
STATE OF WISCONSIN : VILLAGE OF PEWAUKEE : WAUKESHA COUNTY

ORDINANCE NO. 2024-09

**ORDINANCE TO REPEAL AND RECREATE CHAPTER 18 ARTICLE V OF THE
MUNICIPAL CODE OF THE VILLAGE OF PEWAUKEE REGARDING
TRANSIENT MERCHANTS**

The Village Board of the Village of Pewaukee, Waukesha County, Wisconsin do ordain as follows:

SECTION I

Chapter 18 Article V of the Municipal Code of the Village of Pewaukee is hereby deleted and recreated as follows:

ARTICLE V. TRANSIENT MERCHANTS,

DIVISION 1. GENERALLY

Sec. 18.115. Reserved.

DIVISION 2. TRANSIENT MERCHANTS

Sec. 18.116. Definitions.

- (a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Transient merchant means, except as otherwise provided, any person engaged in the retail sale of goods or services in any place or manner within the Village of Pewaukee other than from a fixed stationary location in a properly zoned area the person owns, rents or occupies with the consent of the owner for the purpose of conducting retail sales operation. In the foregoing sentence, the “retail sale of goods or services” includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of the value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

Sec. 18.117. Exceptions.

The provisions of this division shall not be applicable to the following:

- (1) Any person delivering goods or services, including but not limited to newspapers, fuel, dairy products or bakery products, to persons who, prior to the delivery, have purchased, requested, or ordered such goods or services;

-
- (2) RESERVED
 - (3) RESERVED
 - (4) RESERVED
 - (5) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
 - (6) RESERVED
 - (7) Any person selling goods or services at the specific invitation or request of the potential buyer;
 - (8) RESERVED
 - (9) Any individual licensed by an examining board as defined in Wis. Stats. § 15.01(7).
 - (10) Any individual who holds a statewide peddler's license for ex-soldiers pursuant to Wis. Stats. sec. 440.51

Sec 18.118. - RESERVED

Sec. 18.119. License required.

It shall be unlawful for any transient merchant to engage in sales within the Village of Pewaukee without first obtaining a transient merchant license pursuant to this division.

Sec. 18.120. License application.

- (a) Applicants for a transient merchant license must complete and return to the clerk an application form furnished by the clerk, which shall require the following information:
 - (1) Full name, permanent address, telephone number and temporary address, if any;
 - (2) Date of birth, height, weight, color of hair and eyes;
 - (3) Full name, address and telephone number of the person the transient merchant represents or is employed by, or whose goods are being sold or offered for sale;
 - (4) Proposed methods of delivery of merchandise, if applicable;
 - (5) Make, model and license number of vehicle to be used by the applicant in the conduct of the business;
 - (6) A statement as to whether the applicant has been convicted of any crime or ordinance violation directly related to applicant's transient merchant business within the last three years, and the nature of the offense and the place of conviction; and
 - (7) The length of time for which the license to do business as a transient merchant is requested.
- (b) Applicants shall present to the clerk for examination:
 - (1) A driver's license or some other proof of identity as may be reasonably required;

-
- (2) A certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by State of Wisconsin authorities; and
 - (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate shall be dated not more than 90 days prior to the date the application for a license is made.
- (c) At the time the application is made, a fee set by the village board shall be paid to the clerk to cover the cost of processing the application.

Sec. 18.121. Investigation and expiration.

- (a) *Investigation.* The village board shall have the sole authority to grant or revoke transient merchant licenses under this division. The clerk shall first refer each application for a license required by this division to the chief of police, who shall make such investigation of the contents of the application as he deems necessary for the protection of the public health, safety and welfare and shall report the results of the investigation to the clerk within 72 hours. Upon receipt of the report, the clerk shall place the report and application on the next agenda for action by the village board. The village board may refuse to grant a license to an applicant who, pursuant to the investigation called for in this paragraph, is found to have done any of the following:
 - i. Make a material omission or materially inaccurate statement in the application; or
 - ii. Been convicted of any crime or ordinance or statutory violation directly related to the applicant's proposed activities as a transient merchant; or
 - iii. Failed to comply with any applicable provision found in Section 18.120.
- (b) *Automatic expiration.* All licenses issued under this division shall be for a term not to exceed 60 days and shall automatically expire at the end of that term. All licenses issued under the provisions of this division shall expire at midnight on the date specified in the license. There shall be no right to a renewal.

Sec. 18.122. License fees.

Every applicant for a license under this division shall pay a license fee set by the village board at the time he receives the license.

Sec. 18.123. Exhibition of identification and license.

All licensees are required to exhibit a photo ID which contains their name, contact information and position. In addition, licensees and employees thereof are required to exhibit their certificate of license from the village at the request of any citizen or any representative of the village.

Sec. 18.124. Prohibited practices.

- (a) A transient merchant shall be prohibited from:
 - (1) Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment;
 - (2) Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;
 - (3) Calling at the rear door of any dwelling place; or
 - (4) Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (b) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the purpose of his visit, his identity or the identity of the organization he represents.
- (c) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed. No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted to use or occupy a stationary location on the public streets, nor be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this division, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.
- (d) No transient merchant shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source. No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound-amplifying device upon any of the streets, alleys, parks or other public places of the Village of Pewaukee or upon private premises where sound of sufficient volume is emitted or produced to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise the licensee proposes to sell.
- (e) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

Sec. 18.125. Disclosure requirements.

After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of merchandise or services he offers to sell.

Sec. 18.126. Revocation of license.

- (a) A transient merchant license may be revoked by the village board after notice and hearing, for any of the following reasons, which shall first be alleged by the filing of a sworn written

complaint with the village clerk by any resident of the village, or the village of its own accord:

- (1) Material omissions or materially inaccurate statements in the application for license;
 - (2) Fraudulent, false, deceptive or misleading statements or representations committed by the transient merchant in the course of engaging in sales;
 - (3) Violation of any provision of this Chapter 18 Article V;
 - (4) Conviction of any crime or ordinance or statutory violation directly related to the registrant's activities as a transient merchant; or
 - (5) Conducting the business of transient merchant in an unlawful manner
- (b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the allegations upon which the hearing will be based. The licensee shall have the opportunity to be heard and present evidence in support of their position at any such hearing. The board shall render a written decision based upon the evidence presented at such hearing.
- (c) No licensee whose license has been revoked shall make further application until at least six months shall have elapsed since the last previous revocation.

Sec. 18.127. Records.

The chief of police shall report to the clerk all convictions for violation of this division, and the clerk shall note any such violation on the record of the transient merchant so convicted.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed;

SECTION III

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV

This Ordinance shall take effect upon passage and publication as approved by law, and the Village Clerk shall so amend the Code of Ordinances of the Village of Pewaukee, and shall indicate the date and number of this amending Ordinance therein.

Passed and adopted this 17th day of December 2024 by the Village Board of the Village of Pewaukee.

APPROVED:



Jeff Knutson, Village President

Countersigned:



Jenna Peter, Village Clerk