

Watertown Economic Development Authority

April 11, 2023

Agenda Item: Food Truck Licensing**Request for Action:** Adopt Ordinance #436 Amending City Code to Include Licensure and Process for Mobile Food Units (food trucks)**Employee/Dept.:** Jake Foster, City Administrator**Background:**

At the February 28, 2023, City Council Workshop, Council discussed creating and implementing a standalone mobile food unit (food truck) license based on issues raised from residents and business owners late in 2022.

At the meeting, Council discussed several items relating to the code, requirements, and licensing process for mobile food units. Based on that feedback, staff created an ordinance for Council to consider. A redlined version of Ordinance 436 is included, as well as an ordinance summary.

Items of note:

- Cost will remain consistent with current solicitor/peddler's permit - \$100 (to cover staff time).
- MN Department of Health (MDH) licensure will be required.
- The City will continue to perform the standard background check (same as solicitor's permit), as staff does not feel that the criminal background components used in the MDH are not adequate.
- Parking a food truck is not permitted within the Central Business District or within 200 feet of a restaurant unless prior approval is given by the City Administrator or designee.
- Units may not be parked in the same location within 24 hours and cannot park on City streets overnight.
- Parking/operation is permitted on public property, (parks, streets, etc.) with the prior permission of an adjacent property owner where relevant.
- Mobile Food Unit operator is responsible for ensuring traffic and access to homes and buildings is not impeded by their property or patrons.
- Parking is not permitted on State Highways or County Roads
- Operation is only permitted between the hours of 8:00 AM and 8:00 PM unless prior approval is provided by the City Administrator or designee.
- The City retains the right to require operators to move as stated on the permit application.

Recommendation:

Staff recommends adopting Ordinance #436 and approving the summary publication.

Budget Impact:

N/A

Funding Source:

N/A

Attachments:

Ordinance #436

Ordinance Summary

Mobile Food Unit Permit Application

CITY OF WATERTOWN
COUNTY OF CARVER
STATE OF MINNESOTA

ORDINANCE NO. 436

AN ORDINANCE AMENDING CHAPTER 42 PEDDLERS AND SOLICITORS TO
INCLUDE SPECIFIC INFORMATION ON MOBILE FOOD UNITS

THE CITY COUNCIL OF THE CITY OF WATERTOWN DOES ORDAIN:

SECTION 1. AMENDMENT. That the Municipal Code of Watertown, Minnesota, Chapter 58, Article III. – Water is hereby amended as set forth below by adding the underlined language and deleting the ~~striketrough~~ language as follows:

Chapter 42 PEDDLERS, ~~AND SOLICITORS,~~ AND MOBILE FOOD UNITS

ARTICLE I. IN GENERAL

Secs. 42-1—42-25. Reserved.

ARTICLE II. PERMIT¹

Sec. 42-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddler means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street conveying or transporting goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever, or offering or showing the same for sale, or making sales and delivering articles to purchasers.

Solicitor means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for sales of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever, for future delivery, or for service to be performed in the future, including orders for the performance of maintenance or repair service on homes or places of business, whether or not such individual has, carries or shows for sale a sample of the subject of such order or whether or not he is collecting advance payments on such order. Such definition includes any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, hotel or motel room, lodginghouse, apartment, shop,

¹State law reference(s)—Power to regulate, M.S.A. §§ 329.06, 437.02.

street, alley, vacant lot or other place within the city for the purpose of exhibiting samples and taking orders for future delivery. Such definition includes any person who solicits in such person's name money, donations of money or property, or financial assistance of any kind, or sells or distributes any item of literature or merchandise for which a fee is charged, or solicits from persons other than members of such person's organization upon the streets, in office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose.

Transient merchant means and includes any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise, including magazines, books, periodicals or personal property of any nature whatsoever, within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, hotel or motel room, lodginghouse, apartment, shop, or any street, alley, vacant lot or other place within the city for exhibition and sale of such goods, wares and merchandise, either privately or at public auction.

Mobile Food Unit means a self-contained vehicle or trailer used to prepare and serve food or ice cream novelties that is readily movable with disassembling.

(Ord. No. 189, § 1, 8-11-92)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 42-27. Exemptions from article.

This article does not apply to the following:

- (1) Sales of goods, merchandise or services to business, commercial or industrial users at their usual place of business.
- (2) Deliveries of previously sold goods or services in the regular course of business, or deliveries or sales made as a part of a regular established route to preexisting customers.
- (3) Vendors who make an uninvited call upon the occupant of a residence as a preliminary step to the establishment of regular route services for the sale and delivery of commodities and services to regular customers, such as vendors of milk, groceries and other perishable commodities; soft water service; laundry and dry cleaning pickup and delivery and newspapers.
- (4) Any sale under court order.
- (5) Any bona fide auction sale by a city resident.
- (6) Sidewalk sales authorized by the city council.
- (7) Garage sales or rummage sales when conducted by a nonprofit organization, or when conducted upon the premises of the owner of the articles being offered for sale, provided that such sales do not last longer than 72 hours, and provided that no more than three sales be conducted on any given location within one year.
- (8) Sale of admissions by local school students to a school function or by local bona fide civic or nonprofit organizations for entertainment functions sponsored by such organizations.
- (9) Sales allowed by state law which prohibit local licensing or regulation.

