

ORDINANCE NO. 2
OF 2023

AN ORDINANCE AMENDING CHAPTER 383
OF THE CODE OF THE CITY OF NORWICH

BE IT ORDAINED by the Common Council of the City of Norwich, New York, is hereby amended as follows:

Section 1. Chapter 383 - Peddling and Soliciting Ordinance of the City of Norwich, New York, is hereby amended as follows:

§ 383-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DESIGNATED AREAS

Include specified areas in the City of Norwich which allow mobile food vendors for an extended duration between the hours of 8:00 a.m. through 11:00 p.m. without the need to move. The designated area shall be the size of two parking spaces.

ESTABLISHED PLACE OF BUSINESS

Includes a building or store in which or where the person transacts business and deals in the goods, wares or merchandise he hawks, peddles or solicits for during regular hours of business daily.

HAWKER, PEDDLER or VENDOR

Includes any person, either principal or agent, who in any public street or public place, or by going from house to house or from place of business to place of business, on foot or on or from any vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise and periodicals.

NON-PROFIT

Includes the term Not-for-Profit: a corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

PERSON

Includes one or more persons of either sex, natural persons, firms and corporations, and all other entities of any kind capable of being sued.

SOLICITOR

Includes any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

SPECIAL EVENT

An event of specific, limited duration at which the sponsoring organization will have vendors.

SPECIAL EVENT DESIGNATION

Granted by the Common Council upon written request of an organization sponsoring an event at which it will have vendors.

SPECIAL OCCASION

An event which takes place one time per year and marks a special occasion such as an anniversary, open house, grand opening, or dedication ceremony.

§383-2 License required.

It shall be unlawful for any person, except as provided in § 383-12 below, within the corporate limits of the City of Norwich, to act as a vendor, hawker, peddler or solicitor as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

§383-3 Application; bond.

Any person desiring to procure a license, as herein provided, shall file with the Director of Finance of the City of Norwich, New York, a written application upon a blank form provided by the Director of Finance and furnished by the City, and shall file at the same time satisfactory proof of good character. Such application shall give the number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise he desires to sell or the kind of service he desires to perform, the method of distribution, the name, permanent and Norwich addresses and age of the applicant, the name and address of the person, firm or corporation he represents, the length of time the applicant desires a license and such other information as may be required by the Director of Finance. Such application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved. An application for a license as a solicitor who demands, accepts or receives a payment or deposit of money in advance of final delivery shall also be accompanied by a bond to the City of Norwich, New York, approved as to form and surety by the City Attorney in the penal sum of \$500 with sufficient surety or sureties of sufficient collateral security conditioned for making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order, or failing herein that the advance payment of such order be refunded. Any person aggrieved by the action of any licensed solicitors shall have right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the City of Norwich for a period of 90 days after the expiration of any license, unless sooner released by the Director of Finance. The requirement for a certificate of weights and measures and bond shall apply to those claiming any one of the exemptions under § 383-11.

§383-4 Issuance of licenses.

- A. Upon the filing of the application as provided in § 383-3, the Director of Finance shall, upon approval of said application by the Chief of Police, issue to the applicant a license as provided in § 383-2 hereof. Except as hereinafter provided, no license shall be refused except for a specific reason and for the

protection of the public safety, health, morale or the general welfare, or failure to produce other documents which the Common Council may require such as insurance certificates, sales tax information, etc.

- B.** A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall each be guilty of a violation of this chapter. All licenses issued shall list the following information: license number; kind of goods, wares or merchandise to be sold, or service to be rendered; the dates of issuance and expiration of the license; the fee paid; and the name of the licensee. Every licensee, while exercising his license, shall carry the license with him or her and shall exhibit the same upon demand.

§383-5 Fees

The following fees shall be paid for the license hereinabove required:

- A.** Where a vehicle or vehicles is or are to be used by the applicant, the fees shall be:

(1) Designated area annual fee: as set by the Common Council; allows for the lease of one of the six designated spaces in the City where goods and services may be sold from a mobile unit without having to fulfill the requirement of movement every 10 minutes.

(a) All four of the downtown spaces are available for annual lease. Permits are nontransferable. Limit one designated space per vendor. The annual permit may be renewed by the same vendor. To assure renewal of the same space the vendor must renew by the last day of February of the licensing year.

[Amended 9-14-2010 by Ord. No. 3-2010]

(b) Designated spaces for annual lease are as follows:

- (1) Northwest corner of East Side Park.
- (2) Southeast corner of East Side Park.
- (3) Northeast corner of East Side Park.
- (4) Northeast corner of West Side Park.

