

**CHAPTER 50**

(Repealed and Replaced Chapter 50 by Ordinance 1130, Published 09/19/2023)

**RETAIL ALCOHOL LICENSES, WINE, AND BEER PERMITS**

**SECTIONS:**

**50.01 License or Permit Required.**

**50.02 General Prohibition.**

**50.03 City Council Action on Applications for Licenses or Permits.**

**50.04 Investigation.**

**50.05 Prohibited Sales and Acts.**

**50.06 Criminal and Civil Penalties.**

**SEC. 50.1 LICENSE OR PERMIT REQUIRED.**

No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a retail liquor license, wine or beer certificate or permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.122 & 123.171).

**SEC. 50.2 GENERAL PROHIBITION.**

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked, or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

**SEC. 50.3 CITY COUNCIL ACTION ON APPLICATIONS FOR LICENSES OR PERMITS:**

a. A completed application for a retail alcohol license as provided in Iowa Code Section 123.31, except a class "D" retail alcohol license, shall be filed with the city council if the premises for which the license is sought are located within the corporate limits of the city.

b. A completed application for a class "D" retail alcohol license and for any other certificates, licenses, or permits shall be submitted to the division electronically, or in a manner prescribed by the administrator.

c. The city council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the

necessary fee and bond, if required, to the division. There is no limit upon the number of retail alcohol licenses which may be approved for issuance by local authorities.

d. Upon receipt of an application having been disapproved by the city council, the administrator shall notify the applicant that the applicant may appeal the disapproval of the application to the administrator. The applicant shall be notified by certified mail or personal service, and the application, the fee, and any bond shall be returned to the applicant.

e. Upon receipt of an application having been approved by the city council, the division shall make an investigation as the administrator deems necessary to determine that the applicant complies with all requirements for holding a license.

f. The administrator may affirm, reverse, or modify the proposed decision to approve or disapprove the application for the license. If the application is approved by the administrator, the license shall be issued. If the application is disapproved by the administrator, the applicant shall be so notified by certified mail or personal service and the appropriate local authority shall be notified electronically, or in a manner prescribed by the administrator.

g. The applicant or the city may seek judicial review of the action of the administrator in accordance with the terms of the Iowa Administrative Procedure Act, Chapter 17A. Notwithstanding the terms of the Iowa Administrative Procedure Act, Chapter 17A, petitions for judicial review may be filed in the district court of the county where the premises covered by the application are situated.

h. A retail alcohol licensee whose license has been suspended or revoked or a civil penalty imposed by the city for a violation of Chapter 123 or suspended by a local authority for violation of a local ordinance, may appeal the suspension, revocation, or civil penalty to the administrator. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to hear the appeal which shall be conducted in accordance with Chapter 17A and to issue a proposed decision. The administrator may review the proposed decision upon the motion of a party to the appeal or upon the administrator's own motion in accordance with Chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A retail alcohol licensee or the city aggrieved by a decision of the administrator may seek judicial review of the decision pursuant to Chapter 17A.

(Code of Iowa, Sec. 123.32

- i. Except as otherwise provided by Chapter 123, all licenses, permits, and certificates of compliance, unless sooner suspended or revoked, expire one year from date of issuance.
- j. Notwithstanding section 123.31 and any other provision of this chapter to the contrary, a class "E" retail alcohol license shall automatically renew without the endorsement of a local authority or approval by the director upon collection of the annual fee by the department, provided all of the following conditions are met since the preceding license was issued:
  - i. The licensee has given written consent to the department to have the license automatically renewed as provided in this section.

- ii. The license has not been suspended or revoked.
- iii. A civil penalty has not been imposed against the licensee.
- iv. An administrative proceeding is not pending against the licensee to suspend or revoke the license or to impose a civil penalty under Chapter 123.
- v. The licensee has not submitted payment for alcoholic liquor to the department that was subsequently dishonored.
- vi. The licensee and all persons associated with the licensee as described in Iowa Code Section 123.3, subsection 40, paragraph “e”, have not been convicted of a violation of this chapter.
- vii. The licensed premises constitutes a safe and proper place or building and conforms with all applicable federal, state, and local laws, orders, ordinances, rules, resolutions, and health and fire regulations.
- viii. A local authority has not notified the department, in a manner established by the department and made available to local authorities, that automatic renewal should not occur and that further review of the licensee by the department and the applicable local authority is warranted.

(Code of Iowa, Sec. 123.35)

(Ordinance 1142, third reading passed April 15, 2024 and Published April 23, 2024)

#### **SEC. 50.04 INVESTIGATION.**

As a condition for issuance of a retail alcohol license, wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of the city; members of the department of public safety; representatives of the division and of the department of inspections and appeals; certified police officers; and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that the city may adopt.

(Code of Iowa, Sec. 123.30)

**SEC. 50.05**

**PROHIBITED SALES AND ACTS.**

A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall violate any of the miscellaneous prohibitions in Section 123.49 of the Iowa Code.

**SEC. 50.06 CRIMINAL AND CIVIL PENALTIES.**

a. Any person who violates any of the provisions of Iowa Code Section 123.49, except subsection 2, paragraph (h) commits a simple misdemeanor and unless another penalty is specified, or the violation is scheduled under state law, punishable by a penalty with a fine prescribed in (Iowa Code Section 123.50[1] & 903.1[1][a])

b. For violations of Section 123.49(h), the scheduled fines for a licensee or permittee are included in Iowa Code Section 123.50[1] & 805.8C[2].

c. If any retail alcohol licensee or employee of a licensee is convicted or found in violation of Chapter 123.49(h), in addition to criminal penalties fixed for violations by this section, a civil penalty shall be assessed as set forth in Iowa Code Section 120.50[3] [a-e].

