

ORDINANCE #25-04
AN ORDINANCE TO REPEAL MARQUETTE CITY CODE
CHAPTERS 6,12, 34, 35, AND 50 REGARDING BUSINESSES
AND TO ADOPT A NEW CHAPTER 12 – BUSINESSES AND
BUSINESS LICENSING

INTENT

The purpose of this ordinance is to streamline regulations and integrate most business license types into a single more cohesive unified chapter, enhancing accessibility and efficiency within the City Code. Specifically, it repeals Chapter 6 (Amusements and Entertainment), Chapter 12 (Businesses), Chapter 34 (Peddlers, Solicitors, and Transient Merchants), Chapter 35 (Mobile Food Vending), and Chapter 50 (Vehicles for Hire), replacing them with a new Chapter 12 (Businesses and Business Licensing).

The City of Marquette Ordains:

SECTION 1. That Chapter 6 – Amusements and Entertainment be hereby repealed.

SECTION 2. That Chapter 12 – Businesses be hereby repealed.

SECTION 3. That Chapter 34 – Peddlers, Solicitors, and Transient Merchants be hereby repealed.

SECTION 4. That Chapter 35 – Mobile Food Vending be hereby repealed.

SECTION 5. That Chapter 50 – Vehicles for Hire be hereby repealed.

SECTION 6. That a new Chapter 12 – Businesses and Business Licensing be hereby adopted, to read as follows:

Chapter 12 – Businesses and Business Licensing

Article I. Licenses

Sec. 12-1. License required.

No person shall engage or be engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of either this code or of state law without first obtaining a license from the city in the manner provided for in this article. Unless stated otherwise, such license is required for each activity detailed in this chapter.

Sec. 12-2. Multiple businesses.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

Sec. 12-3. State-licensed businesses.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license from the city if such license is required by this chapter.

Sec. 12-4. License year; short-term options.

- (a) Unless otherwise provided in this code, all licenses shall be issued for a term of one year, commencing on the first day of the month in which the license is originally issued.
- (b) The city clerk may issue short-term or seasonal licenses for certain business activities for a set period and at a prorated fee. Such licenses, time periods and fees shall be established by resolution of the city commission.

Sec. 12-5. Conditions for issuance.

No license or permit required by this code shall be issued to any person who is required to first have a license or permit from the state until such person shall submit evidence of such state license or permit. No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this code applicable to the trade, profession, business or privilege for which application for license is made.

Sec. 12-6. Where certification required.

No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until such certification is made.

Sec. 12-7. Certification from outside entities.

In all cases where the certification of a state or county officer is required prior to the issuance of a license by the city clerk, no license shall be issued until such person shall submit evidence of such certification.

Sec. 12-8. Fees.

Any fees required for any license issued under this chapter shall be established by resolution of the city commission and shall be paid to the office of the city clerk at the time of application. Review and processing of applications will not begin prior to payment.

Sec. 12-9. License renewals.

Unless otherwise provided in this code, an application for renewal of a license shall be considered in the same manner as an original application. However, completed applications, and associated fees, for license renewal shall be submitted to the office of the city clerk at least 30 days prior to the expiration of the existing license. Applications for renewal submitted after the established deadline but before expiration may be subject to an additional late renewal fee as set forth by resolution of the city commission.

Sec. 12-10. Right to issuance.

If the application for any license meets the requirements of this code, said license shall be granted and shall serve as confirmation that the application has met all requirements.

Sec. 12-11. Insurance.

No license shall be issued under this chapter until the applicant is insured in a manner and amount acceptable to the city attorney. Proof of the required insurance shall be provided to the office of the city clerk prior to the granting of said license.

Sec. 12-12. Same - Exempt persons.

No license fee shall be required from any person exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this chapter. The city clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefor.

Sec. 12-13. Exhibition of license.

No licensee shall fail to carry any license issued in accordance with the provisions of this article upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when requested to do so by any city law enforcement officer or by any person representing the issuing authority. No person shall display any expired or otherwise invalid license.

