



## ***Regulations Regarding Food Trucks and Transient Merchants***

For complete applicable ordinance, please visit link below:

<http://www.ci.waitepark.mn.us/DocumentCenter/View/285/Ordinance-74---Transient-Merchants-Peddlers--Solicitors-PDF?bidId=>

- Food trucks or businesses that set up temporary location are considered “Transient Merchants”. The City of Waite Park puts limits on allowances for “Transient Merchants” as they do not pay the same property taxes that permanent businesses do.
- “Door-to-Door” sales/orders require registration and certificate be obtained by the City. There is no fee for this. Contact [jon.noerenberg@ci.waitepark.mn.us](mailto:jon.noerenberg@ci.waitepark.mn.us) or 320-656-8936.
- Transient Merchants may only be located on private property, with approval of property owner. Setting up in vacant properties without permission is not permitted.
- A City permit is required. Transient Merchants may obtain up to 3 permits annually, valid for 30 days each. Each 30-day permit is \$100.00.
- An application and application fee (\$60.00) is required.
- A background check is also required. The fee for background check is \$60.00 (in-state) or \$120.00 (out-of-state) – please note application form must be notarized.
- Applications require 10 business days to process.
- Applicants and operators are responsible for ensuring they have obtained any other necessary health inspections/approval. The City of Waite Park does not inspect or enforce health aspects of any transient merchants.
- Locating on private property, with permission of property owner, for no longer than 3 days is permitted without special permission, fee, or approval.
- For further questions, contact [jon.noerenberg@ci.waitepark.mn.us](mailto:jon.noerenberg@ci.waitepark.mn.us) or 320-656-8936.



SOLICITOR, PEDDLERS AND TRANSIENT MERCHANT  
LICENSE APPLICATION

1. Applicant's full legal name  
\_\_\_\_\_
  
2. Any and all other names under which the applicant has or does conduct business or to which the applicant will officially answer to  
\_\_\_\_\_
  
3. Full address of applicant's permanent residence  
\_\_\_\_\_
  
4. Telephone number of applicant's permanent residence  
\_\_\_\_\_
  
5. Full legal name of any and all business operations owned, managed or operated by applicant or for which the applicant is an employee or agent  
\_\_\_\_\_
  
6. Full address of applicant's regular place of business, if any exists  
\_\_\_\_\_
  
7. Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines  
\_\_\_\_\_
  
8. Dates applicant intends to conduct  
business \_\_\_\_\_
  
9. Provide drivers' license number or other acceptable form of identification.  
\_\_\_\_\_

10. Provide license plate number, registration information, and physical description for any vehicle to be used in conjunction with the licensed business operation.

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11. Physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like)

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12. Give a general description of the items to be solicited, sold or services to be provided.

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13. Type of License (Please Circle):   Solicitor          Peddler          Transient Merchant

Peddler (Please Indicate #):    \_\_\_\_\_ 7-Day License (\$30 each, up to 4 per year)  
   \_\_\_\_\_ 30-Day License (\$120, 1 per year)

Transient Merchant (Please Indicate #): \_\_\_\_\_ 30-Day License (\$100, up to 3 per year)

A \$60 In-State or \$120 Out-State Background Check Fee will also be due for a Peddler or Transient Merchant License

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*Transient Merchant or Peddler License – Please also complete the following questions*

14. Provide a statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses. If the applicant has been convicted please provide details relating to such conviction including location, date of conviction, charging authority and the description of the conviction.

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15. Provide a list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.

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16. Proof of any required county license. Contact Stearns County Auditor's Office at 320-656-3900.

17. Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.

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You may also be required to provide any other additional information as may be deemed necessary by the City.



## **Informed Consent for Criminal Background Check**

I am applying for a License within the City of Waite Park. I understand that related to my application within the City of Waite Park, the City of Waite Park is going to obtain a criminal background check on me. I understand that the criminal background check is going to be performed by the Trusted Employee.

