



City of Fort Atkinson
City Manager's Office
101 N. Main Street
Fort Atkinson, WI 53538

**ORDINANCE COMMITTEE MEETING
IN PERSON AND VIA ZOOM
TUESDAY, MARCH 19, 2024 – 6:00 PM
CITY HALL – SECOND FLOOR**

<https://us02web.zoom.us/j/5997866403?pwd=alcreldSbGpNUVI1VnR1RWF5bXovdz09&omn=81289987016>

Meeting ID: 599 786 6403

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AGENDA

- 1. Call meeting to order**
- 2. Roll call**
- 3. New Business**
 - a. Review and possible recommendation to the City Council relating to an Ordinance amending Section 22-261 relating to Direct Sellers (Ebbert, City Clerk/Treasurer/Finance Director)
- 4. Miscellaneous**
 - a. Discussion of Off-Street Parking Standards
- 5. Adjournment**

Date Posted: 3/15/24

CC: Ordinance Committee Members: Chairperson Bruce Johnson, Kyle Jaeckel and Mason Becker; City Council; City Staff; City Attorney; News Media

Notice is hereby given that a majority of the Fort Atkinson City Council will be present at this meeting at the location and time indicated above to gather information about any subject matters on this agenda over which they have decision-making responsibility. This may constitute a meeting of the City Council pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d. 553, 494 N.W.2d 408 (1993), and must be noticed as such although the City Council will not take any formal action at this meeting.

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MEMORANDUM

DATE: March 19, 2024

TO: Fort Atkinson City Council

FROM: Michelle Ebbert, Clerk/Treasurer/Finance Director

RE: Review and possible recommendation to the City Council relating to an Ordinance amending Section 22-261 relating to Direct Sellers (Ebbert, City Clerk/Treasurer/Finance Director)

BACKGROUND

The City of Fort Atkinson Code of Ordinances Section 22 pertains to businesses and licensing requirements. Sections 22-261 through 22-266 regulate direct sellers and door-to-door sales within the City. A direct seller is defined as any person, firm, corporation, owner, agent, consignee or partnership which engages in house-to-house or door-to-door sales of merchandise or wares; or takes sales orders for the later delivery of such items.

DISCUSSION

Staff is proposing several changes to the Section of the City's Code for various reasons.

Section 22-262 (e) - Staff proposes to remove the fee from the Ordinance and place it in the annual Fee Resolution adopted by the City Council during the budget process. The fee is currently \$25 per license. This fee is also reflected in the 2024 Fee Resolution. Removing the fee from the Ordinance will allow the flexibility to review it annually through the Fee Resolution process and amend with Council approval when appropriate.

Section 22-262 (g) - Staff proposes to change the authority for revocation or suspension of this license from the Chief of Police to the City Manager or his/her designee. This will allow greater flexibility in suspension or revocation of license for the reasons listed in the Ordinance. The Police Chief and the Clerk/Treasurer may be designees of the City Manager for this purpose. City staff has received complaints in the past of aggressive behavior and trespassing by door-to-door sales persons, and it would be helpful for additional staff, aside from just the Chief of Police, to be able to suspend or revoke a license.

Section 22-262 (j) - Staff proposes to add this section to set a maximum number of licenses per business per year. This is limited to 10 so that there are not a significant number of people selling items from the same company throughout the City and may reduce the number of transient merchants who sell door-to-door in many communities.

Section 22-263 (1) - Staff proposes to change the hours that direct sellers are permitted to visit residences. Currently, they are prohibited from "calling" on a dwelling between 8:00 pm and 9:00 am. Staff proposes to change this to prohibiting the practice from 7:00 pm and 9:00 am.

FINANCIAL ANALYSIS

Staff does not expect that this change will have a financial impact on the City. The City issued 10 such licenses in 2023. The City has issued 17 in 2024, all of which were for the same company. Presumably, the limit of 10 licenses per business per year may decrease revenue in this account slightly. However, with the license fee of \$25, this will not have a significant impact.

RECOMMENDATION

Staff recommends that the Ordinance Committee review the proposed changes to the Direct Sellers ordinance, and, if acceptable, direct staff to prepare the Ordinance for a first reading at a City Council meeting.

