

LEAVENWORTH CITY COUNCIL
Study Session Agenda
City Hall – Council Chambers & Zoom
September 24, 2024 5:30 – 6:50 PM

5:30-6:40 Utility Rate Study Update

This time is for staff to give the Council an update and information regarding the Utility Rate Study that is taking place.

There are no items included under **TAB B**.

6:40-6:50 Peddler Permit Discussion

For the last several years, the City has had difficulty regulating and enforcing peddling in the city limits. This has led to complaints from downtown business owners and visitors when peddling occurs downtown on weekends and during festivals (example: light up balloon sales). Staff has been requested to address concerns by amending LMC Chapter 5.21, Transient Businesses. As drafted, the code would prohibit peddling within the city limits. The penalty for violation is currently a civil infraction, with a maximum fine of \$250 per day. Staff would ask the Council to consider making the penalty a misdemeanor, to allow for a larger penalty. If treated as a misdemeanor, enforcement of the code would then be conducted by the sheriff's office, or by deputized staff. The goal is to increase the penalty to deter peddlers from continuing to reoffend.

The following items are included under **TAB C**.

- DRAFT Code LMC 5.21

Chapter 5.21

TRANSIENT BUSINESSES

Sections:

- 5.21.010 Definitions.
- [5.21.015 Peddling Prohibited](#)
- 5.21.020 License required.
- 5.21.025 Christmas tree lots exempted.
- [5.21.030 Certain farm product sales exempted](#)
- ~~5.21.030~~ [035](#) License fees.
- 5.21.040 ~~License application and administration review procedure~~ – Peddlers.
- 5.21.050 License application and administration review procedure – Transient businesses.
- 5.21.060 Procedures for appeal.
- 5.21.070 Violations – Penalties.
- 5.21.080 Violations – Civil remedies.
- 5.21.090 Savings clause.

5.21.010 Definitions.

A. “Casual or isolated sale” means a sale made by a person who is not engaged in the business of selling the type of property involved.

B. “Peddler” means any person, either as principal or agent, who carries goods, wares, services and merchandise, articles, things or personal property, including music recorded in any format, and tickets or the right to see any music, performance or event, of whatsoever name (the “goods, wares, services, merchandise or articles”), nature or description from house to house, place to place, or upon any street, highway or public place within the city for sale or any person who goes from house to house, dwelling place to dwelling place or upon any street, highway or public place within the city, soliciting or taking orders for the purchase of the same to be delivered contemporaneously or in the future. [The activities of a “Peddler” are called “peddling.” Peddling does not include the activities of a sales person called to a house or place in the City and the request of the owner or occupant to provide a bid for goods or services to the house of place.](#)

C. “Transient business operator” means any person either as principal or agent who performs, sells goods, wares, services or merchandise at a fixed location on private property not within a permanent structure or building. A permanent structure or building is one which rests on a foundation and which substantially complies with the International Building Code. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1315 § 1, 2008; Ord. 905 § 1, 1992.]

[5.21.015 Peddling prohibited.](#)

[Except for activities that are exempt under this Chapter, peddling is prohibited in the City.](#)

5.21.020 License required.

Except as provided in this chapter, it is unlawful for any person to be ~~a peddler or be~~ a transient business operator without first obtaining a license from the city. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1315 § 2, 2008; Ord. 905 § 2(A – D), 1992.]

5.21.025 Christmas tree lots exempted.

Nothing in this chapter shall apply to Christmas tree lots which meet the following requirements:

A. No Christmas tree lot shall be set up for business until the first day after Thanksgiving.

B. No Christmas tree lot or remnant of a Christmas tree lot shall be permitted after January 2nd in any year. The lot shall be cleaned up to its condition prior to operation no later than January 2nd. Failure to do so shall be basis for denial of a subsequent permit application.

