

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **February 9, 2021** immediately following the City Council meeting which begins at **5:30 PM**

FOR THE SAFETY FOR OUR CITIZENS AND STAFF, THE CITY OF ASHLAND CONTINUES TO CONDUCT THEIR MEETINGS VIRTUALLY

Please contact the Clerk's office if you require accommodations to attend the meeting.

To join the meeting from your computer, tablet or smartphone:

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United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 837-301-853

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Discussion Items
 - A. **Presentation and Discussion Regarding the Planning and Development Department Downtown Resident Survey Results and Downtown Goals**
(Planning Director)
 - B. **Presentation and Discussion on Condition of Water Distribution System** *(Public Works)*
 - C. **Discussion and Possible Action on Sidewalk Placement for the 2021 Waterfront Access Road Construction Project** *(Public Works)*
 - D. **Discussion and Possible Action Regarding Amending Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors, Ashland City Ordinances, as Relates to Mobile Concession Vendors** *(Council President)*
6. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

SUBJECT: Presentation and Discussion Regarding the Planning and Development Department
Downtown Resident Survey Results and Downtown Goals (*Planning Director*)

RECOMMENDATION: This will simply be an educational presentation and opportunity
for discussion about how the survey results relate to Main Street
Program goals for Ashland's downtown.

DEPARTMENT OF ORIGIN: Planning and Development

CLEARANCES: Planning and Development
Administration

EXHIBITS: 1. 2019 Ashland Downtown Survey Results

SUMMARY STATEMENT:

Planning and Development staff will present the results of the City's 2019 Downtown Resident Survey, which Wisconsin Economic Development Corporation analyzed and compiled a report of the results (attached). This will simply be an educational presentation, with opportunity for questions or discussion about how these survey results continue to influence downtown projects and direction of the Main Street Board.

2019 Ashland Downtown Survey Results

The City of Ashland conducted a community survey in fall of 2019 to identify strengths, opportunities and needs for the downtown area. In total 482 individuals responded to the survey, which was available both online and in hard copy at the Library, City Hall and Community Center. The survey was promoted in the Bottom Line News and Views, and also on social media. The intended audience for the survey was both City residents and regional visitors that frequent the downtown area. A full copy of the survey questions is included as an appendix to this report.

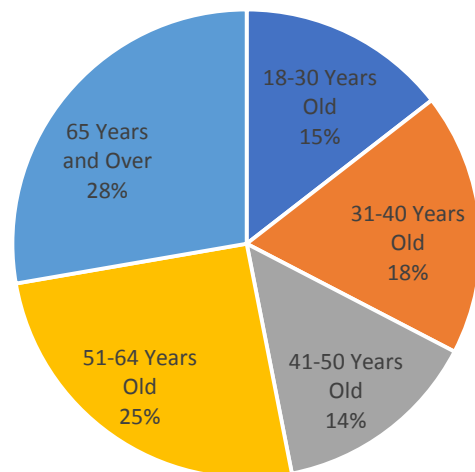
Respondent Profile

The survey attracted a significant number of responses from older audiences, with 28% over the age of 65. This is significantly higher than the 18 percent of the overall adult population which falls into that range.

Not surprisingly given this profile, 71% of respondents do not have children living at home, and 48% have lived in Ashland for longer than 20 years, in contrast to only 22% that have moved to the area in the past five years. Where possible, this report will explore responses from these audiences separately.

In terms of respondent relationship with Ashland, nearly half work in the City (55%), and two thirds are City residents.