Sec. 12-14. No representation of endorsement.

Under no circumstances shall an individual represent the granting of a license under this chapter as an endorsement by the city.

Sec. 12-15. Non-transferability.

No license issued under the provisions of this chapter shall be transferable. No shall transfer or attempt to transfer his license to another nor shall he make any improper use of the same. Any attempt by a licensee to transfer his license to another, or use the same improperly, shall be void and result in the automatic revocation of such license.

Sec. 12-16:12-19. Reserved.

Article II. Application

Sec. 12-20. Application required.

Unless otherwise provided in this chapter, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for said license to the city clerk upon forms provided by the city clerk and shall state under oath or affirmation such facts as may be required for, or applicable to, the granting of such license.

Sec. 12-21. Administrative review.

- (a) An application for a license issued pursuant to this chapter shall be reviewed as follows, and shall not be issued until the office of the city clerk has received confirmation that the application has satisfied all requirements:
- (1) The city police chief or designee shall investigate the applicant as necessary to satisfy himself that there are no outstanding criminal charges against the applicant and that the business to be conducted is not intended to cheat or defraud the public.
 - (2) The city treasurer or designee shall determine if the applicant owes to the city any taxes or other default, and if no such default exists, shall so indicate his findings. A license shall not be issued where default is reported.
 - (3) The city planner or zoning official shall determine if the application is in compliance with the regulations of the City of Marquette Land Development Code, Chapter 54 of the City Code. A license shall not be issued where noncompliance issues exist.
 - (4) The fire chief or designee shall make a determination as to the habitability and safety of the structure and property to be used for such business, and shall verify the safety and legality of all fireworks sales. In all cases where the certification of the fire chief is required prior to the issuance of any license, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the state and of the city.
 - (5) Additional reviews as otherwise required by this chapter.

Sec. 12-22. Application requirements.

- (a) Each application for a license issued pursuant to this chapter shall include:
- (1) Name, address and contact information for the applicant.
 - (2) Name, address, contact information and copy of current government-issued identification for the owner or manager of the business.
 - (3) Any additional information as required by this chapter or by the city clerk.

Sec. 12-23. Online application and payment.

Application submissions and fee payments for licenses required by this chapter may be made electronically in a manner prescribed by the city clerk.

Sec. 12-24:12-27. Reserved.

Article III. Fixed-Location Businesses

Division I. Lodging Establishments

Sec. 12-28. License required, definition.

- (a) No person shall operate or maintain any lodging establishment within the city without first obtaining a license pursuant to the requirements of this chapter.
- (b) For the purposes of this article, a lodging establishment is any operation that is identified as a Bed and Breakfast, a Bed and Breakfast Inn, a Hotel, a Motel or a Rooming House, based on the meanings ascribed to those terms in the City of Marquette Land Development Code, Chapter 54 of the City Code.

Sec. 12-29. Register maintained.

- (a) Every licensee shall maintain a register or record in which shall be entered:
 - (1) The name of any person who is charged or pays for lodging or the rent of a room;
 - (2) The home address of such person or his last place of residence;
 - (3) The number of the room to which such person has been assigned; and
 - (4) Make and license plate number of each vehicle used by each such person.
- (b) Such register shall be maintained in said premises and shall be submitted upon the demand of any law enforcement officer of the city.

Sec. 12-30. Sanitary requirements.

Each establishment licensed under the terms of this article shall be kept in a clean and sanitary condition and well-ventilated.

Sec. 12-31:12-34. Reserved.

Division II. Farmers Markets and Farm Produce Vendors

Sec. 12-35. 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:
 - (1) *Farm produce* means fresh produce, fresh or frozen meat, seafood, poultry, or prepared food products produced by a licensed farm produce vendor or the members of his immediate family.
 - (2) *Farm produce vendor* means a person licensed to sell farm produce by the city.
 - (3) *Farmer's market* means an area designated by resolution of the city commission where farm produce vendors may sell their produce.
 - (4) *Farmer's market organization* means an organization authorized by resolution of the city commission to operate a farmer's market.
 - (5) *Market master* means the person designated by a farmer's market organization who has authority to enforce the rules of the farmer's market and to perform such other functions as the organization shall determine, or, if there is no organization, the individual designated by the city commission as having responsibility for that farmer's market.
 - (6) *Outdoor sale* means any retail sale not taking place in a permanent building.

