building as measured to the closest building element including awnings or canopies, tents, or membrane structures. Location of the mobile food unit shall not impede pedestrians entering or exiting the building.
 - h. No mobile food unit shall be parked in or otherwise impact access to/from ADA parking stalls or located in such a manner to create a safety hazard such as blocking emergency access to buildings and the site, blocking public and private sidewalks, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, etc.
 - i. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than 6 inches from the exterior of the unit. No freestanding signs, banners, flags, etc. are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.
 - j. No alcoholic beverages may be sold as a part of the mobile food unit.
 - k. The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.
8. **Property Owner Responsibility.** By allowing the mobile food unit on their property, property owners share in the responsibility of ensuring that the performance standards listed above and the safety of pedestrians and access of emergency vehicles to and around the site are maintained. Failure to do so could result in the property owners being party to any enforcement actions or penalties allowed by law, including, but not limited to, the alteration or revocation of a multiple vendor permit.
9. **Revocation of License.** The Police Chief may revoke any license issued under the provisions of this chapter by sending a Notice of Revocation by certified mail to the license holder at his/her last known address, return receipt requested, or by personal service on the license holder for any of the following causes:
- a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - b. The licensee has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.
 - c. The licensee has conducted his/her business in such manner as to endanger

the public welfare, safety, order, or morals.

- d. The City Clerk has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.
 1. Hearing. The license shall stand revoked unless within five (5) days after receipt of the Notice of Revocation from the Police Chief, the license applicant or holder files a written request for a public hearing on the Police Chief's action. The public hearing shall be conducted before the City Administrator which shall forward to the full City Council a recommendation on whether a license should be reinstated or revoked. The City Council may order the license reinstated either conditionally or unconditionally or revoke the license.
 - a. Ten (10) days' notice of the time and place of the public hearing shall be given to the license applicant who shall have an opportunity to appear before the committee and present any evidence or arguments he/she may have why the action taken by the Police Chief should not be approved by the City Council.
10. Penalty. Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days and may also be punishable as municipal infractions subject to a civil penalty as set forth in this Code of Ordinances. Each day a municipal infraction occurs and/or is permitted to exist constitutes a separate offense. Police officers and code enforcement officers shall have the authority to issue citations for violations of this chapter, and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction

(Repealed and Replaced Chapter 53 per Ordinance 1089- 04/14/21)