(Ord. No. 189, § 3, 8-11-92)

Sec. 42-28. Prohibited practices.

It is unlawful and a violation of this article for any peddler, solicitor or transient merchant to:

- (1) Engage in solicitation for any unlawful business or organizational purpose or activity.
- (2) Engage in harassment, intimidation or deception, or to exert pressure or threaten, or engage in any other unlawful practice during the course of solicitation or sale.
- (3) Refuse to leave the premises when requested by the owner, lessee, person in charge thereof, or the person being solicited.
- (4) Call attention to the business or activity by crying out, blowing a horn, ringing a bell, or making any loud or unusual noise.
- (5) Display merchandise or make sales or solicitations directly from vehicles or trailers on city streets or alleys.
- (6) Engage in business after the hour of 8:00 p.m. or before 8:00 a.m., unless a previous appointment has been made for a different time.

Additional to Mobile Food Units

- (1) Mobile Food Units may not operate with the Central Business District or with 200 feet of a restaurant without prior approval of the City Administrator or Designee.
- (2) Parking is not permitted in the same location within twenty-four (24) hours.
- (3) Overnight parking on City streets is prohibited.
- (4) Parking on State Highways or County Roads is prohibited.
- (5)

(Ord. No. 189, § 12, 8-11-92)

Sec. 42-29. Permission of property owner required.

No peddler, solicitor, ~~or~~ transient merchant, or mobile food unit shall sell or offer for sale any goods, wares or merchandise or personal property of any nature whatsoever within the city from a stationary location on public or private property without first obtaining the written consent of the property owner or authorized occupant.

(Ord. No. 189, § 14, 8-11-92)

Sec. 42-30. Penalty for violation of article.

Any person who violates any provision of this article, upon conviction thereof, shall be punished as provided in section 1-13.

(Ord. No. 189, § 17, 8-11-92)

Sec. 42-31. Required.

It is unlawful for any peddler, solicitor, ~~or~~ transient merchant, or mobile food unit to engage in any business, solicitation or activities as described in section 42-26 within the city without first obtaining a permit therefor in compliance with the provisions of this article.

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(Ord. No. 189, § 2, 8-11-92)

Sec. 42-32. Application.

Applicants for a permit under this article shall file with the city administrator a sworn application in writing on a form to be furnished by the city, which will give the following information:

- (1) The name and permanent home and business address of the applicant and all persons to be associated with the applicant in the business or activity.
- (2) A brief description of the nature of the business or the purpose or cause for which the permit is sought.
- (3) If the permit is sought to be issued in the name of an organization or other business entity, the names and addresses of the principal officers and directors of the organization, the address and phone number of the main office or headquarters of the organization conducting or sponsoring the activity, and the names and addresses of the persons directly supervising and responsible for the business, solicitation or activity to be conducted.
- (4) In the case of transient merchants, the place where the business is to be carried on, the length of time for which the permit is sought, and a general description of the goods or merchandise to be sold.
- (5) A list of the last three municipalities, if any, where the applicant carried on a business or activity similar to the one for which the permit is sought.
- (6) The names and addresses of at least three references who will substantiate the applicant's moral character and business responsibility, or other evidence of the character and responsibility of the applicant.
- (7) The applicant's state sales tax permit number, if applicable.

(Ord. No. 189, § 4, 8-11-92)

Mobile food unit application

Applicants for a permit under this article shall file with the city administrator a sworn application in writing on a form to be furnished by the city, which will give the following information:

- (1) Name of company or organization, business address, telephone number.
- (2) A description of the goods being sold.
- (3) Proof of Minnesota Department of Health Licensure.
- (4) A list of the last three municipalities, if any, where the applicant carried on a business or activity similar to the one for which the permit is sought.
- (5) The names and addresses of at least three references who will substantiate the applicant's moral character and business responsibility, or other evidence of the character and responsibility of the applicant.

Sec. 42-33. Investigation of applicant; issuance.

Upon receipt of a completed application for a permit under this article, the city administrator, or such other person as may be designated by the city council, shall institute such investigation of the applicant's business and moral character as is deemed necessary for the protection of the public good. Such investigation may include referral to and a report made by the city police or county sheriff's office. The completed application and report, if

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any, shall be submitted as soon as practical to the city council for its consideration. If the application is approved by the council, the permit will be issued by the city administrator and a notice thereof published in the Carver County News. If the permit is denied by the council, the applicant shall be notified together with the reasons for the denial and the applicant may appeal to the council for reconsideration at the next regular council meeting. Such appeal must be in writing and the applicant or applicant's representative must appear in person at the council meeting.