Sec. 12-36. Outdoor sales prohibited, exceptions.

- (a) No person, group, business, or other organization shall engage in the outdoor sale of farm produce in the city, with the following exceptions:
 - (1) Grocery stores or other retail businesses operating from permanent buildings and that regularly sell farm produce may conduct temporary outdoor sales of farm produce, provided these sales occur on the same property as the business and comply with all relevant provisions of this code, including those in the City of Marquette Land Development Code, Chapter 54 of the City Code.
 - (2) Licensed farm produce vendors or a recognized farmer's market organization may sell outdoors in a designated farmer's market.

Sec. 12-37. Designated market locations, responsible parties, market master.

- (a) The city commission may, by resolution, designate one or more specific locations as farmer's markets for the sale of farm produce in the city. In establishing such locations, the commission shall give consideration to the character of the neighborhood, the effect of the farmer's market on the neighborhood, the zoning of the area, especially the site for the farmer's market, other businesses located on the same site, the need for farmer's markets in the city, and the proposed organization which will be responsible for operation of the farmer's market.
- (b) In designating a farmer's market location, the city commission shall also designate the person or organization responsible for operation of said farmer's market. Said person or organization shall, at the time designation of the farmer's market is requested, present the commission with the proposed operating rules for the farmer's market, and the bylaws of the organization if there is one. Said rules shall, at a minimum, demonstrate that the proposed farmer's market will comply with all pertinent portions of this code and shall indicate what specific actions will be taken to protect the interests of the consumer.
- (c) Each designated farmer's market shall at all times of operation have a market master on duty. The market master may be a person designated by the farmer's market organization, or, if the market is operated by an individual, either that individual or his designee. The market master shall be responsible for overseeing the operation of the farmer's market in such a manner that all governmental regulations are complied with, and the rules of the farmer's market are enforced.

Sec. 12-38. License required, group licensing.

- (a) No person shall operate as a farm produce vendor in the city without first obtaining a license pursuant to the requirements of this chapter.
- (b) A farm produce vendor license may also be issued to a farmer's market organization, and will apply to the activities of all vendors active in the market. Each person who may serve as market master for the organization shall be reviewed as specified. The organization shall pay the same license fee that applies to a single transient merchant license.

Sec. 12-39:12-42. Reserved

Division III. Sidewalk Cafes

Sec. 12-43. License required, definition.

- (a) The city clerk may issue a sidewalk café license, allowing a food service establishment to occupy a portion of adjacent city right-of-way in order to place tables, chairs, planters and windscreens in conjunction with selling and consuming food and beverages.

- (b) No person shall operate a sidewalk cafe in the city without first obtaining a license pursuant to the requirements of this chapter.
- (c) For the purposes of this division, the term *food service establishment* shall have the definition ascribed in Michigan Public Act 92 of 2000 – MCL 289.1101, et seq. – as amended.

Sec. 12-44. Operating regulations.