(Chapter 50, Repealed and Replaced, September 19, 2023 by Ordinance 1130)

**CHAPTER 51****ENTERING FRANCHISES****Sections:**

- 51.1 Franchise Holders Subject to Regulations.
- 51.2 Chapter Made a Part of Franchise Contract.
- 51.3 Franchise Termination for Noncompliance.

**SEC. 51.1 FRANCHISE HOLDERS SUBJECT TO REGULATIONS.** Every individual or private corporation to whom a franchise may hereafter be granted by the city must be subject to all reasonable regulations that the city council may by ordinance or resolution then or thereafter adopt in respect to the reasonable control and regulation of the plant and business for which the franchise may be granted, and the use of the streets or alleys therefor. No condition shall be contained in the franchise, or if contained shall be binding, upon the city, which does or attempts to abridge, limit or interfere with the superior rights of the city in respect to such control and regulation, or attempts to do so.

**SEC. 51.2 CHAPTER MADE A PART OF FRANCHISE CONTRACT.** All franchises hereafter granted by the city shall be subject to the regulations of this chapter, which shall be a contract part of each franchise.

**SEC. 51.3 FRANCHISE TERMINATION FOR NONCOMPLIANCE.** The failure or refusal of any such franchise holder to obey and comply with regulations of the city council may operate to terminate such franchise at the option of the city council.

CHAPTER 52

EXPLOSIVES--USE PERMITS.

Sections:

52.1 Permit--Required.

52.2 Permit--Application--Grant.

**SEC. 52.1 PERMIT--REQUIRED.** It is unlawful for any person, firm or corporation to use and explode any dynamite, TNT or any other explosive compound used for blasting purposes within the city limits without first obtaining a permit to use such blasting material from the city council.

**SEC. 52.2 PERMIT--APPLICATION--GRANT.** Any person, firm or corporation wishing to obtain such a permit shall file with the city clerk an application in writing, wherein it is stated the name and address of the applicant, the type of explosive materials to be used, the approximate number of explosions to be set off and the intensity thereof, and the location of all proposed explosions. If upon filing of the application the city council finds that no property damage or personal injury will result from the proposed blasting, a permit for the use of explosive compounds will be granted upon the applicant's filing with the city clerk proof that the applicant has in force sufficient liability insurance with a reliable insurance company to cover any possible personal injury or property damage arising from the blasting operation, the limits of the policy to be set by the city council.

**PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND MOBILE  
FOOD VENDORS****Sections:**

- 53.1 Definitions.
- 53.2 License Required.
- 53.3 License Application.
- 53.4 License Issuance.
- 53.5 Application Fees
- 53.6 License Bond.
- 53.7 Duplicate and Individual Licenses, When Required.
- 53.8 License Display.
- 53.9 Exemptions.
- 53.10 Denial or Revocation of License Procedure.
- 53.11 Sales Regulations.
- 53.12 Penalty.
- 53.13 Mobile Food Vendors.

**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.
      - 1. 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)

CHAPTER 54HOUSEMOVERSSections:

- 54.1 Definition.
- 54.2 License Required.
- 54.3 License Exemptions.
- 54.4 Person Entitled To Be Licensed.
- 54.5 Licensing Procedure.
- 54.6 License Refusal and Appeal.
- 54.7 License Fees and Duration.
- 54.8 Inspection and Investigation.
- 54.9 License Revocation--Grounds.
- 54.10 License Revocation--Appeal.
- 54.11 License Revocation--Effect.
- 54.12 License Surrender--Fee Refund.
- 54.13 License Transfer Prohibited.

**SEC. 54.1 DEFINITION.** For use within this chapter, the following term is defined:

1. "Housemover" shall mean any person who undertakes to move a building or similar structure upon or across the public streets, alleys, walks or property.

**SEC. 54.2 LICENSE REQUIRED.** It is unlawful for any person to act as a housemover in the city, without having a license as herein provided.

**SEC. 54.3 LICENSE EXEMPTIONS.** This chapter shall not be construed to require a license of each employee or agent of one engaged in a licensed occupation. Only the owner, manager or agent of such an occupation need possess a license.

**SEC. 54.4 PERSONS ENTITLED TO BE LICENSED.** Any person who satisfies the conditions prescribed by this chapter for a particular license, and satisfies the city clerk that such occupation does not and will not endanger the public health, safety or welfare, shall be entitled to a license upon filing proper application and pay in the full fee required.

**SEC. 54.5 LICENSING PROCEDURE.** The licensing procedure shall be as follows:

1. Fee Payment. All fees required by this chapter shall be paid to the city clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.
2. The applicant shall post with the city clerk a penal bond in the sum of twenty thousand dollars (\$20,000) with good and sufficient sureties approved by the city clerk. The bond shall guarantee the licensee's payment for any damage done to the city or to public property in the course of moving the building or similar structure.



3. The applicant shall be insured in the sum of ten thousand dollars (\$10,000) against liability for the applicant or applicant's agents or employees acts in the course of the moving operation that result in personal injury, property damage or both. A penal bond for the same sum of money may be posted with the city clerk in lieu of the insurance policy. The sureties on the bond shall be approved by the city clerk and the bond shall guarantee the licensee's payment for personal injuries or property damage caused by the licensee's agents or employees in the course of the moving operation.
4. The applicant shall also deposit with the city clerk a check covering actual anticipated costs to be incurred by the city relating to the moving procedure. The costs shall be determined by the electric utility director and the public works director.
5. The applicant shall file with the city clerk a routing plan approved by the police chief. The police chief shall approve the shortest route compatible with the greatest public convenience and safety.
6. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee shall maintain flag people at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property, the licensee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**SEC. 54.6 LICENSE REFUSAL AND APPEAL.** If the city clerk refuses to issue a license, he or she shall endorse the reasons upon the application. The applicant then shall have a right to a hearing before the council at its next regular meeting. The council may reverse, modify or affirm the decision of the city clerk by a majority vote of the council members present, if a quorum, and the city clerk shall carry out the council's decision.