I hereby voluntarily consent to a criminal background check. I hereby authorize Trusted Employees and the City of Waite Park and its authorized representatives bearing this document or a copy thereof, which shall have the same force and effect as the original, in connection with my application for a License within the City of Waite Park, to obtain the following background information for license application purposes:

Criminal History (arrest data, conviction data, and non-conviction data)

I hereby authorize all persons who may have information bearing on my criminal background to disclose such information to the Trusted Employees and the City of Waite Park and its authorized representatives.

I hereby authorize Trusted Employees to disclose all criminal history record information to the City of Waite Park for the purpose of considering my application for a License within the City of Waite Park.

I hereby release Trusted Employees, the City of Waite Park and its authorized representatives, and all other persons and entities from any and all claims or liabilities of any nature that might arise from or be related in any way to the inquiry into or disclosure of my criminal background information, including but in no way limited to claims under any Federal, State or Local law and/or any claims for defamation or invasion of privacy on account of a true and accurate disclosure.

I hereby further authorize that a photocopy of this document shall be considered as valid as the original.

If any provision of this document is determined to be invalid and/or unenforceable in whole or in part, such invalidity and/or unenforceability shall attach only to the portion of the provision determined to be invalid and/or unenforceable and the remaining part of the provision and all other provisions of this document shall continue in full force and effect.

The authorization portions of this document expire one year from the date I signed this document.

I authorize Trusted Employees to disclose all criminal history record information to the City of Waite Park for the purpose of a License with this agency.

The expiration of this authorization shall be one year from the date of my signature.



## Informed Consent for Criminal Background Check

Printed Name of License Applicant (First, Middle, Last, Maiden)  
or Representative of Organization Applying for License

Telephone

Other Names Known by Within the Last Ten (10) Years

Date of Birth (Month/Day/Year)

Social Security Number

Address (Street, City, State and Zip Code)

I understand that I may obtain a copy of any Consumer Report prepared on me. By checking this box, I am requesting a copy.

Email Address

Signature of License Applicant

Date

STATE OF MINNESOTA

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

Notary Public

My Commission Expires on \_\_\_\_\_

CHAPTERS VII & VIII GENERAL REGULATIONS

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CHAPTERS VII & VIII GENERAL REGULATIONS

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ORDINANCE 74     TRANSIENT MERCHANTS, PEDDLERS AND SOLICITORS

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**Section 74.1. Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Subd. 1. Non-Commercial Door-To-Door Advocate.** A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

**Subd. 2. Peddler.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

**Subd. 3. Person.** Any natural individual, group, organization, corporation, partnership, or similar association.

**Subd. 4. Regular Business Day.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

**Subd. 5. Solicitor.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

**Subd. 6. Transient Merchant.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than thirty (30) consecutive days.



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**Subd. 7. Special Event Merchant.** A merchant who is invited to a location for a special event on private property (i.e. birthday, graduation, grand opening) where the event is no longer than 3 (three) days in duration.

**Section 74.2. Exceptions to Definitions.** For the purpose of this chapter, the terms Peddler, Solicitor, and Transient Merchant shall not apply to:

- A. Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 74.7.
- B. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- C. Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
- D. Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- E. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- F. Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- G. Any person participating in an organized multi-person bazaar, festival or flea market.
- H. Any person conducting an auction as a properly licensed auctioneer.
- I. Any officer of the court conducting a court-ordered sale.
- J. Any Special Event Merchant.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

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### **Section 74.3. Licensing; Exemptions.**

**Subd. 1. County License Required.** No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity.

**Subd. 2. City License Required.** Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Section 74.7.

**Subd. 3. Application.** An application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- A. The applicant's full legal name.
- B. Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- C. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
- D. Full address of applicant's permanent residence.
- E. Telephone number of applicant's permanent residence.
- F. Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
- G. Full address of applicant's regular place of business, if any exists.
- H. Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
- I. The type of business for which the applicant is applying for a license.
- J. What type of license and length the applicant is applying for.
- K. The dates during which the applicant intends to conduct business.