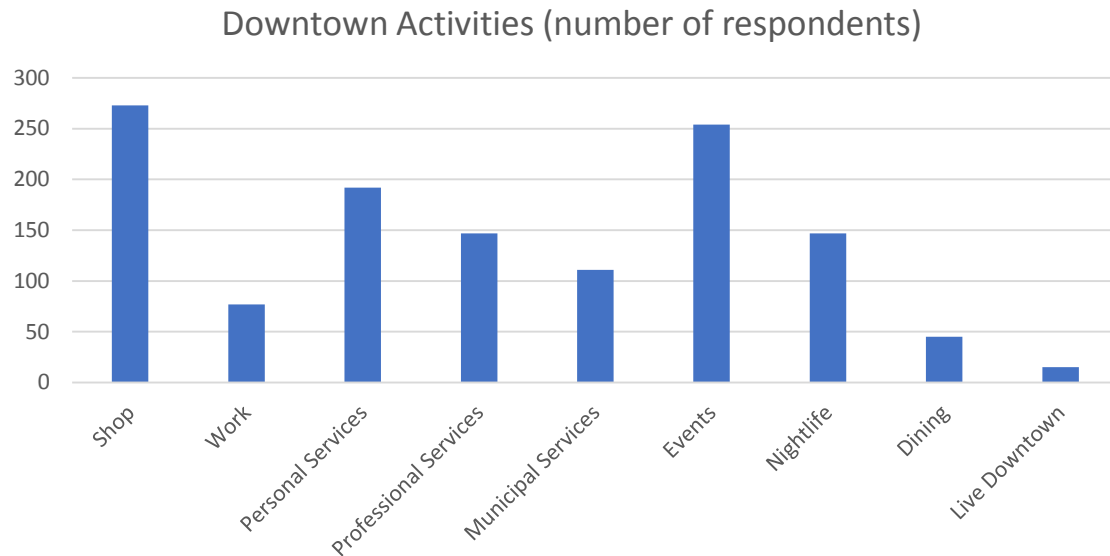
Respondent Age



Current Activity

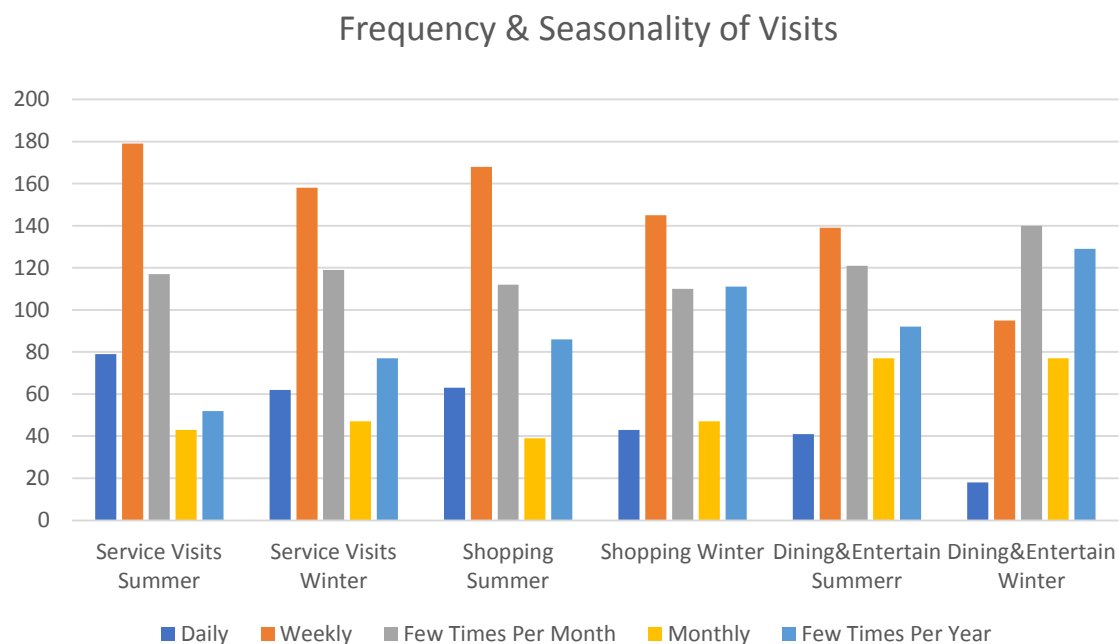
Several questions asked respondents to describe their current shopping patterns, including the frequency with which they visit downtown, and what their most-visited destinations are within the district. Note that for the purposes of the survey, downtown was defined as West Main from Ellis to 9th Avenues.

The greatest number of individuals reported visiting downtown most often to shop or attend events, as indicated in the chart below, followed by visits to service providers. However, it should be noted that dining was not provided as an option, but was written in by nearly 15% of respondents that felt it was a primary reason for visiting downtown. A significant number of individuals also wrote in walking as a primary attraction, as they enjoy walking to and through downtown, including accessing the lake via downtown.



The most frequently mentioned destinations within downtown included the coop (mentioned by nearly 25%), followed by the library, Bay Theater, post office, Black Cat, bank, Burger Barn, Deepwater, Ashland Baking and Second Look. However, a wide variety of businesses received multiple mentions as primary destinations.

Most visitors indicated that they travel downtown weekly for their most frequently conducted activities during spring/summer/fall, with the number of visits declining by between 10-30 percent in winter months, with service visits remaining steadiest and dining/entertainment visits declining to the greatest degree during colder months. Visits typically declined by one degree (i.e. weekly visits became one-two per month, etc.)



Winter Activation

The survey asked individuals to identify reasons that they do not visit as frequently in the winter months, to which snow removal was the number one answer (44%) – the popularity of this response was reinforced by the large number that wrote in specifically with concerns about ice and snow making it dangerous to walk and/or drive within the downtown during winter months. A lack of events and limited store hours were less commonly cited as a limiting factor, mentioned by less than 40% of respondents. When asked what changes would result in increased winter visitation, the most popular answer was increased number of businesses (65%), followed by increased variety of goods available (46%) and increased events (38%).

Downtown Amenities & Experience

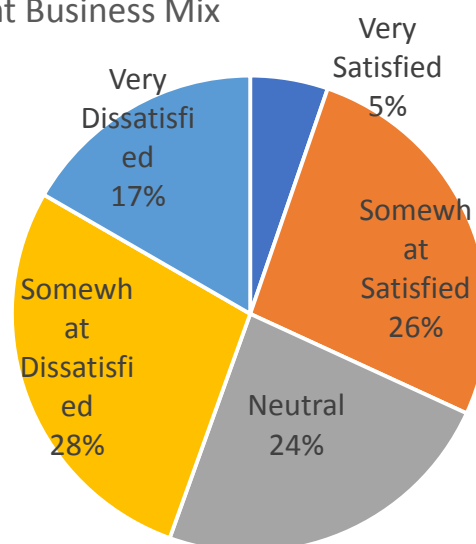
To determine if safety was a factor precluding downtown visits, respondents were asked specifically about perceptions of safety. During the day, 67% of respondents feel very safe and 23 percent somewhat safe. Fewer than 20 respondents feel unsafe at any level during the day, and fewer than 30% feel unsafe to any degree at night. However, many respondents indicate that certain types of individuals which frequent downtown make the visitor experience less pleasant, especially for walking and recreating, and the most commonly selected tool for increasing the perception of safety was increased police presence, especially on foot or bike.

Parking

Most downtown experiences begin with parking. In the survey, 62 percent of respondents indicated that they primarily travel to downtown via car (as opposed to 17 percent that primarily walk or bike downtown). When asked how far they would be willing to walk to their destination, responses were divided, with 18 percent only willing to walk 1 block, one-third willing to walk two blocks, and roughly one quarter each willing to walk three blocks and four blocks or more. Based on this criteria, 59 percent of respondents perceived that there is just the right amount of parking currently downtown, although many felt that additional signage would be beneficial.

More than half of visitors report spending between one and two hours downtown on any given trip, while one quarter spend only 15 minutes on average. Surprisingly, the amount of time spent downtown did not significantly impact the distance respondents were willing to walk, with the exception of long-term visitors (spending 3 hours or more), which were nearly all willing to walk more than 4 blocks for parking. Age of visitor, on the other hand, was slightly more correlated with walking distance, with 24 percent of those 65 or over willing to travel only one block and 60 percent no more than two blocks, versus 37 percent of 18-30 year olds willing to travel four or more blocks. This is a similar ratio to other communities statewide, where studies have shown that age is the primary factor considering the availability of convenient parking to be a major deterrent to visiting downtown.