**SEC. 54.7 LICENSE FEES AND DURATION.** The fee for and the duration of each license shall be as follows:

- (1) The fee for a housemover's license shall be established by resolution of the city council and authorization shall be granted for no more than three days. If a longer period is needed, the housemover's license must be reissued every three days, and a new application must be filed for each reissue of the license.

**SEC. 54.8 INSPECTION AND INVESTIGATION.** The city clerk shall have power to inspect and investigate the conduct of the occupations licensed or to be licensed under this chapter, or to cause such an inspection or investigation to be made by the police.

**SEC. 54.9 LICENSE REVOCATION--GROUNDS.** The city clerk, after giving the licensee reasonable notice and a fair hearing, may revoke any license issued under this chapter for the following reasons:

1. The licensee has made fraudulent statements in the application for the license or in the conduct of licensee's business.
2. The licensee has violated this chapter or has otherwise conducted business in an unlawful manner.
3. The licensee has conducted his business in a manner endangering the public health, safety or welfare.

4. The notice shall be in writing and shall be served personally by the city clerk or as required for personal service by the Iowa rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

**SEC. 54.10 LICENSE REVOCATION--APPEAL.** If the city clerk revokes a license, he or she shall immediately notify the council in writing, giving the reasons for the revocation. The licensee then shall have a right to a hearing before the council at its next regular meeting. The council may reverse, modify or affirm the decision of the city clerk by a majority vote of the council members present, if a quorum.

**SEC. 54.11 LICENSE REVOCATION--EFFECT.** Revocation of a license shall bar the licensee's eligibility for any license under this chapter for a period of one year from the date of revocation.

**SEC. 54.12 LICENSE SURRENDER--FEE REFUND.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid upon surrender of the license to the city at a date prior to expiration. The rebate shall be determined by dividing the number of days for which the license was issued into the total license fee and then multiplying the result by the number of full days not expired. In all cases, one dollar of the original fee shall be retained by the city to cover administrative costs of canceling the license.

**SEC. 54.13 LICENSE TRANSFER PROHIBITED.** In no case shall a license issued under this chapter be transferable to another person or be used for a purpose other than that for which it was issued.

**CHAPTER 55****JUNK DEALERS****Sections:**

- 55.1 Definition.
- 55.2 Junk Dealers.
- 55.3 Junk Dealer License Display.
- 55.4 Fee for Junk Dealers.

**SEC. 55.1 DEFINITION.** For use within this chapter, the following term is defined:

1. "Junk dealer" means any person engaged in collecting, storing, buying or selling junk. "Junk" means articles or materials that, because of age, deterioration or use, have lost their original utility or desirability but that by alteration, restoration or salvage may furnish an item or items of value.

**SEC. 55.2 JUNK DEALERS.** Every junk dealer shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, the amount paid and the time and date of the transaction.

**SEC. 55.3 JUNK DEALER LICENSE DISPLAY.** Every junk dealer shall display his or her license in a prominent manner at a place upon the business premises where business is commonly transacted with the public.

1. Every junk dealer shall segregate each day's collection for a period of forty-eight hours. During this period no item shall be disposed of or altered in any manner.
2. A junk dealer shall not purchase or receive junk from a minor unless a written consent of the minor's parent or guardian is received first. Such consent shall be attached to the record book as a part of the permanent record.
3. An appropriate city official shall be permitted at all times to inspect the junk dealer's premises for the existence of materials or conditions dangerous to the public health.
4. All junkyards shall be enclosed with a six foot fence that hides the contents of the yard from public view.

**SEC. 55.4 FEE FOR JUNK DEALERS.** The fee for a junk dealer's license shall be established by resolution of the city council and the license shall expire one year after the time of issuance.

**CHAPTER 56****PAWNBROKERS****Sections:**

- 56.1 Definition.
- 56.2 License Required, Fee.
- 56.3 Applicant for License to File Affidavit, Contents.
- 56.4 Surety Bond: Prerequisite to License, Amount, Terms and Conditions, Approval.
- 56.5 Register: Required, Contents, Daily Copies to Be Filed With the Police Chief.
- 56.6 Inspection of Register and Property, Persons Authorized.
- 56.7 Ticket to Be Given for Property Received, Contents of Ticket
- 56.8 Record of Property Purchased, Required Data, Retention Period, Inspection.
- 56.9 Receiving Property from Minors Without Parental Consent.

**SEC. 56.1 DEFINITION.** Any person who loans or advances money on deposit of personal property, taken as security for such loan, or who engages in the purchase of personal property or goods on condition or agreement of selling the same back at an agreed or stipulated price, or any person who displays, at his place of business, the sign of three (3) gilt or yellow balls, generally used by pawnbrokers to denote their business, is declared to be a pawnbroker within the meaning of this chapter.

**SEC. 56.2 LICENSE REQUIRED, FEE.** No person shall carry on or engage in the business of a pawnbroker in the city without first obtaining a license therefor and paying the fee as established by resolution of the city council.

**SEC. 56.3 APPLICANT FOR LICENSE TO FILE AFFIDAVIT, CONTENTS.** Before any pawnbroker's license required by this chapter shall be issued, the applicant shall file with the city clerk an affidavit that he or she will observe and carry out the provisions of the ordinances of the city during the time the license is in force, in relation to pawnbrokers or their business, and also designating fully the location, as to street and number, where the business is to be transacted.

**SEC. 56.4 SURETY BOND: PREREQUISITE TO LICENSE, AMOUNT, TERMS AND CONDITIONS, APPROVAL.** Each applicant for a license required by this chapter shall, before the same is issued, file with the city clerk a bond with the sureties approved by the council, in the penal sum of five hundred dollars (\$500.00), conditioned that the applicant will comply with and observe the terms and conditions of all ordinances of the city relating to pawnbrokers or their business, and will pay all costs, fines and penalties incurred on account of failure to observe such ordinances, and will pay all damages resulting to any person by reason of the wrongful purchase or receiving on pledge or on deposit of any stolen property or property from any minor, which bond shall be approved by the council and filed by the clerk.