- (a) Each business or individual licensed to operate a sidewalk café shall abide by the following regulations:
 - (1) Sidewalk cafes shall not unreasonably interfere with the view, access to, or use of the adjacent property. Unobstructed access shall be provided to all building entrances, including at least a two-foot linear clearance on each side of a building entrance.
 - (2) Sidewalk cafes shall not be granted to a business operating on or directly adjacent to property zoned exclusively for residential purposes.
 - (3) Sidewalk cafes shall not unduly obstruct pedestrian movement nor diminish the safety of the general public.
 - (4) Sidewalk cafes shall not be attached to or cause damage to the street or sidewalk or to trees, benches, landscaping, or other objects lawfully located in the right-of-way.
 - (5) In compliance with Chapter 42 of this code, a clear path shall be maintained along the full length of the sidewalk for general pedestrian use. The pedestrian travel area shall not include trees, bushes, walls, parking meters, fire hydrants, tree grates or any other fixtures permanently located in the right-of-way.
 - (6) All signs must meet the requirements found in the City of Marquette Land Development Code, Chapter 54 of the City Code.
 - (7) The immediate area of the cafe shall be maintained free of litter and debris.
 - (8) Tables, chairs, portable signs and other equipment used in the operation of the cafe shall be removed daily at the close of business.
 - (9) Hours of operation of the sidewalk cafe shall not be later than 11:00 p.m.

Sec. 12-45. Cafes with alcohol service, additional regulations.

- (a) The city clerk may issue a sidewalk café license, allowing a food service establishment to occupy a portion of adjacent city right-of-way in order to place tables, chairs, planters and windscreens in conjunction with selling and consuming food and alcoholic beverages. A business or individual licensed to operate a sidewalk café with alcohol shall abide by all regulations detailed in Sec. 12-44, as well as the following:
 - (1) The operator of the sidewalk cafe shall procure the appropriate license from the Michigan Liquor Control Commission and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the State of Michigan.
 - (2) The sidewalk cafe area shall be separated from pedestrian traffic by an approved barrier. The barrier shall be removed daily at the close of business.
 - (3) A sign clearly indicating that no alcohol is permitted beyond the barrier shall be posted at a conspicuous location within the sidewalk cafe.
 - (4) All alcoholic beverages to be served at sidewalk cafes shall be prepared within the adjacent indoor establishment that serves food and/or alcoholic beverages, and alcoholic beverages shall only be served to patrons seated in the café area. The drinking of alcoholic beverages by a member of the public while a patron at a

sidewalk cafe within the confines of the sidewalk cafe area shall not be construed as a violation of any ordinance controlling open containers in a public area.

- (5) Sidewalk cafes serving alcohol shall be continuously supervised by employees of the establishment.

Sec. 12-46. Duration.

- (a) Licenses shall be for the period of May 1 to October 31 for the year in which granted, and cafes shall not operate outside of this period unless otherwise permitted.
- (b) The city manager or his or her designee may extend the operational dates for sidewalk cafes in any given year, allowing sidewalk cafes licensed under this division to begin operating prior to May 1 or beyond October 31.

Sec. 12-47:12-50. Reserved.

Division IV. Outdoor Merchandise Displays

Sec. 12-51. License required.

- (a) The city clerk may issue an outdoor merchandise display license, allowing for the temporary placement of merchandise on a public sidewalk for the purpose of displaying, exhibiting, or offering for sale goods sold by an adjacent business.
- (b) No person shall display merchandise on a public sidewalk in the city for the purpose of displaying, exhibiting, or offering said merchandise for sale without first obtaining a license pursuant to the requirements of this chapter.

Sec. 12-52. Operating regulations.

- (a) Each business or individual licensed to operate an outdoor merchandise display shall abide by the following regulations:
 - (1) Displays shall not unreasonably interfere with the view, access to, or use of the adjacent property. Unobstructed access shall be provided to all building entrances, including at least a two-foot linear clearance on each side of a building entrance.
 - (2) Displays shall not unduly obstruct pedestrian movement nor diminish the safety of the general public.
 - (3) Displays must maintain an orderly appearance and be displayed only during hours of operation of the adjacent retail business and shall be removed by the close of the business day.
 - (4) Items displayed shall be limited to merchandise sold by the business.
 - (5) All transactions shall occur only inside the retail establishment.
 - (6) Merchandise and the fixtures or devices on which it is displayed shall be located so that they do not impede, endanger or interfere with pedestrian or vehicular traffic.
 - (7) In compliance with Chapter 42 of this code, a clear path shall be maintained along the full length of the sidewalk for general pedestrian use. The pedestrian travel area shall not include trees, bushes, walls, parking meters, fire hydrants, tree grates or any other fixtures permanently located in the right-of-way.
 - (8) When possible, displays shall be located within the business' frontage and immediately adjacent to the business and must not exceed six feet in length or height.
 - (9) All signs must meet the requirements found in the City of Marquette Land Development Code, Chapter 54 of the City Code.