Satisfaction with
Current Business Mix



Respondents were also asked how they travel between destinations once they are downtown. Three quarters indicated that they often walk between destinations, versus only 23 percent who primarily drive between stops. Given the relatively short average duration of visit, this information is likely not a key driver in visitation patterns for most respondents.

Events

Multiple long-standing events take place in downtown Ashland. Respondents provided feedback regarding those that they had attended in the past two years, as well as identifying their favorite events. The chart below shows the overall percentage of respondents that had attended each event, as well as the top three demographic groups represented by attendees.

Event	Percent Recently Attending	Top Demographic Groups Represented
<i>Witches Night Out</i>	24%	41-50 year old
<i>WhistleStop Marathon</i>	26%	18-30 years old
<i>Farmer's Market</i>	63%	Popular with all groups Individuals 51 and over
<i>Maxwell Street Days/Downtown Days</i>	35%	Popular with all groups
<i>Mural Fest & Car Show</i>	22%	Aged 65 and over
<i>Girl's Night Out</i>	25%	41-50 year old
<i>Customer Appreciation Day</i>	13%	Those without children
<i>Diamond Detective</i>	2%	31-40 year olds
<i>Parades</i>	60%	Those with children
<i>Easter Egg Hunt</i>	8%	Those with children
<i>Architec-Tour</i>	6%	65 and over
<i>Big Water Film Festival</i>	10%	51-64 years old
<i>Shop Small Win Big</i>	13%	31-64 year olds
<i>Retail Open Houses</i>	25%	31-64 year olds

Amenities

Respondents were asked to select from a list of potential amenities which could be made available downtown. The percentage of respondents that responded positively to each of the proposed options is indicated below.

- Outdoor Seating: 55%
- Landscaping/Tree Planting: 25%
- Bus Shelters: 11%
- Bicycle Racks: 13%
- Public Art: 24%
- Parklet: 9%
- Handicap Parking Spaces: 28%
- Outdoor Music: 51%
- Better Lighting: 20%

A number of individuals wrote in comments regarding desired amenities for downtown Ashland. In addition to other items addressed elsewhere in the survey, there were a few other ideas that emerged from these responses. These included:

- Extended business hours (evenings and weekends)
- Biking/pedestrian amenities (benches, bike lanes, bike parking, water fountains) and snow shoveling to support
- Reduced vagrancy
- More diverse public art options

Desired Business Mix

In addition to identifying current destination businesses, respondents were also asked about their satisfaction with current offerings, as well as to identify specific business types currently lacking from the district. Generally, respondents were somewhat satisfied with the business mix, although longer-time residents were more likely to be somewhat or very dissatisfied than newer residents, specifically identifying past businesses (especially Penney's) that they felt are lacking in today's business mix.

When asked to identify specific goods, services or business types missing from the district, there were some categories that generated significant agreement. Specifically, top choices for categories along with the most common specific responses are identified in the table below.

Business Type Identified (number of responses)	Specific Examples Given
Clothing (148)	Family, budget, plus sized, mens
Restaurant (83)	Coffee shop (larger/open later), Café, Breakfast, Ethnic
Department Store (48)	Penney's, Target, Alternative to Walmart
Sporting Goods (40)	Outdoor gear, clothing, recreation equipment
Bookstore (39)	Wide variety, extended hours, stationary/cards
Candy/Ice Cream (17/19)	Identified as desirable to locals and tourists
Arcade (27)	One of several family-friendly categories
Craft/Hobby (26)	DIY Studios, Hobby Supply, Quilting
Recreation (22)	Climbing Wall, Gym Space, Indoor Pool, Trampoline Park, Yoga
Gifts/Souvenirs (20)	Boutiques, Locally made
Home Goods (19)	Décor, Furnishings
Variety Stores (17)	Five and Dime Model, Dollar Store
Art Gallery (15)	Studio space, display space

Additional specific restaurant ideas were solicited, which are presented in the table below. Nearly half of responses identified a specific chain restaurant within these categories. Those most frequently identified are included in the examples. Outdoor and/or rooftop options were also frequently identified as lacking.

Restaurant Type (number of responses)	Specific Examples
Ethnic (52)	Thai, Greek, Indian, Ethiopian
Sandwich Shop/Deli (32)	Lunch, Soup/Sandwich
Italian (30)	Family style
Local Food (21)	Slow food, organic, locally grown
BBQ (14)	Smoke house
Coffee (10)	Meeting space, open late, chain

If present, respondents indicated that they would frequent the desired businesses generally weekly (57%), although anticipated visitation is very similar to the current reported summer traffic patterns.

Across all categories, a significant number of respondents indicated that low-price or budget-conscious options were desirable, although the larger number of older and potentially fixed-income individuals responding could influence this input.

Future Engagement

A final set of questions asked respondents about ways in which they might be involved in downtown in the future.

- 8% could envision themselves opening a business (startup costs are a significant hurdle)
- 21% would participate in a downtown improvement/cleanup day
- 19% would help with plantings and/or landscaping
- 42% would volunteer at an event
- 44% are not interested in participating in any way
- 3% would help with snow removal

SUBJECT: Presentation and Discussion on Condition of Water Distribution System (*Public Works*)

RECOMMENDATION: Presentation and Discussion only

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Council President

EXHIBITS:

SUMMARY STATEMENT:

The Public Works Director has specific expertise in the planning and prioritization of water distribution improvements, specifically in replacement of aged water mains.

A recent Northland College graduate, Shelly Ray, has been working with the Public Works Department as an intern and is interested in a future career in public works. Her work for the City has focused on basic analysis of data related to the age, condition and performance (main breaks) of the City's water distribution system. The analysis shows that funding for replacement of existing water mains should be considered as priority of the City, similar to the manner in which upgrades to the sewer collection system are prioritized due to the known problems with infiltration and inflow (I&I) and sewer overflows.

Ms. Ray and the Public Works Director will present this information to the Council for awareness and consideration in future endeavors related to the Utility budgets and capital improvements.