**SEC. 56.5 REGISTER: REQUIRED, CONTENTS, DAILY COPIES TO BE FILED WITH THE POLICE CHIEF.** Each pawnbroker shall keep at his or her place of business a register in which a record shall be kept showing a description of all property taken, purchased or received by him or her, including the number of any watch, bicycle or other article, and the name or initials or any identification mark upon any article so taken by him or deposited with him, the name and residence and street and number of the person from whom such property is received or taken, the amount loaned on such property or paid to the person

leaving or depositing the same, the interest charged or accruing to be paid by the person leaving or depositing such property, and the time when the loan falls due or when the contract made with the person depositing such property expires or matures. All entries made in such register shall be made in ink and a copy of the entries made each day shall be filed with the police chief before noon of the following day.

**SEC. 56.6 INSPECTION OF REGISTER AND PROPERTY, PERSONS AUTHORIZED.** The pawnbroker's register required by this chapter shall at all times be open to inspection by the police chief or any police officer of the city, the city attorney or his assistant, and anyone authorized in writing by the police chief of the city for that purpose, which written authority shall be exhibited to the pawnbroker. The pawnbroker shall also, upon request, show to any of the persons named in this section, any articles purchased, taken or received by him or deposited with him and in his possession.

**SEC. 56.7 TICKET TO BE GIVEN FOR PROPERTY RECEIVED, CONTENTS OF TICKET.** To each person selling, negotiating, depositing or leaving any property with a pawnbroker, the pawnbroker shall give a ticket upon which shall be printed or written a copy of all entries required by this chapter be made in the pawnbroker's register with reference to the transaction with such person, for which ticket no charge shall be made by the pawnbroker.

**SEC. 56.8 RECORD OF PROPERTY PURCHASED, REQUIRED DATA, RETENTION PERIOD, INSPECTION.** Each pawnbroker shall enter in the register required by this chapter the same data with reference to every article purchased or bought by him and shall keep the same in his place of business for a period of five (5) days after its purchase, and such property shall be reported and shall be subject to inspection the same as property pledged or deposited with him subject to redemption.

**SEC. 56.9 RECEIVING PROPERTY FROM MINORS WITHOUT PARENTAL CONSENT.** No pawnbroker shall purchase any personal property or receive the same on deposit from any minor without the written consent of the parent or guardian of such minor.

**CHAPTER 57**  
**TREE ORDINANCE**

**Sections:**

- 57.1 Purpose.
- 57.2 Definitions.
- 57.3 Permit Required.
- 57.4 Business of Removing, Cutting, Trimming to be Licensed, Fees.
- 57.5 Permits and Licenses--Exemptions.
- 57.6 Bond or Evidence of Insurance.
- 57.7 Worker's Compensation Policy.
- 57.8 Felling of Trees/Limbs Onto Streets.
- 57.9 Materials Used on Trees Needs Permit.
- 57.10 Pollutants to Trees Not Allowed.
- 57.11 Arboricultural Specifications and Standards of Practice.
- 57.12 Removal of Trees.
- 57.13 Duty to Trim Trees.
- 57.14 Container Planting.
- 57.15 Erect Barriers for Protection of Trees.
- 57.16 Destroying of Trees.
- 57.17 Penalty.

**SEC. 57.1 PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the city by requiring street trees to be uniformly located and maintained. The primary responsibility for maintaining street trees is placed upon the abutting property owner or his designated agent, and the director shall personally supervise any extensive trimming or cutting of said trees.

**SEC. 57.2 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. The term "person" shall mean any individual, firm, corporation, trust, association or any other organized group.
2. The term "street" shall mean the entire width between property lines of avenues or highways.
3. The term "parking" shall mean that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
4. The term "property owner" shall mean a person owning private property in the city as shown by the county auditor's plats of the city.
5. The term "public property" shall mean any and all property located within the confines of the city and owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
6. The term "director" shall mean the leisure services director.

**SEC. 57.3 PERMIT REQUIRED.**

1. Except as allowed in Section 57.13, no person shall cut or remove any plant, tree or shrub on the streets or on public property without first obtaining a permit from the director, who shall issue said permit if the proposed work is necessary and the proposed methods and workmanship are satisfactory.
2. The director may demand the posting of bond or insurance before the permit is granted. Such bond or insurance shall be of sufficient amount to reasonably cover any damages that may occur to life or property while the provisions of the permit are being carried out.
3. Every permit granted in accordance with this section by the director shall describe the work to be done, the estimated cost, define the species, sizes and location of all trees and shrubs concerned and contain a definite date of expiration.
4. Any permit may be declared void if the terms are violated.

**SEC. 57.4 BUSINESS OF REMOVING, CUTTING, TRIMMING TO BE LICENSED, FEES.**

1. No person shall engage in the business of removing, cutting or trimming of trees or shrubbery in the city without first obtaining a license therefor. The applicant shall submit written application to the director setting forth his experience and qualifications. Upon determination by the director that he is qualified he shall be granted a license which shall allow the removal, cutting and trimming of trees and shrubbery in the city, which shall be an annual license commencing January 1, and terminating December 31, of each year. The license fee shall be established by resolution of the city council and shall be paid prior to the issuance of the license. No trimming, cutting or removal shall be done until the license has been obtained.
2. In addition, applicants may be required to pass a test designed and administered by the director.

**SEC. 57.5 PERMITS AND LICENSES--EXEMPTIONS.** The preceding section relating to permits and licenses shall not apply to the following:

1. The United States of America, the State of Iowa, any county, municipality or political subdivisions of the State, any department, bureau or agency of any of the foregoing or any official representative of any of the foregoing in pursuit of official duties.
2. Any person with reference to trees and shrubs on his own premises;
3. Any individual performing labor or services on or in connection with trees at the direction and under the personal supervision of a licensed tree trimmer while in the performance of such functions;
4. Any public utility engaged in tree trimming and/or tree removal for the purpose of line clearance in order to insure the continuity of utility service to the public.
5. Trimming or cutting which is in compliance with Section 57.13.