(Ord. No. 189, § 5, 8-11-92)

Sec. 42-34. Form of permit and published notice.

The form of the permit to be issued under this article and the notice to be published in the newspaper shall be as determined appropriate by the city administrator.

(Ord. No. 189, § 6, 8-11-92)

Sec. 42-35. Fees.

The fee for any permit to be issued under this article shall be established by resolution of the city council. The fee shall be payable at the time of the filing of the application.

(Ord. No. 189, § 9, 8-11-92)

Sec. 42-36. Fee exemption.

No fee shall be required under this article from any bona fide charitable, religious, civic, educational or political organization, provided the proceeds of any sale or solicitation are being used for the legitimate purposes of such organization.

(Ord. No. 189, § 10, 8-11-92)

Sec. 42-37. Permits to be carried and exhibited upon request.

Permits issued under this article shall be carried by the permittee or conspicuously posted in such permittee's place of business, and the permit shall be exhibited to any officer or citizen upon request. In the case where more than one individual shall be involved in the activity or solicitation, the applicant shall make sufficient copies of the permit to be made available to each peddler or solicitor acting on behalf of the group, organization or legal entity.

(Ord. No. 189, § 7, 8-11-92)

Sec. 42-38. Expiration of permit.

All annual permits issued under the provisions of this article shall expire at midnight on December 31 in the year when issued. Other than annual licenses shall expire at midnight on the date specified on the license.

(Ord. No. 189, § 8, 8-11-92)

Sec. 42-39. Permit not transferable.

All permits issued under this article shall be nontransferable. No refund shall be made on unused portions of permit fees.

(Ord. No. 189, § 11, 8-11-92)

Sec. 42-40. Use of streets.

- (a) No permittee under this article shall have any exclusive right to any location in the public streets or alleys of the city, nor shall any such permittee be permitted a stationary location thereon, nor shall any such permittee be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or alleys. For the purpose of this section, the judgment of a law enforcement officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.
- (b) No permit under this article shall be issued for sales or displays from any location which does not have sufficient parking for customers and for areas where customer parking would interfere with normal traffic flow.

(Ord. No. 189, § 13, 8-11-92)

Sec. 42-41. Revocation.

- (a) Permits issued under the provisions of this article may be revoked by the city council after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or incorrect statement contained in the application for the permit.
 - (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on the business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
 - (3) Any violation of this article.
 - (4) Conviction of any crime or misdemeanor.
 - (5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety or general welfare of the public.
- (b) Notice of the hearing for revocation of a permit under this article shall be given by the city administrator in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address or at the address set forth on his application at least seven days prior to the date set for hearing, or shall be delivered by a law enforcement officer in the same manner as a summons at least five days prior to the date set for hearing.

(Ord. No. 189, § 15, 8-11-92)

Sec. 42-42. Reapplication.

No permittee whose permit under this article has been revoked shall make further application until at least six months have elapsed since the last previous revocation.

(Ord. No. 189, § 16, 8-11-92)

(Ordinance Summary)

ORDINANCE NO. 436

CITY OF WATERTOWN

AN ORDINANCE AMENDING CHAPTER 42, PEDDLERS AND SOLICITORS

The above-referenced Ordinance amends the Municipal Code of Watertown, Minnesota, Chapter 42, Peddlers and Solicitors, to include information specific to the permitting and operation of mobile food units within the City of Watertown city limits.

A printed copy of the entire Ordinance is available for inspection and copying at the Watertown City Hall, at 309 Lewis Avenue S., Watertown, MN 55388

Dated: April 11, 2023

Margaret Reisdorf, Administrative Services Director



**City of Watertown
Mobile Food Unit**

PERMIT APPLICATION

NOTICE TO APPLICANTS: Please be advised that this application must be filled out completely and that failure to do so will result in the application being returned.

Date: _____

Name of Company or Organization: _____

Business Address: _____

Telephone Number: _____

Names and Addresses of Officers/Directors of Company or Organization:

1. _____

2. _____

3. _____

APPLICANT INFORMATION

Name: _____

Address: _____

Driver's License Number: _____

Date of Birth: _____

Nature of Goods to Be Sold: _____

STATE LICENSE

Mobile food units shall hold a valid license from the State of MN Department of Health or Department of Agriculture. A copy of the State license must be attached to this permit application.

WRITTEN PERMISSIONS

Written permission from private property owner(s) must be provided prior to operating a mobile food unit in front of a subject property.

HEART OF THE LUCE LINE TRAIL