SUBJECT: Discussion and Possible Action on Sidewalk Placement for the 2021 Waterfront Access Road Construction Project (*Public Works*)

RECOMMENDATION: As Council Recommends

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: Council President

EXHIBITS:

1. Chapter 530 Sidewalk Construction, Maintenance, and Use
2. Public Works Committee Meeting Minutes, November 11, 2020
3. Approved Preliminary Resolution, January 26, 2021

SUMMARY STATEMENT:

Chapter 530 of Ashland City Ordinances addresses sidewalk construction, maintenance, and use within the City. There are approximately 41 miles of sidewalk within the City.

Section 530.02 states that Council shall determine the location of sidewalks in the City and that the general practice of the Council will be to provide for sidewalks on all residential and commercial streets/avenues in the City. However, the ordinance also states that Council recognizes that sidewalks may not be desirable in all circumstances and provides criteria to help guide decisions on sidewalk placement, including housing density, proximity to parks, schools and other public facilities, and traffic (vehicle & pedestrian) patterns.

When a street or avenue is designated to receive a sidewalk on only one side, the ordinance states that sidewalk shall be placed on either the north or east side due to the availability of sunlight.

The ordinance also requires that the Public Works Department provide a Sidewalk Location Map for Council approval on an annual basis. It is unclear when this was last formally completed but available documentation does not provide clarity on what sidewalk placement is recommended for the Waterfront Access Road (St Claire Street & Prentice Avenue).

At the November 11, 2020 Public Works Committee (PWC) meeting, the recommendation was made to install sidewalk on both sides of St Claire Street in order to provide safe walking routes for anticipated increases in pedestrian traffic. The PWC also made a recommendation to proceed with special assessments for the sidewalk repair/construction per current City policy. Prentice Avenue was not discussed with the PWC as it is only feasible to construct sidewalk on the east side of the avenue.

At the January 26, 2021 City Council meeting, Council approved a preliminary resolution declaring intent to levy special assessments for sidewalks on the project. Some questions and concerns about sidewalk placement were discussed. The next step in the special assessment process is to provide notice (individual letters) to impacted property owners. Council direction on sidewalk placement along St Claire Street is requested prior to providing notice to property owners.

CHAPTER 530. SIDEWALK CONSTRUCTION, MAINTENANCE, AND USE.

530.01. Purpose. The purpose of this policy is to establish objectives, criteria, and procedures for the construction and maintenance of sidewalks. These policies are designed to:

(a) Establish a policy for locating sidewalks in order to provide the citizens of Ashland with a useful, consistent and safe pedestrian infrastructure while considering special circumstances of neighborhoods;

(b) Establish a policy of assessments for the costs of constructing, maintaining and repairing sidewalks

(c) Implement a plan of scheduled City maintenance and inspection of sidewalks;

(d) Establish design and construction standards;

(e) Establish a policy of individual responsibility and care;

(f) Provide a procedure for an orderly system of construction of sidewalks in existing developed areas of the City based on established criteria.

530.02. Sidewalk Location Criteria. The Common Council of the City of Ashland shall determine the location and configuration of sidewalks in the City. It shall be the general practice of the Common Council to provide for sidewalks on all residential and commercial streets and avenues in the City. However, the Common Council recognizes that sidewalks may not be desirable in all circumstances and shall use the following criteria to guide the Common Council and the Department of Public Works in determining whether to locate sidewalks on any particular City street or avenue:

(a) Streets and avenues in traditional residential neighborhoods or residential neighborhood with densities greater than 2 residential dwelling units per acre shall receive strong consideration by the Common Council for construction of sidewalks.

(b) Streets and avenues that have a direct relationship with parks, schools, public facilities, places of public assembly or commercial areas shall receive strong consideration by the Common Council for construction of sidewalks.

(c) Streets and avenues that experience high traffic volume, high traffic speeds and high volumes of pedestrian use that would indicate a safety need shall receive strong consideration by the Common Council for construction of sidewalks.

(d) Due to the availability of sunlight on the north and east sides of roadways, streets and avenues that are designated to receive a sidewalk on one side only shall have the sidewalk constructed on the north or east side of the roadway.

(e) The location of sidewalks within the public right-of-way may be adjusted at the direction of the Director of Public Works to accommodate the unique physical characteristics of the

property and to better meet the needs or concerns of abutting property owners.

(f) The Common Council may exercise considerable discretion in determining the location of sidewalks in the City and the Common Council recognizes the right of the City to build sidewalks on any public right-of-way that they may determine appropriate.

530.03. Location of Sidewalks. The Department of Public Works shall prepare and maintain a Sidewalk Location Map that shows where sidewalks will be constructed in the City. The Sidewalk Location Map shall indicate the priority status of the street or avenue and whether a sidewalk will be constructed on both sides, or one side only. The map shall be reviewed and approved annually by a resolution of the Common Council and shall be included in the “Comprehensive Sidewalk Policy” which is incorporated here by reference and shall be on file at the office of the City Clerk.

530.04. Multi-Year Sidewalk Improvement Program. The Public Works Department shall create and maintain a program for the replacement and/or construction of sidewalks. The program shall be a component of the long-range capital improvement program of the City of Ashland. The Public Works Department shall conduct annual inspections of sidewalks located in the public right-of-way. The Department shall maintain a written record regarding the condition of sidewalks in the City and document all removal, repair or replacement activity. In establishing priorities, the Department shall consider the following:

- (a) The condition rating given by the Department during the regular inspections of the sidewalks;
- (b) The estimated pedestrian use that is currently being experienced, or which can reasonably be expected to be experienced, on a designated safe walking route;
- (c) The traffic volume and speed on streets adjoining a designated safe walking route;
- (d) The adequacy of existing safe walking routes to schools;
- (e) The need for sidewalks for one or both sides of the street to establish a safe walking route;
- (f) The capital improvement schedule of adjoining street and utility projects; and
- (g) A property owner or a group of property owners may petition the City for consideration for inclusion and priority status on the Sidewalk Improvement Program.

As part of the annual municipal budget process, the Public Works Director shall present recommendations for the replacement and/or construction of new sidewalks in the City.