**SEC. 57.6 BOND OR EVIDENCE OF INSURANCE.** Any person, before engaging in the business or occupation of removing, cutting or trimming trees or shrubbery in the city, shall deposit with the director a

good and sufficient bond or evidence of insurance in the sum of not less than ten thousand dollars (\$10,000.00), provide evidence of liability insurance in the sum of One hundred thousand dollars (\$100,000.00), conditioned that such person shall faithfully comply with the provisions of this chapter and shall indemnify, save and keep harmless the city and its officers from any and all claims, damages and losses and actions by reason of any acts or things done under or by authority or permission granted herein.

**SEC. 57.7 WORKER'S COMPENSATION POLICY.** Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the city shall furnish satisfactory evidence to the director that the workers employed by that person are covered by a suitable worker's compensation policy according to the laws of that State.

**SEC. 57.8 FELLING OF TREES/LIMBS ONTO STREETS.** If a tree or limb will fall on any street, alley or sidewalk, the director must be notified prior to felling.

1. Safety requirements. The person to whom the permit is issued shall be responsible for placing such signs, flags, flares and barricades as are needed to warn persons of the danger of using the street, sidewalk or alley.
2. Trees or branches which are felled or trimmed onto public property must be removed immediately unless an extension of time is granted by the director in writing.
3. Stump removal cavities must be cleared and refilled with soil in the same operation. At no time shall a cavity remain unfilled overnight.

**SEC. 57.9 MATERIALS USED ON TREES NEED PERMIT.** No person shall fasten any sign, box, wire, rope or other material to, around or through any tree or shrub in any street, park or public place in the city except by the permission of the director or when such materials are designed to preserve such tree or shrub and have been placed under a permit granted by the director.

**SEC. 57.10 POLLUTANTS TO TREES NOT ALLOWED.** No person shall deposit, place, store or maintain upon any street, park or public place in the city any stone, brick, sand, concrete or other material which shall impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein except by permission of the director or when such materials are designed for the construction of sidewalks, pavement, gutters or other public improvements under a permit granted by the city or some department thereof.

**SEC. 57.11 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE.**

1. Location.
  - a. Whenever possible trees should be planted inside the property lines and not between the sidewalk and the curb.
  - b. All trees and shrubs hereafter planted in any street shall be planted midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall not be planted within 10 feet from the near edge of the road.



- c. Trees shall not be planted on the parking if said parking is less than 12' in length and 4 feet 9 inches in depth (sidewalk to curb), or contains less than 50 square feet of exposed soil or grass surface.
- d. Trees shall not be planted closer than 20 feet to the street intersections (property lines extended) and 4 feet 9 inches from any driveway.
- e. No tree that will attain a mature height of 30' tall may be planted under existing utility lines.

2. Nuisance. The following trees are not permitted to be planted in any street or public place in the city:

Boxelder	Siberian Elm	Chinese Elm
Cottonwood	White Poplar	Lombardy Poplar
Boileana	Poplar Willows	Tree of Heaven
American Elm	Silver Maple	Catalpa
Black Locust	Weeping Birch	European Mt. Ash
Poplar	Fruit Trees (except ornamentals)	

or any species of Ash.

\*\*No conifers or evergreens should be planted between the sidewalk and the curb of any city street for safety and visibility considerations. See director for trees recommended for planting.

- 3. Method of support. Trees may be guyed or supported in an upright position according to accepted arboricultural practices. The guys or supports shall be fastened in such a way that they will not girdle or cause serious injury to the trees or endanger public safety.
- 4. Trimming or pruning.
  - a. All public tree trimming or pruning shall utilize Natural Target Puning Practice now commonly accepted by the United States Forest Service. All efforts to protect the Branch Collar will be the responsibility of the tree trimmer or pruner.
  - b. All limbs over 1 inch in diameter must be bottom cut first to prevent stripping of bark as limbs fall. Any limbs which endanger other limbs, trees or property shall be lowered to the ground - not felled.
  - c. To avoid the spreading of disease, tools shall be disinfected with alcohol before use on another tree.

**SEC. 57.12 REMOVAL OF TREES.** The director shall remove, on the order of the council, any tree on the streets of this municipality which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitutes a threat to the public, or which may otherwise be declared a nuisance by the director. The Director or his Designee has the right to determine a Hazardous tree on private property that is a threat to public safety, and issue a 30 day notice to remove to the owner. If not removed in 30 days, the city shall remove it at the owner's expense and bill accordingly on their property taxes. The owner has the right to appeal said decision in front of the Forestry Committee within the 30 day period.

**SEC. 57.13 DUTY TO TRIM TREES.** The owner of property abutting a street shall keep the trees on his property or on the parking and overhanging the street, trimmed so that all branches will be at least (16) feet above the surface of the street and at least (8) eight feet above the sidewalks.

**SEC. 57.14 CONTAINER PLANTING.** No individual or firm shall establish a container either above or below ground for plants or trees on public property without a permit from the director. The petitioner shall submit a request complete with a design detail to the director prior to the issuance of said permit.

1. Requirements.

- a. Provisions in Section 57.11. Arboricultural specifications and standards of practice, must be met.
- b. The planting medium must be of sufficient size to support and sustain the plants and the container shall not be less than 24 inches in depth and 30 inches in diameter, inside dimensions.
- c. All costs arising from the establishment, maintenance or removal of plants or plant containers will be born by the abutting property owner.
- d. Plants, containers and their contents must be maintained in the conditions specified by original design at all times. Any planter not serving its designed aesthetic function shall be replanted or removed.

