

ORDINANCE 15041

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MARSHALLTOWN, IOWA CHAPTER 118 PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS

WHEREAS, the City Council of the City of Marshalltown, Iowa, adopted an ordinance defining, regulating, and licensing peddlers and transient merchants on July 25, 1932. Since the enactment multiple revisions have been submitted; and

WHEREAS, recommendations have been presented to the City Council to amend the ordinance to update application and licensing requirements; and

WHEREAS, the City Council of the City of Marshalltown finds it is in the best interest of the City to amend Chapter 118 of the City Code of Ordinances.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by repealing code sections 118.001 through 118.999 and enacting and adopting the following in its place:

CHAPTER 118: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

§ 118.001 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. Any person who sells or offers for sale for immediate delivery goods or merchandise from house-to-house, business-to-business, or upon public property.

SOLICITOR. Any person who solicits or attempts to solicit from house-to-house, business-to-business, or upon public property an order for goods, subscriptions or merchandise to be delivered at a future date.

SPECIAL COMMUNITY-WIDE EVENT. An event or community celebration for which a public use permit under § 130.003 has been issued and deemed exempt from licensing in this chapter at the discretion of the City Clerk.

TRANSIENT MERCHANT. Any person, firm, or corporation who engages in a merchandising business from a mobile facility (self-contained motorized or trailer) on any parcel.

§ 118.002 LICENSE REQUIRED.

Unless otherwise exempted by other provisions of this subchapter, any peddler, solicitor, or transient merchant operating within the city without first obtaining a license for such activity as herein provided, or operating in violation of the terms of the license, commits a simple misdemeanor subject to a fine.

§ 118.003 CERTAIN EXEMPTIONS.

(A) The following shall be exempt from the license requirement:

(1) Newspaper carriers;

- (2) Youth fundraisers such as Scouts of America, community school districts
- (3) Farmer's Market Vendors
- (4) Farmer and gardener stand selling agricultural products they have grown; and
- (5) Persons operating during special community-wide events, at the discretion of the City Clerk.

(B) While exempted from the license fee requirement, authorized representatives of religious, non-profit, and charitable organizations, or sponsors of a charitable event, desiring to solicit money or to distribute pertinent literature, must first apply to the City Clerk for approval. Such application shall set forth the name of such organization or sponsor and charitable purpose for which such activity is sought, the names and addresses of the officers and directors of the organization, satisfactory verification of its 501(c)(3) tax-exempt status, specification of the dates and times during which such activities are to be conducted and of the amounts of any commissions, fees or wages which are to be charged in connection with the activity. Upon proper application by a bona fide charitable or religious organization, the City Clerk shall issue the applicable license containing the above information to the applicant free of charge, subject to the time limitations as set forth in this subchapter.

§ 118.004 LICENSE APPLICATION.

A written application shall be filed with the City Clerk for a license under this subchapter unless exempted under § 118.003 of this chapter. Such application shall set forth the applicant's company name; contact person, phone number, address, and email address. An applicant for a license shall also submit recent photo identification and a copy of a current Department of Criminal Investigations (DCI) background check. The application shall also set forth the locations of activities and the length of time requested to be covered by the license and be accompanied by current written permission from any property owner upon whose property a transient merchant will be operating, or whose property (including parking) will be affected by the transient merchant's operation. Transient merchants shall make the facility or vehicle available for visual inspection by the Fire Marshal or their designee at a reasonably convenient location.

§ 118.005 SALES TAX PERMIT REQUIRED.

Before a license is issued under provisions of this subchapter, the applicant for the license shall submit to the City Clerk for inspection and copying a state sales tax permit when taxable items are intended to be sold.

§ 118.006 STATE FOOD LICENSE REQUIRED.

Before such license is issued under provisions of this subchapter, the applicant for the license shall submit to the City Clerk a state food sales license when applicable food items are intended to be sold.

§ 118.007 LICENSE ISSUANCE.

If the City Clerk finds the application in conformity with the requirements of this subchapter, that all federal and state law requirements have been met, that the facts stated within the application are accurate, that the applicant has not committed a crime of violence, theft, fraud or dishonesty, other than simple misdemeanors, has committed no prior violations of this subchapter and is not a person required to register as a sex offender, the City Clerk shall issue a license upon payment of the applicable fee. The Clerk may rely upon the results of any routine background check without

responsibility for verifying the accuracy of any information contained therein. The Chief of Police or City Attorney may authorize exceptions to criminal histories based on circumstances such as the number of years since the charge. A State of Iowa Division of Criminal Investigation background check is valid for one year.