- (10) The licensee shall be responsible for all material associated with the display, including goods, commodities, and display structures and for ensuring all are kept clean, attractive, safe, and in good repair.
- (11) The licensee shall be responsible for keeping the sidewalk area in front of the business clean, swept, and free of litter and debris, and for providing refuse receptacles to be used for all refuse generated by activity related to the display. The licensee shall remove said receptacles at the end of each business day. Such refuse shall not be deposited in city refuse containers.
- (12) Outdoor displays shall be secured to prevent movement. However, they may not be permanently anchored to the right-of-way or attached or affixed to any public tree, light post, sign, or similar fixture.
- (13) The minimum height for the lower portion of any umbrella or shade structure or apparatus must be at least 80 inches above the sidewalk. If vertical clearance of an area adjoining an accessible route is reduced to less than 80 inches (nominal dimension), a barrier to warn blind or visually impaired persons shall be provided.

Sec. 12-53. Duration.

- (a) Licenses shall be for the period of May 1 to October 31 for the year in which granted, and outdoor merchandise displays shall not be operated outside of this period unless otherwise permitted.
- (b) The city manager or his or her designee may extend the operational dates for outdoor merchandise displays in any given year, allowing displays licensed under this division to begin operating prior to May 1 or beyond October 31.

Sec. 12-54:12-57. Reserved.

Article IV. Mobile and Temporary Businesses

Division I. Mobile Food Vendors

Sec. 12-58. 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.
- (1) *Brick and mortar restaurant* shall mean a business located in a physical structure which provides a permanent public seating area, and whose normal business includes the preparation and sale of food and/or beverages.
 - (2) *Food cart* shall mean a mobile food vending unit propelled by human power alone, which has been specifically designed or used for mobile food vending and in which food or drink is not prepared on the premises.
 - (3) *Food trailer* shall mean any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed or used for food vending operations.
 - (4) *Food truck* shall mean a vehicle propelled by an engine which has been specifically designed or used for mobile food vending.
 - (5) *Mobile food vending* shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit; or vending, serving, or offering for sale food and/or beverages prepared for consumption in a mobile food vending unit; may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in mobile food vending.
 - (6) *Mobile food vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground and in which food or drink is prepared for direct consumption through service on the premises or elsewhere. For the purposes of this division, food carts, food trailers and food trucks are considered mobile food vending units.
 - (7) *Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.
 - (8) *Prepackaged and non-perishable food* means any food or beverage which is not capable of supporting rapid and progressive growth of microorganisms which may cause food infections; and which is packaged in a hermetically sealed container designed to keep the contents free of contamination by microorganisms and maintain the commercial sterility of its contents after thermal processing. The term shall include packaged candy, gum and confections and bottled or canned water or soft drinks, if the package, bottle or can includes a manufacturer's quality assurance date. In no case shall the term include fresh or processed meats, poultry, seafood, dairy products, eggs, or fresh fruit and vegetables.
 - (9) *Vendor* shall mean any individual engaged in the business of mobile food vending; if more than one individual is operating a single mobile food vending unit then vendor shall mean all individuals operating such mobile food vending unit.

Sec. 12-59. License required.

- (a) No person shall engage in mobile food vending in the city without first obtaining a license pursuant to the requirements of this chapter.

- (b) No vending through a mobile food vending unit of food and other human consumables shall be permitted unless it meets the definition of mobile food vending as defined by this division.

Sec. 12-60. Exceptions.

Mobile food vendors that are only operating in association with a special event permitted under a City of Marquette Special Events Permit will be addressed through that process.

Sec. 12-61. Application.

