

ORDINANCE NO. 034-22

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF CEDAR RAPIDS, IOWA, BY REPEALING CHAPTER 42 "PUSHCARTS, PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS" AND ENACTING A NEW CHAPTER 42 "SOLICITORS AND TRANSIENT MERCHANTS" TO CLARIFY AND UPDATE LANGUAGE FOR CONSISTENCY WITH OTHER AREAS OF THE CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA as follows:

Section 1. Chapter 42 of the Cedar Rapids Municipal Code is hereby repealed and in its place a new Chapter 42 is enacted as follows:

"CHAPTER 42 – SOLICITORS AND TRANSIENT MERCHANTS

42.01 – DEFINITIONS.

Terms used in this chapter have the following meanings:

- (a) **City Block.** The entire right-of-way of a public street extending from the centerline of an intersecting street or the lateral centerline of any river bridge, to the centerline of the next intersecting street or the lateral centerline of any river bridge, whichever is closer.
- (b) **Event Venue.** An establishment on a parcel of land which is operated solely or primarily to host specialized events, generally occurring weekly, or throughout a month, but not occurring daily. These specialized events may be exclusive to said establishment and are not prevalent throughout the City. The City of Cedar Rapids Zoning Administrator shall make the determination if a venue is an Event Venue.
- (c) **Market.** An establishment consisting of at least five (5) vendors where people may gather, indoors or outside, a permanent structure is on site, offering food that is prepared on site, for consumption on site. Non-food goods and other prepared and packaged food prepared on site is offered for sale as a function of the establishment.
- (d) **Parking Manager.** The City of Cedar Rapids or designated agent thereof who manages parking spaces within the corporate limits.
- (e) **Parking Space, Metered.** An on-street or off-street parking space managed by the City or by a manager in which a fee must be paid at a meter stationed directly adjacent to the parking space to legally park within the designated area for a limited period of time.
- (f) **Parking Space, Numbered.** An on-street or off-street parking space managed by the City or a parking manager for which there is a corresponding number identifying the specific location of the parking space and fee must be paid at a centrally located kiosk.
- (g) **Public Offense.** A public offense is that which is prohibited by law and is punishable by fine or imprisonment.
- (h) **Private Property.** A lot or defined area of land which is not in the ownership of a local, state, or federal government entity.

- (i) **Public Property.** Public Property consists of land and other assets that belong to the general public (government) and not a private owner, such as parks, buildings, equipment, etc.
- (j) **Public Right-of-way.** The City's street and alley rights-of-way are owned or held by the City primarily for the purpose of pedestrian and vehicular passage and for the City's provision of essential public safety services, including police, fire, and emergency medical response services; and public health services, sanitary sewer, water, storm drainage, and public utilities. In all cases, pedestrian, vehicular passage, the public safety and public health services is considered and treated as the dominant and preeminent uses of the public rights-of-way.
- (k) **Solicitor.** Any person who initiates or attempts to initiate personal contact with other persons at or near residences or businesses, including upon private driveways, parking lots, or public sidewalks in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date.
- (l) **Special Event.** An event or celebration for which a permit is granted by the City Council or Office of the City of Cedar Rapids City Manager. An "event or celebration" is a significant occurrence or happening sponsored by a civic, business, educational, government, community, or veterans' organization and may include athletic contests.
- (m) **Transient Merchant.** Any business that engages in a temporary business of selling and delivering goods, services, wares or merchandise within the city who in furtherance of such purposes leases, uses or occupies any vehicle, trailer, tent, railroad car, or other place in the city for the exhibition and retail sale of such goods, services, wares or merchandise. Transient merchant shall not include the temporary sale of goods, services, wares, or merchandise by a permanent merchant on private property adjacent to the merchant's permanent place of business. Said temporary sales shall not exceed seven (7) days in duration nor take place more than once every 30 days.
- (n) **Vendor.** Vendor shall include solicitors and transient merchants.

42.02 – LICENSE REQUIRED.