§ 118.008 PERMITTED LOCATIONS.

- (A) Peddler or solicitor licenses are issued for use in locations across the city without restrictions.
- (B) Transient merchants issued an annual license are permitted to operate only on paved portions of private commercial property locations. A license must be obtained even if the transient merchant is operating on their commercial property.
- (C) Transient merchants issued a 24-hour license are authorized to operate on public or private property locations as approved on the application.
- (D) Requests to operate in the Marshalltown Central Business District will only be considered if it is at the request of a Main Street Business. Parking will only be permitted in front of the said business with the 24-hour Transient Merchant license.

§ 118.009 TIME RESTRICTIONS.

- (A) Peddler or solicitor licenses allow activity only between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday.
- (B) Transient merchant licenses issued for private commercial properties shall be allowed at all times, Sunday through Saturday, upon authorization that the owner of the location where sales occur consents to use of its business premises for that purpose and that neither traffic nor nearby residents will be adversely affected.

§ 118.010 PERMITTED MOBILE FACILITIES OR VEHICLES.

- (A) Mobile vendors shall operate only from facilities or vehicles which are structurally sound, in good repair and appearance, with no visible rust or damage. Adequate waste disposal receptacles shall be conveniently provided for customer use. No waste or garbage shall be allowed to accumulate on the exterior of the facility or vehicle. All grease shall be disposed of lawfully. Electrical connections shall be outdoor-rated with functioning ground fault interrupters (GFIs) and no extension cords shall cross any sidewalk or public access.
- (B) Electrical connections across any sidewalk or public access shall be made by proper underground wiring method in compliance with the National Electric Code (NEC).
- (C) Vendors shall comply with Chapter 91: Fire Prevention and Protection of this code.
Penalty, see § 118.999

§ 118.011 FEES.

- (A) Except as provided in § 118.003 of this chapter, every applicant for a license under this subchapter shall pay the fee, set by Council resolution before a license shall be issued.
- (B) A peddler or solicitor license shall be issued by the day per person.
- (C) A transient merchant license shall be issued annually per unit for operation on private commercial property and shall expire on May 1st of each year.
 - (1) Transient merchants who also have a brick and mortar operation shall be issued an annual license for operation on private commercial property.

(D) A 24-hour transient merchant license may be issued for operation on public or private property. This is the only eligible license for operation on public property. It may be issued in addition to an annual license.

§ 118.012 LICENSE DISPLAY.

(A) Each solicitor or peddler shall, at all times while doing business in the city, keep in his or her possession and display upon request of any city official, peace officer, or prospective customer, the license issued pursuant to this subchapter, and shall, upon the request of prospective customers, exhibit the license as evidence that they have complied with all requirements of this subchapter.

(B) Each transient merchant shall publicly and visibly display the license at its temporary place of business.

(C) Licenses issued to any entity under the provisions of this subchapter are not transferable in any situation and grants authority only to the entity applying.

§ 118.013 LICENSE REVOCATION; RIGHT TO APPEAL.

(A) If the licensee, in the application for the license or in the course of conducting his or her business, has made incorrect or fraudulent statements, has conducted his or her business or activity unlawfully, or violated an ordinance or statute, including placement of illegal signage, or if the licensee has conducted his or her business in such manner as to endanger the public welfare or safety, the City Clerk may revoke any license issued under this subchapter. If a license is revoked the licensee is not eligible for reimbursement of any portion of the license fee.

(B) The licensee may appeal the revocation of the license to the City Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the City Council. The City Council may affirm, modify or reverse its decision or the decision of the Clerk to revoke such license.

§ 118.014 TRANSFER OF LICENSE AND LIMITED USE.

No license provided for in this chapter shall be transferred without the consent of the Mayor endorsed thereon in writing. No license issued under this chapter shall include more than one transient merchant or extend to or include more than one peddler or solicitor under a single license.

§ 118.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Anyone violating any of the provisions of §§ 118.001 through 118.014 of this chapter shall, upon conviction, be subject to the penalties as provided in §§ 10.999(A) and (B) of this code of ordinances.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 4. That this ordinance shall be in full force and effect after its passage and publication as by law.

Passed this 23rd day of May, 2022, and signed this 24th day of May, 2022.

CITY OF MARSHALLTOWN, IOWA

Joel Greer
Joel Greer, Mayor

ATTEST:

Alicia Hunter
Alicia Hunter, City Clerk

I, Alicia Hunter, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the 24th day of May, 2022, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the 26th day of May, 2022.

Alicia Hunter
Alicia Hunter, City Clerk