- (a) Every vendor desiring to engage in mobile food vending shall make a written application to the city clerk. In addition to the application requirements detailed in Article II of this chapter, the application for a license pursuant to this division shall include the following information:
 - (1) A list of the food products offered for sale and a description of preparation methods.
 - (2) A description of and information on the mobile food vending unit, including size.
 - (3) The proposed hours of operation, intended areas of operations, plans for electrical access, wastewater disposal, and trash disposal.

12-62. Requirements.

- (a) Any vendor engaging in mobile food vending shall comply with the following requirements:
 - (1) May only operate during hours established by city commission resolution.
 - (2) If operating on city-owned or controlled property, may only vend on property identified by city commission resolution.
 - (3) May not vend from a mobile food vending unit that exceeds 36 feet in length or nine feet in width.
 - (4) Shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor.
 - (5) The customer service area for any mobile food vending unit shall be on the side of the street facing a curb, lawn, or sidewalk. No food service shall be provided on the side of the mobile food vending unit facing the driving lane.
 - (6) Mobile food vending units utilizing public parking spaces or parked on public streets shall conform to all applicable parking regulations, including time restrictions and payment requirements for the parking space.
 - (7) Mobile food vending units shall not hinder the lawful parking or operation of other vehicles.
 - (8) No food shall be displayed outside of a mobile food vending unit.
 - (9) While operating on city-owned or controlled property, a vendor shall not provide or allow any dining area, including but not limited to tables and chairs, booths, stools, benches, and counters.
 - (10) When extended, awnings for mobile food vending units shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
 - (11) Shall not operate on city-owned or controlled property within one block of a city-sanctioned or authorized street fair, public festival, farmers market or event being conducted, without first receiving authorization from the event sponsor.

- (12) Shall not use external signage, bollards, seating or other equipment that is not contained in the vehicles. Signage is only permitted when physically attached to the mobile food vending units. No separate freestanding signs are permitted.
- (13) Shall not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- (14) A mobile food vending unit may not be left unattended.
- (15) A mobile food vending unit on city-owned or controlled property shall be removed during the hours stipulated under city commission resolution.
- (16) Any power required for a mobile food vending unit located on city-owned or controlled property shall be self-contained and shall not use utilities drawn from the city-owned or controlled property, unless such activity is otherwise permitted.
- (17) Mobile food vending units on private property may use electrical power from the property being utilized with prior written authorization of the power customer.
- (18) Unless otherwise permitted, power cables or similar devices shall not be run across any city street or alley, and shall not be run across or within pedestrian walkways or areas.
- (19) Mobile food vending units parked on city-owned or controlled property shall not be parked within 150 feet of any entrance to an existing brick and mortar restaurant during the hours when such restaurant is open for business to the public, unless written permission, a copy of which must be provided to the city, is first given by the restaurant owner.

Sec. 12-63. Vending by permission.

On city-owned or controlled property not identified by city commission resolution as a vending location, temporary mobile food vending is permitted on a case-by-case basis. Following a review of proposed vending times and activities, approval may be granted by the chief of police.

Sec. 12-64. Impoundment.

Any equipment associated with food vending that is not in compliance with this chapter and left on public property may be impounded at the owner's expense.

Sec. 12-65:12-68. Reserved.

Division II. Transient Merchants

Sec. 12-69. Definitions.

- (a) For the purposes of this chapter, the term "transient merchant" shall mean any of the following:
 - (1) Any person who offers goods, property or services for sale in the streets, highways, thoroughfares or public rights-of-way of the City.
 - (2) Any person who travels from place to place for the purpose of displaying, selling, making sales, offering for sale or leasing with the option to buy, at retail, any goods, property or services. Also any person who travels by foot, vehicle, wagon, cart or any other means of conveyance whatsoever displaying, selling, offering for sale, taking orders for sale, or leasing with the option to buy, at retail, any goods, property or service.
 - (3) Any person who travels from place to place and offers for sale, takes orders for or attempts to take orders for the retail sale of any goods, personal property or service whatsoever for future delivery. Also any person who, while on a public street or

while in a public place, offers for sale, takes orders for or attempts to take orders for the retail sale of any goods, personal property or service whatsoever for future delivery.