530.05. Sidewalk Construction, Maintenance and Repairs. The City of Ashland shall be responsible for construction and physical maintenance and repairs of sidewalks located on the public right-of-way. The City shall assess the costs of sidewalk construction, maintenance and

repairs to abutting property owners in conformance with the Sidewalk Special Assessment Policy. The Sidewalk Special Assessment Policy shall be reviewed and approved annually by a resolution of the Common Council and shall be included in the “Comprehensive Sidewalk Policy” which is incorporated here by reference and shall be on file at the office of the City Clerk. The special assessment policy shall apply to all locations described in Section 530.030 with the following exceptions and criteria:

(a) The developer of any new residential, commercial, or industrial site shall present sidewalk plans to the City for review and approval at the time building plans are submitted and prior to any construction starting. The cost of installing new sidewalks at locations abutting new residential, commercial or industrial construction shall be the responsibility of the developer.

(b) Where sidewalk construction or replacement is incidental to Federal or State highway construction and the costs for the sidewalk construction are borne entirely by the Federal or State Agency.

(c) Where a property owner chooses to construct, replace or repair sidewalk in the abutting right-of-way. The work shall be performed by a pre-approved Contractor or an “experienced and qualified individual” in good standing with the Public Works Department. The total cost of construction, and removal where necessary, shall be borne entirely by the property owner.

(d) No one shall construct or replace sidewalk in the public right-of-way where it is not provided for in section 530.030 of this ordinance.

(e) Funding for sidewalk construction, maintenance, replacement and removal shall be considered each year by the City Council as part of their annual budget deliberations.

530.06. Abandonment of Sidewalks. The Department of Public Works will be responsible for the removal of unsafe sidewalks in the City, where those sidewalks exist on roadways that are not designated for sidewalks in this Ordinance. The Public Works Department shall remove and dispose of the concrete from abandoned sidewalks at no cost to the abutting property owner. Upon removal of the concrete, the Department shall repair improved driveways and/or walkways damaged as a result of the sidewalk removal. The Department will place clean fill material and plant grass seed in the remaining excavated area. Adjoining property owners shall be responsible for the watering and care of the newly landscaped area.

530.07. Sidewalk Construction. All sidewalk construction, on public right-of-ways, shall be in strict compliance with the Standard Specifications for Sidewalk Construction developed and approved by the Public Works Department of the City of Ashland. The Standard Specifications for Sidewalk Construction shall be included in the “Comprehensive Sidewalk Policy” which is incorporated here by reference and shall be on file at the office of the City Clerk. The Department shall provide a copy of this Ordinance and a copy of the “Comprehensive Sidewalk Policy” to any person or contractor intending to complete sidewalk improvements in the City. In addition to the construction requirements listed in the Standard Specifications, the following construction requirements must be followed:

(a) A right of way permit issued under Chapter 501 must be obtained from the Public Works

Department prior to digging, excavating, trenching, auguring, or jacking within any street right of way.

(b) Anyone completing unapproved sidewalk construction shall be subject to a fine or forfeiture as provided by these Ordinances and may be required to remove or replace the unapproved sidewalk at their own expense if the sidewalk does not meet the standards of the City.

(c) The person or contractor holding the right-of-way permit for sidewalk construction or maintenance is responsible for the safety of pedestrians and vehicular traffic in the immediate area of the construction site.

(d) All sidewalks constructed within the City shall meet the requirements and provisions set forth in the Americans with Disabilities Act.

(e) Deviations from the normal placement of sidewalks may be approved by the Director of Public Works/City Engineer after a complete review of the physical conditions of the property and the impacts on the abutting property owners.

(f) It is the intent of this chapter to limit the construction of sidewalks in the City of Ashland to the streets and avenues identified on the approved sidewalk map as referenced in Section 530.03. Changes to the approved sidewalk map may be made by the City Council after a complete review of the public costs and public benefits that would be anticipated from the proposed change.

530.08. Summer Sidewalk Maintenance. Summer maintenance of sidewalks shall be the responsibility of property owners abutting the City sidewalk. Maintenance shall include, but not be limited to:

(a) Removal of encroachments, hazards or obstructions such as grasses, weeds and vegetation across the width and length of sidewalk abutting the property. It will also include sod, leaves, branches, sand and rock.

(b) Overhanging vegetation, ornaments, decorations, or structures shall not hang below a height of eight feet over the sidewalk grade.

(c) No vegetation, structures, ornaments, or decorations shall encroach upon the sidewalk within a vertical line starting at the inner edge of the sidewalk.

(d) The Public Works Director may order the removal of grasses, weeds, vegetation and other encroachments, hazards or obstructions. Removal shall be the responsibility of the owner(s) of the abutting property. If after adequate notification, the abutting property owner(s) fail to remove the encroachments, hazards or obstructions, then the Public Works Director may arrange for a contractor to undertake the removal. The bill for removal shall be provided to the abutting property owner and if unpaid, a lien may be placed on the abutting property in accordance with sec. 66.615, Wis. Stats.

(e) The Public Works Director may order the removal of any tree that may be causing damage to a sidewalk. Trees located on the public right-of-way shall be removed at the expense of the City of Ashland. Removal of a tree located on private property causing damage to the sidewalk shall be the responsibility of the owner(s) of the abutting property. If after adequate notification to remove a tree causing damage, the abutting property owner(s) fail to remove the tree, then the Public Works Director may arrange for a contractor to undertake the removal. The bill for removal of the tree shall be provided to the abutting property owner and if unpaid a lien may be placed on the abutting property in accordance with sec. 66.615, Wis. Stats.

530.09. Winter Sidewalk Maintenance. The property owner abutting a public sidewalk shall be responsible for the removal of snow from the sidewalk. Snow removal shall include the entire width of the sidewalk and shall be completed no later than 48 hours after a snowfall of two (2) inches or greater. In the case of a snow emergency declared by the City, snow removal shall be completed within 48 hours after the City has declared an end to the snow emergency. Snow removal shall be to the lowest level possible to allow safe travel by pedestrians. The Department of Public Works will be responsible for the removal of snow from sidewalks in the following situations:

(a) The Department may cause the removal of snow and ice from sidewalks that have not been removed in the required time period by the responsible property owners. Failure to remove snow and ice from sidewalks as provided by this Ordinance will result in a fine or forfeiture levied against the abutting property owner as provided by these Ordinances. Also, the Department shall bill the abutting property owner for the full cost of removing the snow and ice and if unpaid a lien may be placed on the property in accordance with Wisconsin Statute (66.615).