C. The use of one generator for the sole purpose of outdoor lighting shall be allowed.

- D. One self-contained recreational vehicle (RV) as defined under LMC 21.90.030 shall be allowed on site for overnight accommodations for a night watch person. The RV shall be no longer than 25 feet. Discharge of grey water shall occur only at approved sites.
- E. One sign per street frontage shall be allowed. The sign shall comply with Chapter 14.10 LMC.
- F. Exterior lighting shall consist of traditional type Christmas lights (colored or clear). No floodlights or flood-type lights or blinking lights shall be allowed.
- G. No sales or conducting of business shall occur between the hours of 10:00 p.m. and 8:00 a.m.
- H. Any Christmas tree lot shall provide for a minimum of 10 off-street parking spaces.
- I. Sales on lots shall be limited to Christmas trees, wreaths and tree stands.
- J. No on-site tree flocking shall be allowed.
- K. Christmas tree lots are allowed only in commercial zones.
- L. The operator shall pay an annual fee of \$42.50.
- M. Written permission of the property owner shall be submitted with the fee. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1203 § 9, 2003; Ord. 970, 1994.]

5.21.030 Certain farm product sale exempted.

In accordance with RCW 36.71.090 and as defined in said Chapter, the sale by or from the producers and manufacturers of farm produce and edibles is exempt and permitted in the City. However, nothing in this section authorizes any person to sell, deliver, or peddle, without license, in the City, any dairy product, meat, poultry, eel, fish, mollusk, or shellfish.

5.21.030035 License fees.

The license fees for peddlers and transient business operators shall be set by the city council by resolution. The license fees shall be payable at the time of application for a license and are nonrefundable administrative fees. [Ord. 1443 § 1 (Att. A), 2013; Ord. 905 § 2(E), 1992.]

5.21.040 License application and administration review procedure—Peddlers.

~~Peddling is prohibited within the city limits. A. Applicants for peddlers licenses shall provide the city clerk-treasurer with a written application describing the proposed business in detail and specifically including as a minimum the following:~~

- ~~1. The proposed manner of operation of the business;~~
- ~~2. The goods, wares, services, merchandise or articles to be offered for sale;~~
- ~~3. The proposed dates, hours and duration of operation and the proposed areas (and the zoning thereof) of operation.~~

~~B. The city administrator shall review the application based on such issues as public safety, pedestrian and vehicular traffic, public disturbance and noise concerns. The city administrator shall grant, deny or condition the license based on the above considerations. Written notice of action on the application shall be provided to the applicant within 10 days of the city's receipt of the license application.~~

~~C. The following minimum considerations and conditions shall apply in the city administrator's review of an application:~~

- ~~1. Peddling under the provisions of this subsection shall only be permitted in the residential portions of the city.~~

~~2. Noise making devices, except for such traditional activities as ice cream truck sales, shall not be allowed.~~

~~D. The peddlers license may be revoked if the activities of the license holder result in calls of complaint by residents in the community, and if the licensee violates conditions of the permit. [Ord. 1443 § 1 (Att. A), 2013; Ord. 905 § 3, 1992.]~~

5.21.050 License application and administration review procedure – Transient businesses.

A. Applicants for transient business licenses shall provide the city clerk-treasurer with a written application describing the proposed business in detail and specifically including as a minimum the following:

1. The proposed manner of operation of the business;
2. The goods, wares, services, merchandise or articles to be offered for sale;
3. The proposed hours of operation;
4. The proposed location of operation;
5. Available parking;
6. The proposed fire safety features and proposed lighting.

B. The city administrator shall review the application based on such issues as public health, public safety, pedestrian traffic, parking, vehicular traffic, lighting, public disturbance and noise concerns. The city administrator shall grant, deny or condition the license based on the above considerations. Written notice of action on the application shall be provided to the applicant within 10 days of the city's receipt of the license application.