- (a) No vendor shall operate or engage in business in the city without license as provided in Chapter 41 of this code with the exception of those individuals and organizations identified in Section 42.13. Only one natural person may engage in such activity under one solicitor license, whereas, a business may engage in such activity under one transient merchant license
- (b) A vendor license shall not be transferable from person to person, business to business nor from an approved location to another location without approval of the City Manager or a duly authorized representative.
- (c) Each vendor shall obtain the necessary licenses and/or permits as may be required by the city, county, state, or federal governing bodies. All applicants shall comply with all applicable county, state or federal laws, rules and regulations.
- (d) Each vendor shall prominently display their license at all times while engaged in the particular activity for which the license was issued and shall, upon the request of customers or city employees, exhibit the license as evidence of compliance with all requirements of this chapter.
- (e) A vendor license shall be denied to any applicant who has been found to have operated in material violation of any of the requirements of this Chapter of the code within the prior 180 days.

- (f) The Office of the City Clerk shall deny any vendor application that does not conform with all applicable requirements of this Chapter, the City Code, the Iowa Code, and the Iowa Administrative Code.
- (g) In the event an application for a vendor license is denied, the Office of the City Manager or authorized designee shall cause notice of such denial to be promptly communicated to the applicant or the applicant's representative by phone at the phone number provided in the application. Written notice shall also be sent to the applicant at the business address identified in the application informing the applicant of the denial, the reasons therefore, and the applicant's right to appeal the denial to a hearing officer by filing a written notice of appeal with the Office of the City Clerk within ten (10) business of receiving written notice.
- (h) Appeals will be heard by a hearing officer. Notice of the hearing shall be mailed to the licensee at the last known address at least 5 days prior to the date set for the hearing. At the hearing the applicant shall be afforded the opportunity to present evidence and argument. Formal rules of evidence and procedure shall not apply. Legal counsel shall not be required but shall be permitted. Within thirty (30) days after the conclusion of a hearing held pursuant to this section, the hearing officer shall make written findings which shall be based on a preponderance of the evidence as the standard of proof. Any decision rendered pursuant to this section shall be deemed a final action of the City and subject to appeal in accordance with Iowa law. Until an appeal is heard and determined by the hearing officer, the vendor shall not engage in any vending operations for which the permit would be required.
- (i) If no appeal from the denial of a license is timely filed, or if the denial is not reversed upon final disposition of any appeal, the Office of the City Clerk shall promptly refund the refundable portion of the application fee, as set in the schedule of fees adopted by the City council by resolution.

This chapter does not prohibit any auction sales required by statute or by order of any court or prohibit any auction sales conducted pursuant to law.

42.03 – APPLICATION FOR LICENSE.

- (a) Applicant for a license under this chapter shall file with the City Clerk an application which shall give the following information.
 1. Name, permanent and local address, phone number and email address of applicant;
 2. A copy of the business owner or applicant's valid and current government issued photo ID;
 3. A brief description of the nature of the business and the goods to be sold;
 4. The length of time for which the right to do business is desired;
 5. The name and address of employer, if any;
 6. If the employer is a corporation, the state of its incorporation, whether it is authorized to do business in Iowa, and evidence that the corporation has designated a registered agent upon whom legal service may be made and that the corporation will be responsible for the acts of its employees in the city;
 7. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance other than a traffic violation, the nature of the offense and the penalty imposed;

8. The last municipalities, not exceeding three (3), where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those cities.

(b) Solicitors shall also supply the following information:

1. Physical description of the applicant;
2. States in which the applicant has lived within the last five (5) years and a state-wide criminal history record report from each state.

(c) Transient merchants shall also supply the following information:

1. The proposed location, address, route, and/or area in which the business is to be operated;
2. Documentation establishing that the applicant has proper authorization to operate at the proposed sale location, which shall be in the form of a lease, deed or other written permission from the property owner or their designee;
3. A detailed site diagram of the proposed sale location.

(d) In determining whether a license under this chapter should be granted or denied the following standards shall be taken into consideration:

1. If the proposed activity is likely to cause undue congestion of a public area.
2. If the applicant has had an unreasonable number of complaints for misrepresentation, fraud, or selling defective merchandise.
3. If the applicant has been convicted of a violation of a similar ordinance within the last six (6) months.
4. If the applicant has been convicted within the last five (5) years of any public offense relating to assault, theft, fraud, forgery or misrepresentation.
5. If the proposed activity is likely to cause excessive or unusual noise.