(b) The Department will remove snow from the Business District of the City in accordance with the provisions and assessments of Municipal Ordinance Number 533.

(c) The City Council may, after a finding of compelling public safety concern and by formal Resolution, direct the Department of Public Works to accept the responsibility for primary snow removal on a designated sidewalk. In cases where the Department provides primary snow removal services, the abutting property owner will be responsible for any and all secondary snow removal activities, including the shoveling of spillage from City equipment and the scraping, sanding and placing melting agents when appropriate.

(d) The Mayor of the City of Ashland may declare by formal Proclamation an extended winter snow emergency and suspend the requirements for abutting property owners to remove snow and ice from City sidewalks.

530.10. Prohibited Acts The following activities shall be prohibited on City sidewalks:

(a) No one shall damage City sidewalks. Anyone damaging a City sidewalk shall be subject to a fine or forfeiture as provided by the Ashland city Ordinances and will be required to repair or replace the damaged sections of sidewalk in accordance with City standards.

(b) No one shall park motorized vehicles of any type on, or over, a City sidewalk unless for purposes of temporary loading, or unloading, or those vehicles that are intended for the sole use of a child or those vehicles are considered to be medical apparatus.

(c) No one shall allow an ongoing accumulation of toys, debris, bicycles, or any other item that may be considered unsafe for pedestrian movement.

(d) No one shall place electrical cords, garden hoses, ropes, or cords, or unlighted barricades across City sidewalks during hours of darkness.

(e) No person shall operate motorized vehicles of any type on City sidewalks. Motorized toys used by children, as well as, medical apparatus are exempt from this chapter. Motorized vehicles used for the sole purpose of snow removal are exempt while removing snow.

(f) No bicycles, skateboards, roller blades or roller skates shall be operated upon any sidewalk in any portion of the Central Business District in the area described below. Bicycles, skateboards, roller blades and roller skates may be operated on the sidewalks in public parks and in residential districts, but in single file only. Under all circumstances, the users shall yield the right-of way to pedestrians using the sidewalks, and due and proper care shall, at all times, be exercised by the users for the pedestrians. When approaching a pedestrian on a sidewalk, the speed of a bicycle or skate board shall be reduced to a speed which is no greater than necessary to continue the operation of the bicycle or skateboard without the rider dismounting, and shall not be increased until the pedestrian has passed. When approaching a pedestrian, roller blade and roller skate users shall yield the right-of-way to the pedestrian and slow to a speed which allows for safe, controlled passing of the pedestrian. "Central Business District" sidewalks are defined as those sidewalks lying within the area between US Highway #2 and Third Street and bounded on the East by Stuntz Avenue and on the West by Beaser Avenue.

530.11. Enforcement. Enforcement of these Ordinances shall be a cooperative effort between the Ashland Police Department, Ashland Public Works Department and the City Zoning Administrator. The Police Department shall enforce the provisions of this chapter related to bicycles, roller blades, skateboards, roller skates or motorized vehicle violations. The Public Works Department shall enforce the construction standards and maintenance sections of chapter. The Zoning Administrator shall enforce the restrictions related to placement of items on the sidewalk and property maintenance related violations.

530.12. Penalties.

(a) Anyone violating the provisions of these Ordinances shall forfeit not less than the following:

- | | |
|--|----------|
| (1) 1 st Offense: | \$25.00 |
| (2) 2 nd Offense: | \$50.00 |
| (3) 3 rd and subsequent offenses: | \$100.00 |

(b) Forfeitures shall be in addition to any bills issued by the City for work performed, either by or under the direction of the City, to correct conditions leading to a violation of these Ordinances.

ADOPTED: 530 (1629) 5/9/2006

AMENDMENTS: 530 (1692) 11/18/2008, 530 (2015-1853) 9/29/2015,
530 (2019-1913) 2/5/2019

Bill Kurtz made a motion to install pedestrian crossing flashing lights at the trail crossing at 24th Ave E. Seconded by Ed Calhan. Motion carried.

d. Discussion and Recommendation on Sidewalk Special Assessment Policy & Waterfront Access Road

John presented to the Committee information regarding the Waterfront Access Road Project, St. Claire between Prentice and Stuntz. The project is scheduled for reconstruction in 2021 and is in the design phase. Currently, there are sidewalks on all but four blocks of the project zone. The committee reviewed and discussed the current sidewalk special assessment policy. After review the committee agreed that sidewalks should be installed on St Claire to provide safe walking routes. Bill Kurtz made a motion to special assess for sidewalks on both sides of St Claire between Prentice and Stuntz in accordance to the City of Ashland Special Assessment Policy. Ed Calhan seconded the motion. Motion carried.

Agenda Item 7: Items of Interest for Future Meetings

General Information Regarding Utility Systems and Infrastructure Needs

Agenda Item 8: Set Next Meeting Date

December 10, 2020

Agenda Item 9: Adjournment

Motion by Bill to adjourn at 7:03p.m., seconded by Phil. Motion passed

RESOLUTION No. 17612

PRELIMINARY RESOLUTION DECLARING INTENT TO LEVY SPECIAL ASSESSMENTS UNDER MUNICIPAL POLICE POWER PURSUANT TO SEC. §66.0703, WI STATE STATUTES FOR THE WATERFRONT ACCESS ROAD PROJECT

RESOLVED, by the Ashland Common Council, City of Ashland, Wisconsin, Ashland County, Wisconsin:

1. The Ashland Common Council hereby declares its intention to exercise its police power under §66.0703, Stats., to levy special assessments upon property in the assessment district hereafter described for benefits conferred upon such property by reason of the following public work and improvements:

Concrete Sidewalk Installation and Replacement

2. The property to be assessed lies within the following described assessment district:

- a. All properties adjacent to St Claire Street from Prentice Avenue to Stuntz Avenue, City of Ashland, Ashland County, Wisconsin.
- b. All properties with existing sidewalk adjacent to Willis Avenue from St Claire Street to US Highway 2, City of Ashland, Ashland County, Wisconsin.