2. Notice to replant or remove. Any container and plant material not maintained to quality and designed standard as required by the director is hereby declared a nuisance, and must be abated by abutting property owner.

3. Freedom from liability. Any individual or firm granted the right to place or establish containers on public property pursuant to this section shall execute an indemnification agreement, which indemnifies and holds harmless the City of Waverly from any and all liability which may be incurred as a result of the placement of said containers and their contents.

**SEC. 57.15 ERECT BARRIERS FOR PROTECTION OF TREES.** During all building and construction operations, the contractor or builder shall erect suitable protective barriers around all trees and shrubs in any street, park or public place in the city in order to prevent said trees from being injured.

**SEC. 57.16 DESTROYING OF TREES.** No person shall break, deface, injure, kill or destroy any tree or shrub or set fire or permit any fire to burn where such fire or heat thereof will injure any portion of any tree or shrub in any street, park or public place in the city. Topping of any city owned tree is prohibited except when authorized.

**SEC. 57.17 PENALTY.** Anyone violating any of the provisions of this ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding \$100.00.

CHAPTER 58

TAXICABS AND LIMOUSINES

This Chapter was repealed by Ordinance 1144. Third Reading passed on June 3, 2024 and it was published June 11, 2024.

**CHAPTER 59**  
**CABLE TELEVISION FRANCHISE**

The following franchise agreement was duly adopted March 13, 2018 by Ordinance No. 1032 and takes effect on July 1, 2018.

**Sections:**

- |      |   |
|------|---|
| 59.1 | Franchise Fees for Cable and/or Video Services                                |
| 59.2 | Public, Education and Governmental Channel Capacity, Support and Transmission |
| 59.3 | Franchise Fees  |

**SEC. 59.1 FRANCHISE FEES FOR CABLE AND/OR VIDEO SERVICES.**

Any provider of cable television and/or video services in the city, including authorized franchise certificate holders under Iowa Code Chapter 477A and any authorized municipal communications utility, shall remit to the city a franchise fee or fee(s) as provided under Iowa Code Section 477A.7, in the sum of five percent (5%) of gross revenues.

**SEC. 59.2 PUBLIC, EDUCATION AND GOVERNMENTAL CHANNEL CAPACITY, SUPPORT AND TRANSMISSION.**

Any provider of cable television and/or video services in the city shall provide the city with two public, educational and governmental channels and shall transmit the public, educational and governmental channel signals through its cable and/or video system within the city pursuant to Iowa Code Section 477A.6.

**SEC. 59.3 FRANCHISE FEES.** 50% of all franchise fees paid to the City of Waverly shall be deposited into the City's general fund. The remaining 50% of franchise fees paid to the City of Waverly shall be retained in a designated account to be used to facilitate the operation of the public, educational, and government channels provided by franchise certificate holders, including the cost of equipment, production and public broadcast of meetings and activities of the city council, commissions, boards and other public groups of the city, and further for the maintenance and operation of city websites. (Ordinance 1107 07/26/22)

**Former Chapter 59 was repealed and replaced by Ordinance No. 1032 on March 13, 2018.**

CHAPTER 60DISPENSING BEER FROM KEGSSections:

- 60.1 Purpose.
- 60.2 Definitions.
- 60.3 Restrictions.
- 60.4 Permit Application.
- 60.5 Issuance of Permit.
- 60.6 Affect of Permit.
- 60.7 Damage Deposit.

**SEC. 60.1 PURPOSE.** In order to enhance the public enjoyment of parks and public grounds within the City of Waverly and in order to reduce the potential for disruptive behavior or damages in the city parks and public grounds the following regulations are adopted.

**SEC. 60.2 DEFINITIONS.** For the purpose of this chapter these words shall have the following meanings:

1. "Beer" is defined as in the current State Code of Iowa.
2. "Person" is defined as in the current State Code of Iowa.
3. "Keg" is defined as any container larger than 32 ounces used to dispense beer or other intoxicating beverages.
4. "Kegger" is defined as a gathering of two or more persons at which beer or other intoxicating beverages are dispensed from a keg or other container larger than 32 ounces.

**SEC. 60.3 RESTRICTIONS.** It shall be unlawful for any person to bring in or use or have in their possession a keg or other container larger than 32 ounces for the purpose of dispensing beer or other intoxicating beverages not otherwise prohibited by the Code of the State of Iowa within any park or public area under the jurisdiction of the City of Waverly, unless such use is authorized by written permit issued by the City of Waverly.

**SEC. 60.4 PERMIT APPLICATION.** Any person desiring to conduct a kegger in any park or public area within the city, shall:

1. Apply for a permit to the leisure services office one working day in advance of the proposed kegger. The application shall be in writing on a form provided by the city.
2. Advise the leisure services office of the proposed kegger's date, location, starting and ending time, the number and types of containers and anticipated attendance.
3. Designate a person twenty-one (21) years of age or older who shall sign a responsibility agreement form provided by the city.

4. Deliver to the leisure services director a damage deposit in an amount established by resolution of the Waverly city council.

**SEC. 60.5 ISSUANCE OF PERMIT.** The leisure services director or his designee shall at his sole discretion issue a permit under this chapter when it is found that the proposed activity will not unreasonably interfere with the general public enjoyment of the park or public area, or detract from the promotion of the public health, welfare, safety and recreation within the city. The police chief shall be provided a copy of the permit.

**SEC. 60.6 AFFECT OF PERMIT.** The person issued a permit to conduct a kegger under this section shall:

1. Be responsible to limit the permitted activity to the times and places designated in the permit application.
2. Be responsible for encouraging persons attending the kegger to comply with all applicable city or state Laws concerning the use of alcohol, including prohibitions against consumption by minors.
3. Be responsible for cooperating with and assisting the Waverly police department in enforcing any state laws, city ordinances or permit restrictions relating to the kegger.
4. Be responsible for any damage to public property caused by persons attending the kegger. Liability shall not be limited to the damage deposit.