42.04 – BOND.

An applicant for a license under this chapter shall file with the City Clerk a surety bond in the amount of \$1,000, conditioned that the applicant shall comply fully with all ordinances of the city and laws regulating vendors, and guaranteeing to any resident of the city that all money paid will be accounted for and applied according to the representation of the licensee, said bond to continue in force as to such surety for not less than one year from the date of execution of such agreement. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given.

42.05 – INSURANCE.

Each applicant shall provide proof of general liability insurance, including products liability coverage, in the amount of \$1,000,000 or more per occurrence. A certificate of insurance, listing the City of Cedar Rapids as the certificate holder, shall be delivered to the City Clerk prior to the issuance of a license.

42.06 – LICENSE FEES.

Unless otherwise provided, license fees shall be paid as established by a schedule of fees adopted from time to time by resolution of the City Council.

42.07 – REVOCATION OF LICENSE.

- (a) Any vendor license may, after notice in writing to the licensee and reasonable opportunity for hearing be suspended or revoked for misrepresentation of any material fact in the application for the license or in the course of conducting business has made fraudulent, false or incorrect statements, has violated this Chapter or any other ordinance or regulation adopted by the City of Cedar Rapids governing any activities or matters which may affect the health, safety and welfare, or, has otherwise conducted business in an unlawful manner.
- (b) In the event an application for a vendor license is suspended or revoked, the Office of the City Manager or authorized designee shall cause notice of such revocation to be promptly communicated to the licensee or the licensee's representative by phone at the phone number provided in the application. Written notice shall also be sent to the licensee at the business address identified in the permit informing the licensee of the suspension or revocation, the reasons therefore, and the licensee's right to appeal the suspension or revocation to an administrative hearing officer.
- (c) Licensee may appeal the suspension or revocation of the vendor license in writing to the Office of the City Clerk within fifteen (15) days of receiving written notice. Appeals will be heard by a hearing officer. Notice of the hearing shall be mailed to the licensee at the last known address at least five (5) days prior to the date set for the hearing. At the hearing the licensee shall be afforded the opportunity to present evidence and argument. Formal rules of evidence and procedure shall not apply. Legal counsel shall not be required but shall be permitted. Within thirty (30) days after the conclusion of a hearing held pursuant to this section, the hearing officer shall make written findings which shall be based on a preponderance of the evidence as the standard of proof. Any decision rendered pursuant to this section shall be deemed a final action of the City and subject to appeal in accordance with Iowa law. Until an appeal is heard and determined by the hearing officer, the vendor shall cease all vending operations.
- (d) A licensee whose license has been revoked or denied for renewal shall not be eligible for another such license for a period of 180 days after such revocation or denial of renewal.

42.08 – LOCATION RESTRICTIONS.

- (a) No vendor shall sell, display, or otherwise offer for sale any merchandise or other materials on public property unless approved by the City Manager or authorized designee.
- (b) No vendor shall operate in the public right-of-way within 100 feet of the primary entrance of a retail store selling like or similar items measured as a 100 foot buffer of a point, located at the center of the primary entrance of the retail store.
- (c) A vendor shall not be located in a public right-of-way within two (2) City blocks of the affected blocks of a special event, which has been approved by the City of Cedar Rapids, during the scheduled special event hours of operation, unless specifically licensed as part of said special event by the permit holder of said special event. For the purposes of this section:
 - 1. The "affected blocks" are any blocks containing any portion of a block for which the special event permit has been issued.
 - 2. Any entity, organization, or person with an approved special event permit, may provide in writing, to the Office of the City Clerk, a written statement indicating that they waive the requirement of the two (2) block affected area during their special event hours of operation.