(4) Any person who sells, offers for sale, exhibits, displays, demonstrates or takes orders for the retail sale of any personal property or service whatsoever from any vehicle, conveyance, stand or temporary structure. Also any person who for a period of less than six months hires, leases, rents, occupies or uses any place or places within the City, whether in a building or not, for the purpose of exhibiting samples or for the purpose of taking orders for future delivery or both.

(5) A person licensed as a mobile food vendor is not considered a transient merchant for the purposes of this division.

(b) *Traveling from place to place* means progressing from one street address to another street address and not returning within a 2-hours period to any such address to solicit or peddle.

Sec. 12-70. License required.

No person shall operate as a transient merchant within the city without first obtaining a license pursuant to the requirements of this chapter.

Sec. 12-71. Practices prohibited.

No transient merchant shall shout or cry out his goods or merchandise, nor blow any horns, or use any other similar device to attract the attention of the public.

Sec. 12-72. Group event licensing.

(a) For an organized event scheduled to be held on one or more dates at which more than three transient merchants will be operating simultaneously in a single location, the organization sponsoring such event may obtain a group license which shall apply to all transient merchants at that event.

(1) The organization shall file an application with the city clerk as detailed in Article II.

(2) The organization shall pay the same license fee that applies to a single transient merchant license.

Sec. 12-73. Exemptions.

(a) The following shall be exempt from the licensing requirements of this division, but shall be subject to the other provisions hereof:

(1) Any person under eighteen (18) years of age, when engaged in the business of being a transient merchant on foot in the neighborhood of his or her residence under the direct supervision of any school or recognized charitable organization or religious organization.

(2) Any person exempt from the licensing requirements of this Chapter by virtue of State or Federal law.

(3) Any person who is the duly authorized representative or agent of any church, charitable or labor organization, education or fraternal organization, or of any political group seeking funds or membership or contacting members or electors.

(4) Any transient merchant engaging in business solely at a City-operated event or in association with an event authorized by a City of Marquette Special Events Permit, provided that all transactions are conducted solely within the confines of said events and that the rules and regulations of the event are observed.

Sec. 12-74:12-77. Reserved.

Article V. Special Businesses and Activities

Division I. Activities Regulated by State Law

Sec. 12-78. Activities Regulated by State Law.

In any case where state or federal law requires a person to obtain a municipal license prior to engaging in the operation, conduct or carrying on of any trade, profession or business, the application and review process for said licenses will adhere to that detailed in Articles I and II of this chapter.

Sec.12-79-12-82. Reserved.

Division II. Street Performers

Sec. 12-83. Definitions.

- (a) 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:
- (1) *Designated public area* means an area on public property designated for street performances.
 - (2) *Perform/performance* means a live, public presentation or exhibition which includes, but is not limited to, the following activities: acting, singing, playing a musical instrument(s), pantomime, juggling, magic, dancing, reading aloud, puppetry, art demonstrations, and performing of any sort.
 - (3) *Performer* means a person conducting activities defined as a performance under this article.

Sec. 12-84. No licenses required, rules and regulations.

- (a) Individuals may perform in designated public areas in the city. No license is required for this.
- (b) Any performer operating in the city shall comply with the following:
- (1) May only locate in a designated public area, as identified by city commission resolution.
 - (2) May only perform during hours established by city commission resolution.
 - (3) A person who is under the age of 15 shall only perform when accompanied at all times by a responsible adult. A person who is 15 years of age or older may perform without a responsible adult.
 - (4) A performer may request contributions or money at a performance. Contributions may be received in any receptable, so long as it does not interfere with the pedestrian passage requirements set forth in section 42-30 of this code.
 - (5) May only perform if located more than ten feet from the entrance of any business, unless prior permission is granted by the business owner.
 - (6) May only perform if located more than 50 feet from any other performer, unless performing together.
 - (7) May only perform if located more than 100 feet from any playground or school while in session, unless prior permission is granted by the school administrator.
 - (8) May not use any:
 - i. Knife, sword, torch, flame, axe, saw, animal or other object, thing or being that can cause serious bodily injury to any person;
 - ii. Amplification device;