**SEC. 60.7 DAMAGE DEPOSIT.** The damage deposit herein required shall be refunded to the applicant within fourteen (14) days following the kegger in the event the leisure services department determines that no damage or extraordinary clean up is required. In the event damage or extraordinary clean up is required, the city shall keep records of the costs and they shall be deducted from the damage deposit. Any costs exceeding the deposit shall be billed to the person designated in the responsibility agreement.

**CHAPTER 61****SPECIAL EVENTS**

- 61.01 Purpose
- 61.02 Definitions
- 61.03 Permit Required; Food and Health Regulations
- 61.04 Application for a Special Event Permit
- 61.05 Approval/Denial of Application
- 61.06 Coordination of Application
- 61.07 Permit Fee
- 61.08 Indemnity/Insurance Requirement
- 61.09 Permit Expiration
- 61.10 Obstruction of Traffic Prohibited
- 61.11 Exhibiting Permit
- 61.12 Contractual Arrangements
- 61.13 Revocation or Suspension of Permit
- 61.14 Appeals
- 61.15 Peddler, Solicitor and Transient Merchant Permits

**61.01 PURPOSE.**

The purpose of this chapter is to ensure that special events are promoted and staged in a manner which preserves the safety of both our citizens and visitors to our City; to ensure that all promoters of these events are treated fairly and in accordance with their particular needs in the promotion of the event; to promote the economic well-being of our community through the orderly attraction of people to these events; and to ensure City personnel adequate opportunity to prepare for and provide services for the events so as to provide them the maximum opportunity for success.

**61.02 DEFINITIONS.**

For the purpose of this chapter certain terms and words are hereby defined:

1. "Special event" means an event sponsored by an individual, organization, club, group, partnership or corporation in which the public is invited to attend and which requires the use of public streets or other public property as a staging area for promotion of the event.
2. "Special event area" means a place designated by the special event promoter as provided in this chapter where the general public is invited to gather for an event and where the area of interest of the promoter will be promoted and/or celebrated and where, in connection with the special event, there may be displays, speeches, the performance of music or the arts, games, and other similar celebrations, and the sale and/or distribution of literature, antiques, crafts, curios, art or artifacts, food, and other similar items, all under the sponsorship of a "special event promoter" as defined in this section. The area designated as a special event area may include property which is privately owned, provided that the inclusion of private property within the special event area shall not be construed as requiring the owner of the private property to participate in or

otherwise allow the property to be used in the special event without his, her or its consent, or as prohibiting the owner of the private property from using the private property in a manner otherwise allowed by law.

3. "Special event merchant" means an individual, organization, club, group, partnership or corporation which engages in the sale of items within a "special event area" as defined in this section through the permission of the special event promoter.
4. "Special event promoter" means an individual, organization, club, group, partnership or corporation which organizes, sponsors, promotes or makes space available for a special event or is otherwise considered the organizer of the special event.

**61.03 PERMIT REQUIRED; FOOD AND HEALTH REGULATIONS.**

1. No individual, organization, club, group, partnership or corporation shall act as a special event promoter within the City without first obtaining a permit as provided in this chapter.
2. Special event promoters granted a permit hereunder and special event merchants selling pursuant to that permit shall comply with all applicable State food and health rules and regulations.
3. Special event promoters granted a permit hereunder and special event merchants selling alcohol during the event shall comply with all applicable State regulations for the sale and on-site consumption of alcoholic beverages by event attendees.

**61.04 APPLICATION FOR A SPECIAL EVENT PERMIT.**

1. A special event promoter shall file with the City Clerk an application for a special event permit. The City Administrator may grant authority to a special event promoter to hold a special event in a designated special event area. The application shall be on a form furnished by the City Clerk and shall contain information concerning the requested dates and hours of the event, other information required by this chapter, and such other information as may be reasonable in relation to the event for which the permit is requested.
2. The special event promoter shall provide, at the time of application, a preliminary map or drawing showing the area to be designated as the special event area. Upon approval of the application for a special event permit, the special event promoter shall provide the City Clerk a detailed map of the designated special event area, showing any booths, trailers, stages, or other facilities which will be temporarily erected, constructed or parked as a part of the event. The detailed map shall be furnished 60 days in advance of an event.
3. At the time of application for the special event permit, the special event promoter shall make a request for any necessary street or right-of-way closings. Public right-of-way barricades must be erected in compliance with City of Waverly (and Iowa Department of Transportation when applicable) guidelines and comply with the Manual of Uniform Traffic Control Devices. It shall be the responsibility of the special event promoter to arrange for the erection of necessary barricades at its cost.



**61.05 APPROVAL OF APPLICATION.**

The City Administrator shall approve or deny the permit application based upon the facts and information presented to the City, discussion with City staff and due consideration of the overall effect the special event would have on the City and/or its citizens. The City Administrator may elect to defer consideration of the application to the City Council for approval at a regular meeting. An application may be rejected if granting the application would not be in the best interests of public health, safety, or welfare, including, but not limited to: excessive traffic; parking congestion; blocking access to other properties; reducing access for emergency vehicles; noise; if public health, safety and welfare were negatively affected by previous events in the same location or sponsored by the same Promoter; or if the Promoter has supplied false or misleading information on the application form.

**61.06 COORDINATION OF APPLICATION.**

1. Upon receipt of an application for a special event permit, the City Clerk shall refer the application to the City Administrator and such other City personnel as may be appropriate for the coordination of street closings, barricade requirements, park use, liability protection and City personnel and service requirements. If the Police Chief deems it necessary for the protection of the public good, the Police Chief shall conduct an investigation of the special event promoter and the proposed special event. The Chief shall submit findings and any other comments to the City Administrator consideration in making a final decision on the application.
2. Upon review of a special event promoter’s application, all affected Department Directors shall attach their comments to the application and return the application to the City Clerk. The City Clerk shall submit the Directors’ comments to the City Administrator for consideration in making a final decision on the application.
3. Any permit approved by the Administrator will also include all comments from City Departments and will be provided to the applicant for compliance.
4. Any permit approved by the City Council shall also include any additional requirements imposed by the Council which shall be provided to the applicant for compliance.