- (d) Persons, firms, corporations or other organizations having valid contracts with the City of Cedar Rapids authorizing activities hereinbefore described in subsection (a) above are excepted from the terms of said paragraph for the activities specifically authorized in the contract.
- (e) The City Manager or authorized designee reserves the right to require the relocation of any transient merchant to a new location in the event public safety or congestion so requires, based on the discretion of the City Manager.
- (f) Transient merchants who are engaged in business on private property may only do so in Mixed Use or Public Zone Districts as defined by Section 32.02 of the Cedar Rapids Zoning Ordinance, Chapter 32 of the Municipal Code of Cedar Rapids.
 - 1. Any structures, vehicles and all other items related to the operation of a transient merchant located on private property must be secured and stored in a manner consistent with the Zoning code when not in operation.
- (g) No transient merchant shall be permitted to operate from one location for more than seven (7) consecutive days and no other transient merchant shall be permitted to operate another business at that location within the immediate 30 days following the previous transient merchant.
 - 1. Nonprofit organizations, clubs and lodges, churches and public and private schools and colleges are subject to this restriction even if a license is not required per Section 42.13.
- (h) The City Council may, by resolution, following a request by a vendor or permanent merchant, grant exceptions to the time and hours of operation constraints of Section 42.01(m), Section 42.08(g), Section 42.11 and the license requirements of Section 42.02 based upon just cause.
- (i) All vendors shall comply with all requirements of the Cedar Rapids Zoning Ordinance (Chapter 32, Municipal Code, City of Cedar Rapids), except that transient merchants shall not be required to provide off-street parking facilities as required by Section 32.04.02 of the Cedar Rapids Zoning Ordinance, however, if off- street parking facilities are provided the design and maintenance of said facilities shall be in accord with the specifications and standards set forth in Section 32.04.02.L, of the Cedar Rapids Zoning Ordinance.
- (j) No vendor vending from a motor vehicle shall conduct their business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life, or property, or an obstruction to adequate access to fire, police, sanitation, or emergency vehicles.
- (k) No vendor shall vend within 35' of a stop sign, 50' of a signal or in a travel lane (must be a designated parking lane).
- (l) No vendor shall locate within three (3) feet of a fire hydrant or ten (10) feet of a building ingress/egress door.
- (m) Vendors shall not block sidewalk ramps and shall allow enough width away from sidewalk ramps for visibility for pedestrian access.
- (n) No vendor shall block or park in a protected bike lane.
- (o) No vendor operating from a non-motorized stand or cart shall locate in any on-street parking space in the public right-of-way.

42.09 – VENDING IN THE PUBLIC RIGHT-OF-WAY.

- (a) Vendors operating from a motor vehicle or trailer in numbered or metered parking spaces shall be subject to the following:
 - 1. A motorized vehicle or trailer shall occupy no more than one (1) numbered or metered parking space at any given time unless said vehicle or trailer cannot park entirely within one numbered or metered parking space; in this instance said vehicle or trailer shall occupy no more than two (2) numbered or metered spaces.
 - A. Employee vehicles or any other vehicles associated with the vending operation shall be legally parked in a parking ramp or off-street parking lot.
 - 2. Parking for vending in a numbered parking space or spaces shall only be authorized when the City or its parking manager has reserved a dedicated, numbered space or spaces for the vending unit to operate.
 - 3. Parking for vending in a metered parking space or spaces shall only be authorized when the City or its parking manager has reserved a dedicated, metered space or spaces for the vending unit to operate or the vendor is legally parked in the metered space or spaces and pays the required fee at the meter.
 - 4. Reservation of numbered or metered parking space shall require a fee paid in accordance with the fee schedule set by the City of its parking manager.
 - 5. Numbered or metered parking spaces reserved by a vendor may be rendered temporarily or permanently unavailable with no notification to the licensee for the purposes of road construction, special events, and/or circumstances requiring the use of the area where the parking space is located.
- (b) Vendors operating from a motor vehicle or trailer in non-numbered or non-metered parking spaces shall be legally parked.
- (c) All temporary structures, vehicles, and all other items related to the operation of a transient merchant must be removed from public right-of-way when not in operation.

42.10 – SIGN DISPLAYING NAME OF BUSINESS.

Affixed prominently to each transient merchant stand or vehicle shall be a sign no smaller than 12 inches by 12 inches displaying the name of the business.

42.11 – HOURS OF OPERATION.