ATTACHMENTS

- 1. Direct Sellers Draft Amendments 3.19.24

DRAFT ORDINANCE AMENDMENTS

ARTICLE VI. DIRECT SELLERS - DOOR-TO-DOOR RESIDENTIAL¹

Sec. 22-261 Definitions.

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

"City" hereafter means City of Fort Atkinson

"Direct seller, hawker, solicitor transient merchant or peddler" shall include any person, firm, corporation, owner, agent, consignee or partnership, which engages in house-to-house or door-to-door sales of merchandise or wares, or takes sales orders for the later delivery of merchandise or wares.

"Merchandise or wares" shall include personal property of any kind and shall include products, goods or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

"Religious non-profit organization" is as defined by federal and state laws.

"Youth civic organization" is an organization of individuals with the sole purpose of serving the community that consists of youth or high school aged individuals, including but not limited to, Boy Scouts, Girls Scouts, 4-H, FFA.

(Ord. No. 753, 10-18-16)

Sec. 22-262. Licensing.

- (a) *License required.* It is unlawful for any direct seller, hawker, solicitor, transient merchant or peddler as defined above, to engage in any such business within the city without first obtaining a license issued in compliance with the provisions of this chapter.
- (b) *Exemptions.*
 - (1) Youth civic organizations.
 - (2) Religious non-profit organizations.
- (c) *License application.* Applicants for a license under this article must file with the city clerk, an application in writing on a form to be furnished by the city clerk which shall give the following information:
 - (1) Name, address and physical description of the applicant including proof of identity.
 - (2) Name address and telephone of any entity the direct seller represents or is employed by or whose merchandise is being sold.

¹Editor's note(s)—Ord. No. 753, adopted Oct. 18, 2016, repealed the former art. VI, §§ 22-261—22-323, and enacted a new art. VI as set out herein. The former art. VI pertained to similar subject matter and derived from Code 1969, §§ 8.07(A)—(J).

State law reference(s)—Authority regarding transient merchants generally, Wis. Stats. § 66.083.

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- (3) A brief description of the nature of the business and the merchandise to be sold.
 - (4) Make, model and license number of any vehicles to be used by the applicant in the conduct of the business.
 - (5) Proposed method of delivery of merchandise if applicable.
 - (6) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefore.
 - (7) Proof of approval of health and sanitation by county, state or federal agencies as required.
- (d) *License—Investigation and issuance.*
- (1) Upon receipt of each application, the chief of police, shall immediately institute such investigation of the applicant's information, business and moral character as he/she deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this article within ten business days after it has been filed by the applicant.
 - (2) If, as a result of such investigation, the applicant's information, character or business responsibility is found to be unsatisfactory, the chief of police shall not endorse said application, and shall detail his/her disapproval and his/her reasons for the same, and notify the applicant that his/her application is disapproved and that no license will be issued.
 - (3) If, as a result of such investigation, the information, character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse the application and return to the city clerk for license creation and issuance. Such license shall contain the signature of the clerk and shall show the name and address of the licensee, the kinds of merchandise to be sold, the length of time the same shall be operative as well as the license number and other identifying description of any vehicle used in such business. No license shall be used at any time by any business other than the one to whom it is issued. The city clerk shall keep a record of all licenses issued.
- (e) *License—Fees.* ~~A fee of \$25.00 shall be paid by the applicant for each direct seller's license issued.~~ The fee for each license shall be set by resolution and adopted by the city council.
- (f) *Exhibition of license.* Persons licensed under this chapter shall carry their license(s) with them while engaged in licensed activities and shall display such license(s) to any police officer or citizen upon request.
- (g) *License—Revocation.* Licenses issued under this chapter may be revoked or suspended by the city manager or designee chief of police for fraud, misrepresentation or incorrect statement contained in the application or made in the course of carrying on business; conviction of the licensee of any crime or conducting the licensed business in an unlawful or disorderly manner or in such a manner as to menace the health, safety or general welfare of the public.
- (h) *License—Re-application.* No licensee whose license has been revoked shall make further application until a period of at least six months' time has elapsed since any previous revocation.
- (i) *License—Expiration.* A license year shall run from January 1st through December 31st each year. All licenses issued under the provisions of this chapter shall expire at midnight, the 31st day of December in the year of issuance.
- (j) License(s) per business. There is a maximum of ten (10) Direct Seller's Door-to-Door Residential licenses to be issued per business per year.