3. The total amount assessed against the properties in the described assessment district shall not exceed 50% of the cost of the improvements.

4. The Ashland Common Council determines that the improvements constitute an exercise of the police power for the health, safety and general welfare of the municipality and its inhabitants.

5. The City Public Works Department shall prepare a report which shall consist of:

- a. Preliminary plans and specifications for the improvements.
- b. An estimate of the entire cost of the proposed improvements.
- c. A statement that the property against which the assessment are proposed will be benefitted.
- d. Schedule of proposed assessments

6. When the report is completed, the City Public Works Department shall file a copy of the report with the City Clerk for public inspection and, if state property is to be assessed, shall mail a copy of the report to the responsible state agency and, for assessments of \$50,000 or more, to the Wisconsin State Building Commission.

7. Upon receiving the report of the Public Works Department, the City Clerk shall cause notice to be given stating the nature of the proposed improvements, the general boundary lines of the proposed Assessment District, (including a small map thereof) the time and place at which the report may be

inspected, and the time and place of the public hearing on the matters contained in the preliminary resolution and the report. This notice shall be published as a class 1 notice under Ch. 985, Stats, and copy shall be mailed, at least 10 days before the hearing, to every interested party whose address is known or can be ascertained with reasonable diligence.

8. The hearing shall be held virtually with people able to attend virtually or in person at the Ashland City Hall, 601 West Main Street, Ashland, Wisconsin, at a time set by the City Clerk in accordance with §66.0703, Stats., which shall be not less than 10 nor more than 40 days after publication.

9. The number of installments in which the assessment against any parcel may be paid shall be determined at the hearing provided for in paragraph 7, above.

PASSED: January 26, 2021

Kevin Haas

Councilperson

ATTEST: *Denise Oliphant*
Denise Oliphant, City Clerk

Debra S. Lewis
Debra S. Lewis, Mayor

APPROVED AS TO FORM:

Tyler Wickman
Tyler W. Wickman, City Attorney

SUBJECT: Discussion and Possible Action Regarding Amending Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors, Ashland City Ordinances, as Relates to Mobile Concession Vendors (*Council President*)

RECOMMENDATION:

DEPARTMENT OF ORIGIN: Council President

CLEARANCES:

EXHIBITS: 1. Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors

SUMMARY STATEMENT:

This item is intended to begin discussion regarding Mobile Concession/Food Vendors licenses in the City of Ashland.

The Council President received an email from a local business owner who serves food and beverages. The request was directed toward food truck regulations, asking to change the distance that these vendors are required to be located/parked from a brick and mortar food establishment. The proposed change was to increase the distance from 300 feet to 1000 yards.

CHAPTER 889. TRANSIENT MERCHANTS, SOLICITATION IN RESIDENTIAL NEIGHBORHOODS, AND MOBILE CONCESSION STREET VENDORS.

889.01. Registration and License Required. It shall be unlawful for any Transient Merchant or Mobile Concession Street Vendor to engage in sales within the City of Ashland without being registered and licensed for that purpose as provided herein. It shall be unlawful for any Transient Merchant or any Permanent Merchant to solicit in residential neighborhoods without being registered and licensed for that purpose as provided herein.

889.02. Definitions.

(a) “Transient merchant” means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of 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.

(b) “Permanent Merchant” means any person who, for at least six months prior to the consideration of the application of this chapter to said merchant: (1) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (2) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

(c) “Door-to-Door Solicitor” means any person, whether a permanent or transient merchant, who attempts to sell merchandise directly to residents by physically calling upon their dwelling place.

(d) “Merchandise” shall include personal property of any kind, and shall include merchandise, 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.

(e) “Mobile Concession Street Vendor” shall include individuals and organizations that engage in the sale of concessions from motor vehicles, self-propelled vehicles, manually propelled vehicles, and trailers. Concessions are defined foods and beverages intended to be consumed at the point of purchase.

(f) “Charitable Organization” shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(g) “Clerk” means the City Clerk.

889.03. Exemptions. The following shall be exempt from all provisions of this chapter:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling merchandise directly to other established businesses within the City of Ashland;

(c) Any person selling agricultural products which the person has grown or any fish which the person has caught;

(d) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person;

(e) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;

(f) Any person holding a sale required by statute or by order of any court; any person conducting a bona fide auction sale pursuant to law; any person conducting a garage sale, yard sale, or estate sale at a private residence;

(g) Any employee, officer or agent of a charitable organization who engages in direct sales or solicitation of donations for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under sec. 202.12, Wis. Stats., and provided such organization shall comply with the provisions below

(1) Before any direct sales or solicitation for donations can take place, each such charitable organization must file a sworn application, in writing, on a form furnished by the City Clerk, which shall provide the following information:

(A) Name of organization.

(B) Names and addresses of officers of the organization.

(C) Description and approximate dates of the solicitation event(s).

(D) Names of individuals to be involved in solicitation.

(E) Proof of charitable status.

(2) Upon being satisfied that such organization, association or corporation is a bona fide group within the parameters of this chapter, the Clerk shall issue a permit without charge to such organization to solicit in the City. The clerk shall also issue to such organization, an official card for each individual to be involved in the solicitation, upon which shall be inscribed the name of each member. The card shall also contain the name of the organization and dates and purpose of the solicitation. This permit can be applied for on an annual basis and shall expire June 30 of each year.

(h) Any individual licensed by an examining board as defined in s. 15.01(7), Wisconsin Statutes.

(i) Any persons or organizations operating a concession authorized by a non-profit association in connection with a fair, festival or celebration which is being held under the direction of that non-profit association. Persons or organizations are prohibited from operating a concession or selling products or services within the defined fair, festival or celebration area without authorization from the non-profit association sponsoring the event. The entity sponsoring the event shall submit a description of the defined festival area to the Police Chief or his designee for approval.