- iii. Generator, battery or any other power source that poses a fire or public safety hazard;
 - iv. Electrical connection to an adjacent building or city power source.
- (9) The performer shall be responsible for clean-up of all litter at the performance site.
 - (10) Must allow the public to utilize any public benches, waste receptacles or other street furniture during the performance.
 - (11) Must not block or obstruct a curb cut.
 - (12) Must allow for the free and safe movement of pedestrians in accordance with section 42-30 of this code. If a sufficient crowd gathers to observe a performance such that the passage of the public through a public area is blocked or obstructed, a police officer may disperse that portion of the crowd that is blocking or obstructing the passage of the public.
 - (13) Must only perform with instruments, props, equipment, or other items the performer can reasonably transport or remove at one time.
 - (14) May not obstruct visibility for passing motorists.
 - (15) May not offer for sale or make available for a price or donation any items.
 - (16) May not create excessive levels of noise, as established in section 22-30 of this code.

Sec. 12-85. Temporary exclusion.

The city manager or his or her designee may temporarily exclude a designated public area, due to road or sidewalk construction, utility maintenance, other city activity, or in the case of an emergency. Such designation will be based upon the determination that exclusion is necessary to protect the public health, safety, and welfare.

Sec. 12-86-12-89. Reserved.

Article VI. Penalty and Appeal

Sec. 12-90. Civil Infraction.

- (a) An individual who violates any portion of this chapter is responsible for a municipal civil infraction and subject to a fine as established by resolution of the city commission.
- (b) For the purposes of this chapter, a violation is defined as:
 - (1) Any action explicitly prohibited by this code;
 - (2) Any failure to perform an action explicitly required by this code;
 - (3) Any action or omission that creates a condition that is:
 - i. Contrary to public health, morals, safety, or welfare;
 - ii. Unlawful, irregular, or fraudulent;
 - iii. Beyond the scope or unauthorized by the license granted;
 - iv. In violation of this code or by any rules or regulations promulgated by the city or state applicable to the relevant trade, profession, business, or permitted activity.

Sec. 12-91. License revocation.

- (a) Any license issued pursuant to this chapter may be suspended or revoked by the city clerk, or by the issuing authority, for cause.
- (b) The term “cause,” as used in this article, shall include the doing or omitting of any act or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license is granted under the provisions of this code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:
 - (1) Contrary to public health, morals, safety, or welfare;
 - (2) Unlawful, irregular, or fraudulent;
 - (3) Beyond the scope or unauthorized by the license granted;
 - (4) In violation of this code or by any rules or regulations promulgated by the city or state applicable to the relevant trade, profession, business, or permitted activity.
- (c) Upon suspension or revocation of any license, the fee for said license shall not be refunded.

Sec. 12-92. Appeal process.

- (a) Upon license revocation, the license holder shall have 14 days from the mailing of the written notice of revocation to appeal the decision to the city manager. The city manager may require additional information or act upon the appeal based upon the information previously supplied to the city. Should the city manager reverse the decision to revoke the license, the city shall immediately reinstate the license. Should the city manager affirm the decision, the city shall mail a written notice affirming the decision to the address for the license holder contained in the city's records.
- (b) Should the city manager affirm the revocation of a license, the license holder shall have 14 days from the mailing of the written notice affirming the decision to appeal the decision to the city commission, by filing with the city clerk a written notice of appeal. The city commission shall hear the appeal at its next regularly scheduled meeting, but no sooner than seven days from the receipt of the appeal. The commission may confirm such suspension or revocation or reinstate any such license. The action taken by the commission shall be final.

SECTION 7. That this ordinance shall take effect ten days after adoption but not before publication.

Jessica Hanley, Mayor

Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____