(2) Designated area seasonal fee: as set by the Common Council; allows for the length of six months from the date of permit or December 31st, whichever comes first.

(a) Designated spaces for seasonal lease are as follows:

- (1) Parking lot at Weiler Park near the Pavilion.
- (2) Kurt Beyer Park, next to the Kurt Beyer Pool Filter House.

(3) Standard (all others): fee as set by the Common Council; allows for a calendar year permit allowing a vendor to sell throughout the City of Norwich under the standard conditions, including moving every 10 minutes.

(4) Any person using a vehicle may employ under the same license not more than one person to assist in selling and delivering, but such person shall so act only when accompanying a licensed hawker, peddler or solicitor and, when any additional persons are so employed, an additional license shall be required for each such additional person and the fee fixed in Subsection A(3) shall be paid therefor.

B. Where no vehicle is used by the applicant, the fee shall be:

(1) Standard: as set by the Common Council; allows for a calendar-year permit allowing the vendor to sell throughout the City of Norwich.

C. Special events: as set by the Common Council; allows for a vendor to set up for a special event designated by the Common Council. A permit is required, whether the vendor is on public or private property, and is required in addition to any other permit issued under this chapter. Any vendor setting up in the area designated by the Common Council as the special event area is required to obtain a permit. There is no requirement to move every 10 minutes with this permit.

D. Non-Profit Fundraising Permit: as set by the Common Council; ~~allows for a non-profit vendor to set up as designated by the Common Council.~~ A permit is required, whether the vendor is on public or private property, and is required in addition to any other permit issued under this chapter. ~~Any vendor setting up in the area designated by the Common Council as a non-profit fundraiser is required to obtain a permit.~~ There is no requirement to move every 10 minutes with this permit. Application must be made at least 5 business days in advance of the event.

E. Special Occasion permit: as set by the Common Council. Allows for a business or individual to have a vendor set up and sell product, whether the vendor is on public or private property, for the purpose of marking a special occasion no more than one (1) time per year. There is no requirement to move every 10 minutes with this permit. Application must be made at least 5 business days in advance of the event.

§383.6 Special event permit.

A. An organization requesting special event designation must submit written request for such designation to the Common Council at least **two months** prior to the event.

B. Application for permit.

(1) An organization granted special event designation must apply to the City for a special event permit. The organization must provide the City with the following information for each vendor or company selling at the special event:

(2) Name of vendor/company.

(3) Names of owner and all employees.

(4) Address of vendor/company.

(5) Address of owner, if different than that of vendor/company.

(6) Dates of birth of owner and all employees.

(7) Driver's license numbers for owner and all employees.

(8) Make, model and license plate number of vehicle used for selling, if any.

(9) Certifications, if applicable, for New York State sales tax, Chenango County food permit, weights and measures.

(10) All requirements must be met before a special event permit will be issued.

C. The license fees shall be as set by the Common Council on the fee schedule and as amended from time to time by resolution of the Common Council.

D. Annual permit holders are exempted from the special events permit requirement as long as they occupy the designated space specified by their annual permit.

§383-7 Name and address on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times where such vehicle is in use during the continuance of the license.

§383-8 Enforcement.

The Code Enforcement Officer of the City of Norwich or a designee is hereby authorized to enforce the provisions of this chapter.

§383-9 Revocation of license.

The Director of Finance may, at any time, for a violation of this chapter or any other ordinance or any law, revoke the license. When a license shall be revoked no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason or reasons therefor, in writing, shall be served upon the person named in the application by delivering the same to him or her personally or by mailing the same to the address given in the application; such revocation shall be immediately effective if served personally and shall become effective 24 hours after mailing if served by mail. Licenses obtained by fraud or misrepresentation of any material fact shall be wholly invalid and shall be surrendered upon demand; no refund of the license fee shall be made.

§383-10 Restrictions.

A. A hawker, peddler, vendor or solicitor shall:

- (1) Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- (2) Keep the vehicles and receptacles used by him or her in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- (3) Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry his wares.
- (4) Not stand or permit the vehicle used by him or her to stand in one place in any street or public place for more than 10 minutes unless the vehicle has a permit for a designated area or special event.
- (5) Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- (6) Not use any weighing or measuring device unless the same shall have been examined and sealed by the City Sealer of Weights and Measures.

B. Participants in the Norwich Business Improvement District (BID) Pushcart Program are hereby exempted from Subsection **A(3)**, **(4)** and **(5)** above.

§383-11 Written statement of orders required.

A written statement of all orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery, setting forth the terms thereof, the amount paid in advance, the name of the solicitor and the name of the person or firm he represents, shall be given to the purchaser at the time the money is paid to or deposited with the solicitor.