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- L. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
- M. A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
- N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.
- O. Proof of any required county license.
- P. Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
- Q. A general description of the items to be sold or services to be provided.
- R. Any and all additional information as may be deemed necessary by the City Council.
- S. The applicant's driver's license number or other acceptable form of identification.
- T. The license plate number, registration information, and physical description for any vehicle to be used in conjunction with the licensed business operation.

**Subd. 4. Fee.** All applications and licenses shall be accompanied by a – fee as established in Appendix B – Waite Park Schedule of Fee Charges.

**Subd. 5. Procedure.** Upon receipt of the application and payment of the license fee and background check as established in Appendix B – Waite Park Schedule of Fee Charges, the City Clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application, the City Clerk must issue the license unless grounds exist for denying the license application under Section 74.4, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

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### **Subd. 6. Duration.**

- A. Peddler merchants under this Ordinance may purchase a seven (7) day license for a fee as established in Appendix B – Waite Park Schedule of Fee Charges. No more than four (4) 7-day licenses or one (1) 30-day license may be purchased by a single applicant per calendar year. These licenses are for consecutive days.
- B. Transient merchants under this Ordinance may purchase a thirty (30) day license for a fee as established in Appendix B – Waite Park Schedule of Fee Charges. No more than three (3) licenses may be purchased by a single applicant per calendar year. These licenses are for consecutive days.

### **Subd. 7. License Exemptions.**

- A. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
- B. No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

**Section 74.4. License Ineligibility.** The following shall be grounds for denying a peddler or transient merchant license:

**Subd. 1.** The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.

**Subd. 2.** The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

**Subd. 3.** The failure of an applicant to sign the license application.

**Subd. 4.** The failure of an applicant to pay the required fee at the time of application.

**Subd. 5.** A conviction within the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

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**Subd. 6.** The revocation within the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

**Subd. 7.** When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

### **Section 74.5. License Suspension and Revocation.**

**Subd. 1. Generally.** Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- A. Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
- B. Fraud, misrepresentation or false statements made during the course of the licensed activity.
- C. Subsequent conviction of any offense to which the granting of the license could have been denied under Section 74.4.
- D. Engaging in any prohibited activity as provided under Section 74.8 of this ordinance.
- E. Violation of any other provision of this ordinance.

**Subd. 2. Multiple Persons Under One License.** The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

**Subd. 3. Notice.** Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

**Subd. 4. Public Hearing.** Upon receiving the notice provided in Subd. 3 of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is

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requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

**Subd. 5. Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subd. 3 of this section.

**Subd. 6. Appeal.** Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

**Section 74.6. License Transferability.** No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

### **Section 74.7. Registration.**

**Subd. 1.** All solicitors and any person exempt from the licensing requirements of this ordinance under Section 74.3 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

**Subd. 2.** Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

**Section 74.8. Prohibited Activities.** No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

**Subd. 1.** Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

**Subd. 2.** Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

**Subd. 3.** Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

**Subd. 4.** Conducting business before 8 a.m. or after 8 p.m.

**Subd. 5.** Failing to provide proof of license, or registration, and identification when requested.

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**Subd. 6.** Using the license or registration of another person.

**Subd. 7.** Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

**Subd. 8.** Remaining on the property of another when requested to leave.

**Subd. 9.** Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

**Section 74.9. Exclusion by Placard.** Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

- A. At least four inches long.
- B. At least four inches wide.
- C. With print of at least 48 point in size.
- D. Stating “No Peddlers, Solicitors or Transient Merchants”, “Peddlers, Solicitors, and Transient Merchants Prohibited” or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

**Section 74.10. Penalty.** Any individual found in violation of any provision of this ordinance, shall be a guilty of a misdemeanor.

**Section 74.11. Severability.** If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

**Section 74.12. Effective Date.** This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subd. 10, as it may be amended from time to time.

Updated 5/4/15