C. The following minimum conditions shall apply in the review of an application:

1. All proposed transient businesses shall provide evidence of ownership or lease of a place of business.
2. Business shall not be conducted on public property unless specifically approved in the form of a right-of-way use permit.
3. If utilities such as water, sewer, power or telephone are required, they shall be provided by conventional permanent connections. Portable generators for electrical power shall not be permitted.
4. Transient businesses shall be subject to design review and sign approval procedures.
5. A transient business shall be a related business to the principal business on site and be an allowed use as defined by the zoning code. As an example, if the primary business is the sale of food, the transient business shall sell only food. If there is no principal business on site, a transient business shall be allowed per the permitted uses allowed in the appropriate zone.
6. A transient business must be conducted out of a structure that is no smaller than 64 square feet and no larger than 120 square feet. Prior to placement of the structure on the site, a Washington State licensed architect or a Washington State licensed engineer stamped plan of the structure shall be submitted to the code administrator.
7. A transient business shall not be allowed to operate out of any motor vehicle, food truck, or trailer whether or not the vehicle or trailer is operational.
8. A transient business may only obtain a one-half year business license one time per year.
9. A transient business that processes or handles food shall provide on-site restroom facilities. In lieu of providing on-site restroom facilities, the applicant must provide the city of Leavenworth a copy of a letter from the Chelan-Douglas health district stating that the district has waived that requirement.

D. The city may inspect to determine compliance with any requirements imposed pursuant to subsections (B) and (C) of this section, and if the licensee or business is not in compliance the city may revoke the license. A license shall not be considered revoked until written notice of such action, specifying the reason for the action, is transmitted to the license holder. A new application may be made after revocation. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1054 § 1, 1997; Ord. 905 § 4, 1991.]

5.21.060 Procedures for appeal.

Any ~~peddlers license or~~ transient business license applicant aggrieved by the decision of the city administrator made in accordance with the provisions of ~~LMC 5.21.040 or~~ 5.21.050 may appeal the decision of the city administrator to the city council by causing written notice of the applicant's appeal to be served upon the city clerk-treasurer within 10 days of the applicant's receipt of the written decision of the city administrator. Within 15 days of receipt of the notice of appeal by the city clerk-treasurer, the city council shall hold a hearing to examine the decision of the city administrator and hear arguments of the aggrieved applicant. The council shall examine the same issues that the city administrator was required to examine in the administrator's review of the license application and shall grant, deny or condition the license based on the same factors. The city council shall prepare written findings to accompany its decision and provide these to the applicant within five days of the city council's decision. The decision of the city council shall be final. [Ord. 1443 § 1 (Att. A), 2013; Ord. 905 § 5, 1992.]

5.21.070 Violations – Penalties.

Unless state law shall provide a different penalty, a Any person who violates any of the provisions of this chapter shall be guilty of a civil infraction. Each day of violation after written notice of the violation has been served upon the alleged violator shall be a separate civil infraction. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1026 § 1, 1996; Ord. 905 § 6, 1992.]

5.21.080 Violations – Civil remedies.

The violation of or failure to comply with any of the provisions of this chapter is unlawful.

A. Injunction and Abatement. The city, through its authorized agents, may initiate injunction or abatement proceedings or other appropriate action in the municipal court, or the courts of this state, against any person who violates or fails to comply with any provision of this chapter, to prevent, enjoin, abate or terminate violations of this chapter.

B. Civil Penalty. Any person who violates or fails to comply with any of the provisions of this chapter shall be subject to a monetary penalty in the maximum amount authorized by Chapter 7.80 RCW.

C. Attorney Fees. In any action brought by the city to enforce this chapter or in any action brought by any other person in which the city is joined as a party challenging this chapter, in the event the city is a prevailing party, then the nonprevailing party challenging the provisions of this chapter or the party against whom this chapter is enforced in such action shall pay, in addition to the city's costs, a reasonable attorney fee at trial and in any appeal incurred by the city.

D. Remedies Cumulative. The remedies provided in this section are cumulative, not alternative remedies, and are in addition to any other remedy to which the city may be entitled at law. [Ord. 1443 § 1 (Att. A), 2013; Ord. 1026 § 1, 1996; Ord. 905 § 7, 1992.]

5.21.090 Savings clause.

Should any portion of this chapter be found to be invalid, no other portion of this chapter shall be affected thereby and shall remain in full force and effect. [Ord. 1443 § 1 (Att. A), 2013.]