



## City of Ely

### SUMMARY OF ORDINANCE NO. 332, 2<sup>nd</sup> Series

**For Full Text, Reference Ordinance Directly**

#### **What is the definition of Peddler, Solicitor, Transient Merchant Mobile Food Cart and/or Mobile Food Vehicle?**

1. **Peddler.** The term "peddler" shall mean 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, for the purpose of offering for sale, displaying or 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. The term peddler shall mean the same as the term hawker.
2. **Solicitor.** The term "solicitor" shall mean 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, 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 provisions if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term canvasser.
3. **Transient Merchant.** The term "transient merchant" shall mean 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 or intend to remain in any one location for more than fourteen (14) consecutive days.
4. **Mobile Food Cart.** The term "mobile food cart" shall mean an outdoor food and beverage service establishment that is a non- motorized vehicle self-propelled by the operator.
5. **Mobile Food Vehicle.** The term "mobile food vehicle" shall mean an outdoor food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.

#### **How is a Peddler, Solicitor or Transient Merchant licensed in the City of Ely?**

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 required by Minnesota Statutes Chapter 329 as amended. 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 business. 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. A license granted under this ordinance shall be valid during the time period indicated on the license.

**Are there any Peddler, Solicitor and/or Transient Merchant license exemptions in the City of Ely?**

No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for product grown, produced, cultivated, or raised on a farm owned and/or operated by the applicant. No license shall be required of any person going from house- to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights (i.e., freedom of speech, press, religion, etc.) except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from licensing requirements.

**How is a Mobile Food Cart and/or Mobile Food Vehicle licensed in the City of Ely?**

No person or business shall operate a mobile food cart or mobile food vehicle within the city without a license. The City may require such information on the license application as the Council deems reasonable and necessary. All applications for a license shall be accompanied by the fee established in the City's fee schedule. An application shall be determined to be complete only if all required information is provided. A license granted shall be valid only during the time period indicated on the license.

**Are there any Mobile Food Cart and/or Mobile Food Vehicle license exemptions in the City of Ely?**

No license shall be required for a Mobile Food Cart or Mobile Food Vehicle which is located, owned, and operated in conjunction with a permanent business having a Safe Food Handlers License. A Mobile Food Cart or Mobile Food Vehicle used solely for the purposes of fundraising or operated in connection with Blueberry Arts and/or the Harvest Moon Festival shall be exempt from license requirements.

**How shall a licensed Mobile Food Carts and/or Mobile Food Vehicle operate with the City of Ely?**

A mobile food cart or mobile food vehicle is, by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157 and Minnesota Rules Chapter 4626, or their successors. Additionally, it shall be unlawful to operate any mobile food cart or mobile food vehicle in the City unless it is licensed, operated, and conducted in accordance with the following requirements:

- A. Applicable license fee under Section 13 shall be paid;
- B. Prohibited from discarding waste, liquids, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles. Licensees shall be responsible for all litter and garbage left by customers;
- C. Prohibited from using utilities from public property and right-of-ways without written permission from the City.
- D. Commercial private property parking areas are the preferred location for any mobile food units operating within the City limits;
- E. Prohibited from using utilities of any adjacent private property without obtaining permission from the private property owner or agent;

F. Shall operate in strict compliance with the laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and the city;

G. Shall abide by all vehicular public parking regulations;

H. Shall provide and maintain at least one clearly designated waste container for customer use per each mobile food cart or mobile food vehicle;

I. Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;

J. Licensees shall collect and remit applicable Minnesota and city sales tax.

K. Licensees may not operate more than 21 days annually at any one location, unless one of the two following conditions are met:

1. The mobile food cart or vehicle must be owned and operated by the same owner at the site of a permanent local business having a Safe Food Handlers License, or

2. The applicant must obtain City approval to operate longer than 21 days annually at any one location and shall obtain a Minnesota Health Department permit to operate longer than 21 days annually at any one location. The Minnesota Health Department would require permanent hook up to City sewer, electrical, water, utilities, garbage service and will ensure the licensee meets all State requirements.

**Is a licensed Mobile Food Cart and/or Mobile Food Vehicle Prohibited from certain locations within the City of Ely?**

No mobile food cart or mobile food vehicle shall conduct business in any of the following locations:

A. Mobile food carts and mobile food vehicles may not operate or travel through or on other city trails or parks unless the licensee obtains permission from the City. The City shall designate one location for Mobile Food Vehicles at various City properties; including but not limited to Whiteside Park, Semers Park, softball fields, for which an additional rental fee will apply

B. Mobile food vehicles may not operate or travel on public sidewalks;

C. Mobile food carts and mobile food vehicles may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park;

D. Mobile food carts and mobile food vehicles are prohibited from obstructing the ingress or egress from commercial buildings during the building hours of operation;

E. Mobile food carts and mobile food vehicles may not operate or travel on private property unless the licensee obtains permission from the private property owner or agent;

F. Mobile food carts and mobile food vehicles may not operate within 40 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from the restaurant owner or manager, said 40 feet measured in a straight line of constant elevation;

G. Mobile food carts and mobile food vehicles may operate in conjunction with a community event or parade, if the licensee obtains permission from the City and permit holder of that community event or parade.

**What City owned locations are available for Mobile Food Vehicle rental?**

Licensed Mobile Food Vehicles can reserve a pre-designated spot at either Whiteside or Semers Park for 2 concurrent days to sell to public, however, spots must be reserved at least 48 hours in advance and trucks left in an unreserved spot may be towed. A fee of \$40/day is required reserve a spot.

If a private party has reserved a rental space at either Whiteside or Semers Park, they are not guaranteed the designated space for the food truck to use for their party. Mobile Food operators must reserve those spots on their own. Furthermore, if a Mobile Food Vehicle is onsite in a designated location to serve to a private party, that vehicle should leave their public sales window closed and serve the food inside the building (or designated party area) rather than directly from the truck.

**What license fees are required for a Peddler, Solicitor, Transient Merchant Mobile Food Cart and/or Mobile Food Vehicle in the City of Ely?**

- Peddler, Transient Merchant, and/or Solicitor \$25 per day
- Mobile Food Vehicle/ Mobile Food Cart- \$25 per day or \$300 annual