§383-12 Exemptions; certificate of compliance.

- A. Nothing in this chapter shall apply to sales conducted pursuant to statute or by order by any court, or to any persons selling personal property at wholesale to dealers in such articles. The licensing provisions of this chapter shall not apply to merchants having an established place of business within the City or their employees; to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens; to honorably discharged members of the Armed Forces of the United States properly exercising a license issued pursuant to the General Business Law, or to berry pickers who sell berries of their own picking; but all such persons shall observe the provisions of §383-7 and 383-9 hereof, and shall provide the certificate of weights and measures and bond mentioned in §383-3.
- B. This chapter also shall not apply so as unlawfully to interfere with interstate commerce, and to that end all persons claiming to be engaged in interstate commerce or claiming any of the exemptions hereinabove set forth shall apply to the Director of Finance for a certificate of compliance, using the form of application described in § 383-3. The applicant shall also submit to the Director of Finance satisfactory evidence that he is engaged in interstate commerce. When the applicant shall have established, to the satisfaction of the Director of Finance, that he is engaged in interstate commerce, or is entitled to one or more of the above exemptions, the Director of Finance shall issue to him or her without charge, a certificate of compliance, stating, among other things, that such person has complied with the requirements of this section and has satisfactorily established that he is engaged in interstate commerce. Such certificate shall be carried with the person exercising it and shall be exhibited upon demand. Each such certificate shall be invalid after one year from its date of issue. The securing of any such certificate by fraud or misrepresentation by any person not in fact engaged in interstate commerce or entitled to one or more exemptions shall constitute a violation of this chapter.

§383-13 Penalties for offenses.

Failure to comply with the provisions of this chapter shall constitute a violation subject to a fine of not more than \$250 or imprisonment for not more than 15 days, or both, and each day's violation shall constitute a separate offense.

§383-14 Non-Profit Fundraising Permit

- A. An organization requesting non-profit designation must submit a License Application as provided in

§383-3. Non-profit fundraising shall be limited to a singular non-profit vendor or a singular non-profit sponsored vendor for the purposes of fundraising on behalf of the non-profit.

- B. A Non-Profit Organization is limited to no more than (4) four permits per calendar year.
- C. Application for permit. The non-profit organization must provide the City with the following information.
 - 1. Name of vendor/company.
 - 2. Names of owner and all employees/volunteers who will be present.
 - 3. Address of vendor/company.
 - 4. Address of owner, if different than that of vendor/company.
 - 5. Dates of birth of owner and all employees/volunteers who will be present.
 - 6. Make, model and license plate number of vehicles used for selling, if any.
 - 7. Certifications, if applicable, for New York state sales tax, Chenango County food permit, weights and measures.
 - 8. Proof of Non-Profit status must be submitted.
 - 9. All requirements must be met before Non-Profit Fundraising Permit will be issued.
- D. The license fees shall be as set by the Common Council on the fee schedule and as amended from time to time by resolution of the Common Council.
- E. Shall be exempt from moving every 10 minutes, The location of fundraising must be fully contained on the non-profit's property or in an area designated by the Common Council.
- F. No more than (1) one Non-Profit permit per park per day within the City limits will be issued.
- G. Non-Profit Fundraising Permit holders are not exempt from the special event permit within a special event designated area and must obtain a permit from the organization holding the special event.
- H. *Application must be made at least 5 business days in advance of the event.*
- I. Special Event Permits will take precedence over Non-Profit Fundraising Permits.
- J. §383-2 through §383-13 shall apply unless expressly exempted.

§383-15 Special Occasion Permit

- A. *An organization requesting a Special Occasion permit must submit a License Application as provided in §383-3. Special Occasion permits shall be limited to a singular organization or a singular sponsored vendor for the purposes marking a special occasion.*
- B. *A Special Occasion permit is limited to no more than (1) one permit per calendar year.*
- C. *Shall be exempt from moving every 10 minutes.*
- D. *Special Occasion permit holders are not exempt from the special event permit within a special event designated area and must obtain a permit from the organization holding the special event.*
- E. *Application must be made at least 5 business days in advance of the event.*
- F. *Special Event Permits will take precedence over Special Occasion Permits.*

G. §383-2 through §383-13 shall apply unless expressly exempted.

H. Shall be limited to within the boundaries of the sponsoring organization's property.

Section 2. This ordinance shall take effect immediately.

New Material Italic and Underlined; Old material crossed out.

Seconded by Ald. Warren, and duly adopted, 6 - 0, on a roll call vote.