**61.07 PERMIT FEE.**

The special event promoter shall pay a fee in the amount established by the City Council by resolution. The fee shall be paid upon issuance of the permit and shall be nonrefundable. Any City services utilized by the special event promoter shall be billed separately at rates established by the City Council by resolution. The special event promoter may charge a special event merchant a fee for participation in the special event. This fee shall be separate from the permitting requirements of the City.

**61.08 INDEMNITY/INSURANCE REQUIREMENT.**

The approval by the City Administrator of an application for a special event permit shall be contingent upon the special event promoter providing the City with a signed Indemnity Agreement. For those events with large numbers of participants, multiple activities and extended operation time, the City Administrator may, in his or her discretion, require a certificate of liability insurance coverage naming the City as an “also insured” in a minimum amount of one million dollars (\$1,000,000.00) combined limits. Upon receipt of the Indemnity Agreement or Certificate of Insurance, the City Clerk shall issue the permit to the special event promoter.

**61.09 PERMIT EXPIRATION.**

A special event permit as issued shall set forth the time period for which the permit is issued. The time period for which the permit is effective shall include a reasonable period for cleanup. The permit shall expire at the end of the time period specified in the permit.

**61.10 OBSTRUCTION OF TRAFFIC PROHIBITED.**

The special event for which a permit is issued shall be conducted within the designated special event area. The special event shall not be conducted in such a manner as to hinder or obstruct the free passage of pedestrian or vehicular traffic outside of the designated special event area, except as specifically permitted.

**61.11 EXHIBITING PERMIT.**

A special event promoter shall be required to provide a permit to each special event merchant for exhibit by the special event merchant during the term of the permit period.

**61.12 CONTRACTUAL ARRANGEMENTS.**

The special event promoter shall be solely responsible for any contractual arrangements between the promoter and any special event merchants and/or private property owners operating or located within the designated special event area.

**61.13 REVOCATION OR SUSPENSION OF PERMIT.**

A permit issued under the provisions of this chapter may be revoked or suspended by the City Administrator, without notice, for any of the following causes:

1. Fraud, misrepresentation, or an incorrect statement contained in the application for permit, or made in the course of promoting the special event.
2. Failure to comply with any provision of this chapter.
3. Promoting the special event in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

**61.14 APPEALS.**

Any person aggrieved by the action of the City Administrator in denying a permit or in revoking or suspending a permit may appeal to the City Council. Such appeal shall be filed with the City Clerk within fourteen (14) days after the action complained of, and include a written statement setting forth fully the grounds for such appeal. The City Clerk shall set a time and place for consideration of such appeal at a Council meeting and notice of such consideration shall be mailed, postage prepaid, to the appellant at its last known address at least five (5) days prior to the meeting date. The person aggrieved shall be permitted a reasonable time to present the appeal at the meeting. The decision of the City Council regarding an appeal shall be final.

**61.15 PEDDLER, SOLICITOR, AND TRANSIENT MERCHANT PERMITS.**

A special event promoter may, in its application for a special event permit, request that the City Council temporarily limit the areas within the City for which a peddler, solicitor or transient merchant permit provided under Chapter 53 of this Code of Ordinances may be issued to an applicant thereunder during the time period for which a permit is issued under this chapter. In making its request, the special event promoter shall suggest particular areas within the City limits which the special event promoter believes would be appropriate for the limitation of peddler, solicitor or transient merchant permits during the time period in question. If the City Administrator agrees with the suggested limitation of areas for which a peddler, solicitor or transient merchant permit may be issued during the time period for which a permit is issued under this chapter, the Administrator shall request that the City Council adopt a resolution providing for the modification of the issuance of peddler, solicitor and transient merchant permits as requested in the application hereunder. In adopting its resolution, the City Council shall be required to find that the permitted special event is of City-wide interest, promotes the well-being and reputation of the City, and that the issuance of a peddler, solicitor or transient merchant permit on a City-wide basis concurrent with the permitted special event would detract from the benefits provided by the permitted special event.

(Chapter 61 adopted by Ordinance 1018 – Published on 12/21/16)

CHAPTER 62

FOOD AND BEVERAGE SERVICE AND CART STORAGE

Sections:

- 62.1 Purpose
- 62.2 Intent
- 62.3 Authorizations
- 62.4 Satisfaction of Code of Iowa
- 62.5 Conflicts
- 62.6 Effect

**SEC. 62.1 PURPOSE**

Iowa Code Section 23A.2 permits a political subdivision of the state of Iowa to offer goods and services to the public in competition with private enterprise under Iowa Code Section 23A.2(1)(b) as long as the political subdivision specifically authorizes such competition by statute, rule, ordinance or regulation.

**SEC. 62.2 INTENT**

The City of Waverly is the owner of the Waverly Golf Course and is acquiring the clubhouse and other buildings associated with the Waverly Golf Course, which the city currently owns and operates. The City of Waverly intends to operate food and beverage operation in connection with its operation of the Waverly Golf Course.

**SEC. 62.3 AUTHORIZATIONS**

The City of Waverly is authorized to own, operate, maintain and offer to the public golfing, food and beverage, cart storage, and other related services through its facilities at the Waverly Golf Course.

**SEC. 62.4 SATISFACTION OF CODE OF IOWA**

The authorization granted in Section 62.2 is declared to be in satisfaction of Section 23A.2 of the Code of Iowa.

**SEC. 62.5 CONFLICTS**

All ordinances or parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

**SEC. 62.6 EFFECT**

This ordinance shall be in effect after its final passage, approval and publication as provided by law.

(Adopted by Ordinance 1114 – Published on 12/27/22)