(j) Any person 15 years old or under who is operating a stand to sell lemonade or similar beverages at the person's home or in the public right of way adjacent to the person's home, and any person 15 years old or under assisting that person, provided that the police department may order such stand closed if there is reason to believe the stand poses a threat to health or safety, in which case the person may apply for a license under this chapter.

889.04. Transient Merchant & Door-to-Door Solicitor Applications

(a) Applicant Information. Applicants for a transient merchant or door-to-door solicitor license must complete and return to the clerk an application form furnished by the clerk which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any;

(2) Age, height, weight, color of hair and eyes;

(3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;

(4) Temporary address and telephone number from which business will be conducted, if any;

(5) Nature of business to be conducted and a brief description of the merchandise, and any services offered;

(6) Proposed methods of delivery of merchandise, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;

(8) Most recent cities, villages, towns, not to exceed three, where applicant conducted his/her business;

- (9) Place where applicant can be contacted for at least seven days after leaving this city;
- (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.

(b) Required Documents. Applicants for a transient merchant or door-to-door solicitor license shall present to the clerk for examination:

- (1) A driver's license or some other proof of identify as may be reasonably required;
- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
- (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application license is made.

(c) Fee. At the time the transient merchant or door-to-door solicitor application is returned, a fee shall be charged in accordance with Chapter 165, the City of Ashland Comprehensive Fee Schedule, to cover the cost of processing said application. If said application is approved, the application fees will be charged as provided for in the City of Ashland Comprehensive Fee Schedule for each day that business is carried on in the City of Ashland. The Clerk shall issue an official card for each individual to be involved in the solicitation, upon which shall be inscribed the name of each solicitor. The card shall also contain the dates and purpose of the solicitation.

(d) Agent for service of process. The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

889.05. Mobile Concession Street Vendors Applications. A Mobile Concession Street Vendor shall not operate within the City without first securing a license from the City. Applications shall be made to the City Clerk and acted upon by the Common Council. Licenses shall be for a term of one year and shall expire June 30. The fee for a Mobile Concession Street Vendor shall be charged in accordance with Chapter 165, the City of Ashland Comprehensive Fee Schedule. The fee shall be waived for non-profit organizations.

889.06. Investigation

(a) Referral to Police. Upon receipt of each application, the clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.

(b) Denial of license. The clerk shall refuse to license the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the most recent cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of this chapter.

889.07. Appeal. Any person refused or denied a license may appeal the denial through the Common Council.

889.08. Prohibited Practices.

(a) A transient merchant or door-to-door solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or 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 or door-to-door solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

(c) No transient merchant or door-to-door solicitor shall sell or offer for sale any goods, wares, merchandise or produce of any kind from a stand or vehicle while the same is placed or parked upon any public street except to make deliveries from house to house or to places of business. No signs or goods, wares, merchandise or produce of any sort shall be set, placed or displayed within any portion of the right-of-way for any City of Ashland street.

(d) No transient merchant or door-to-door solicitor shall sell or offer to sell any goods, wares, merchandise or produce of any kind in any City of Ashland park premises, including parking lots associated therewith without the prior written approval of the City of Ashland Park Board.

(e) No licensee nor any person in his behalf, shall use any sound amplifying device for the broadcasting of words upon any of the streets, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom 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 which such licensee proposes to sell.

(f) No licensee shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

889.09. Disclosure Requirements

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

(b) If any sale of merchandise is made by a transient merchant or door-to-door solicitor, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in sec. 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of secs. 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(c) If the transient merchant or door-to-door solicitor takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address, and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

889.10. Mobile Concession Street Vendors.

(a) Mobile Concession Street Vendors shall be allowed to sell from public streets, but shall not impede the free use of streets or sidewalks by vehicles or pedestrians. All traffic and parking regulations shall be observed. If an on-duty officer of an authorized law-enforcement agency determines that a safety problem exists related to the selling activities at a specific location(s) by a Mobile Concession Street Vendor, the officer shall have the right to order the vendor to cease selling at that location(s). Mobile Concession Street Vendors shall not remain in one location, either on a city street, street right-of-way, or in a public park, for a period of longer than six (6) hours.

(b) Licensed Mobile Concession Street Vendors shall be allowed to operate only between the hours of 9:00 a.m. and 9 10:00 p.m. No sales shall be permitted within 300 feet of an established, operating concession stand operated by a non-profit or charitable organization, such as Little League, school groups, or other similar organizations, or other existing permanent food uses.

889.11. Food Vendors in Parks. The Public Works Director and/or Parks and Recreation Director may waive the six-hour limit and authorize food vendors to sell food items intended for on-site consumption in City parks for a period of five consecutive days or less during a specified event. Said food vendors will be required to complete an application and pay a fee equal to the amount charged to transient merchants.

889.12. Exhibition of License. Licensed transient or permanent merchants soliciting in residential neighborhoods must wear their identification license card in a conspicuous place on their clothing. Transient merchants selling from a fixed location must exhibit their certificate of license in a conspicuous place at the site where they are selling. Mobile Concession Street Vendors shall display their license in a window of their vehicle.

889.13. Records. The Chief of Police shall report to the clerk all convictions for violation of this ordinance and the clerk shall note any such violation on the record of the registrant convicted.

889.14. Revocation of License. Licenses issued under the provisions of this ordinance may be revoked by the Common Council after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for license;
- (b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his/her business as a solicitor, or transient merchant;
- (c) Any violation of this ordinance;
- (d) Conducting the business of solicitor, mobile concession street vendor or transient merchant, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;
- (e) Conviction of any crime or misdemeanor.

889.15. Notice of Hearings. Notice of the hearing for revocation of a license shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least 72 hours prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a court summons.

889.16. Penalty. Any person, firm, or corporation that shall violate any of the provisions of this ordinance shall forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, plus the cost of prosecution. Each day's violation of the provisions of this ordinance shall constitute a separate offense.

ADOPTED: 889 (1536) 3/12/2002

AMENDMENTS: 889 (1779) 3-13-2012; 889 (2016-1876) 7/12/2016; 889 (2020-1929) 3/10/2020;