(Ord. No. 753, 10-18-16)

Sec. 22-263. Prohibited practices.

Sellers licensed under this article shall be prohibited from:

- (1) Calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m.
- (2) Calling at any dwelling where a sign is displayed bearing the words "No Peddlers," "No Canvassers," "No Solicitors" or words of similar meaning.
- (3) Calling at the rear door of any dwelling or place.
- (4) Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.
- (5) No one licensed under this article shall in the course of conducting business make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise or wares offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents.
- (6) No one licensed under this article shall impede the free use of sidewalks, streets or public rights-of-way by pedestrians and/or vehicles.

(Ord. No. 753, 10-18-16)

Sec. 22-264. Enforcement.

It shall be the duty of the police of the city to require any business that is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this chapter against any person found to be violating the same.

(Ord. No. 753, 10-18-16)

Sec. 22-265. Appeals.

Any person aggrieved by the action of the city in the denial, revocation or suspension of a license, shall have the right to appeal to the common council of the city. Such appeals shall be initiated by filing with the common council within 14 days after notice of the action in question. The filing should contain a written statement setting forth fully the grounds for the appeal. The common council shall set a time and place for a hearing on such appeal and the notice of such hearing shall be given to the appellant.

(Ord. No. 753, 10-18-16)

Sec. 22-266. Forfeitures.

Violations of this article shall result in penalties pursuant to section 1-10 of the city's Code of Ordinances.

(Ord. No. 753, 10-18-16)

Secs. 22-267—22-355. Reserved.



MEMORANDUM

DATE: March 19, 2024
TO: Fort Atkinson City Council
FROM: Jedidiah Draeger, Building/Zoning Administrator
RE: Discussion of Off-Street Parking Standards

BACKGROUND

There has been a request to discuss off-street parking requirements as it relates to the sale of vehicles and/or snow emergency situations.

DISCUSSION

The following sections of the City's Zoning Ordinance are pertinent to this discussion:

Article VI – Performance Standards

Section 15.06.03 Vehicle Access Standards.

Section 15.06.03(14)(a)4. Setbacks for uncovered parking

Section 15.06.05 Visibility Standards

- 15.06.05(4) Vision Triangle
- 15.06.05(5) Vision Triangle at Alleys and Driveways

Section 15.06.06 Off Street Parking and Traffic Circulation.

- 15.06.06(6) Parking Requirement Exceptions in the DHMU District.
- 15.06.06(9) Screening Requirements
- 15.06.06(10) Locational Prohibitions for Off-Street Parking Areas.
- 15.06.06(11) Setbacks.
- 15.06.06(12) Parking Space Design for Single- and Two-Family Uses.
- 15.06.06(13) Parking Space Design for residential uses served by individual driveways (single-family detached, twin house, duplex, townhouse, and some multi-plex's) are regulated as follows:
 - (c) Except for driveways leading to legal parking spaces, parking is not permitted in the front yard.
 - (g) Uncovered parking spaces shall follow the surfacing requirements of Section 15.06.06(19). Uncovered parking spaces shall be constructed in accordance with

this Chapter within 365 days of construction. During the permitted 365 days, a minimum aggregate base of 4 inches is required.

15.06.06(19) Surfacing. (a) All off-street parking, loading, and traffic circulation areas outside of the right-of-way shall be graded and surfaced

15.06.06(20) Installation and Maintenance.

- (b) All off-street parking and traffic circulation areas shall be completed prior to building occupancy and shall be maintained in a dust-free condition at all times.....

15.06.06(21) Limitations on Uses of All Off-Street Parking Areas.

- (a) All vehicles shall be in condition for safe and legal performance on public rights-of-way, be registered, and display current license plates

15.06.06(22) Limitations on Uses of Residential Off-Street Parking Areas. In residential districts and on lots associated with residential uses, accessory off-street parking facilities shall be solely for the parking of passenger vehicles

FINANCIAL ANALYSIS

Any ordinance changes relating to parking will not likely have a financial impact on the City.

RECOMMENDATION

This item is on the agenda for discussion and feedback only.

ATTACHMENTS

None