- (a) No solicitor shall operate before 8:00 a.m. nor after 8:00 p.m. on any day or on a designated holiday unless specifically approved by the City Manager or duly authorized representative.
- (b) Transient merchants who are engaged in business on either private property, public property, or in the public right-of-way shall observe the following limitations on their hours of operation:
 - 1. When located within or on property immediately adjacent to a Residential zone district, as defined by Section 32.02 of the Municipal Code, a transient merchant shall not operate between the hours of 10:00 p.m. and 6:30 a.m. the following day.
 - 2. When located within any other zone district, a transient merchant shall not operate between the hours of 2:00 a.m. and 6:30 a.m.

42.12 – PROHIBITED ACTS.

It shall be unlawful for a vendor to:

- (a) Make more than one solicitation call at the same residential premises for identical goods, services or contributions within any consecutive fourteen (14) day period without receiving prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or other persons acting on behalf of the same person or company.
- (b) Knock or ring the bell of a private residence where a “No Soliciting” sign is clearly posted.
- (c) Solicit in any outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption.
- (d) Refuse to leave any premises when requested by the owner, lessee, or person in charge thereof.
- (e) Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars (\$5).
- (f) Shout, make any outcry, blow a horn, or use any other sound device including any loud speaking radio or amplifying system for the purpose of attracting attention to any goods, wares or merchandise which such vendor proposes to sell.
- (g) Fail to remove all refuse from the vending area or to dispose of trash and refuse in a dumpster or trash receptacle which is not owned or permissible for use by the vendor.
- (h) Install or operate lighting that flashes, flickers, or mimics any traffic control device or emergency vehicle.
- (i) Install or operate lighting that creates excessive light trespass in violation of Section 32.04.07.F of the Zoning Ordinance. Lights shall be directed down and not towards residential uses, adjacent properties, or the public right-of-way.

42.13 – EXEMPTIONS TO LICENSE REQUIREMENT.

A vendor is not required to obtain a license from the Office of the City Clerk if one of the following applies:

- (a) The selling of personal property at wholesale to dealers.
- (b) Newspaper carriers.
- (c) Merchants or their employees who are delivering goods in the regular course of business.
- (d) Drug retail persons calling on physicians, pharmacists and hospitals.
- (e) Vendors of milk and other products distributed or sold to regular customers on established routes.
- (f) Nonprofit organizations defined and authorized by Chapter 504A of the Iowa Code or authorized and organized under statutes or regulations of the United States government or approved by the Internal Revenue Service.
- (g) Churches.
- (h) Public and private schools and colleges.

- (i) Nonprofit clubs and lodges when not ordinarily conducted as a business that do not meet the requirements of Chapter 504A of the Iowa Code.
- (j) Vendors approved by a Special Event Permit holder(s) operating in conjunction with said approved Special Event Permit or a Carnival and Fair Operational Permit holder(s) or similar permit issued by the Cedar Rapids Fire Department.
- (k) Vendors operating at a market during operational hours.
- (l) Vendors operating at an event venue during an event and the two (2) hours before and after an event.
- (m) Mobile food vendors as defined by Chapter 42A of the Cedar Rapids Municipal Code.
- (n) The vendor is the owner of the parcel or owns a business in a permanent structure on the parcel where the vendor would be located.

This section does not exempt any of the above-cited individuals, groups and/or organizations from meeting the requirements of Section 42.08(a).

42.14 – DUTY OF POLICE TO ENFORCE.

It shall be the duty of the police officers of the City of Cedar Rapids to examine all places of business or persons in their respective territories subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating the same.

42.15 – ADMINISTRATIVE RULES.

The City Manager or authorized designee is authorized to establish administrative rules not inconsistent with any ordinance to carry out the provisions of this chapter. A copy of said rules shall be on file at the Office of the City Clerk.”

Section 2. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and, if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that provision affected by such decision.

Section 3. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Section 4. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Cedar Rapids Municipal Code and made a part of said Code as provided by law.

Section 5. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 23rd day of August, 2022.

Passed this 13th day of September, 2022.

Voting: Council member Poe moved the adoption of the ordinance; seconded by Council member Vanorny. Adopted, Ayes, Council members Hoeger, Loeffler, Olson (Scott), Olson (Tyler), Overland, Poe, Todd, Vanorny and Mayor O'Donnell.



Tiffany D. O'Donnell, Mayor

Attest:



Alissa Van Sloten, City Clerk