

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Chapter 14.55 of the Lincoln Municipal Code relating  
 2 to sidewalk vendors to expand the definition of vendor and to add a definition of “stand,” to  
 3 streamline the permit application and the application process, and to expand the areas that can be  
 4 served by vendor carts; repealing Section 14.55.060 of the Lincoln Municipal Code to delete the  
 5 current permit criteria; and repealing Sections 14.55.020, 14.55.030, 14.55.040, 14.55.050,  
 6 14.55.070 and 14.55.095 of the Lincoln Municipal Code as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 14.55.020 of the Lincoln Municipal Code be amended to read  
 9 as follows:

10 **14.55.020 Definitions.**

11 **Pushcart** shall mean any wheeled vehicle used for displaying, keeping, or storing any article  
 12 by a vendor other than a motor vehicle or bicycle.

13 **Pushcart Vendor** shall mean a person who hawks, peddles, sells, or offers food, fresh  
 14 flowers, or ~~helium-filled~~ balloons for sale at retail from a pushcart or stand in any sidewalk space.

15 **Stand** shall mean any table, rack, or other device moveable by one or two persons which is  
 16 placed on a sidewalk from or at which food, fresh flowers, or balloons are offered for sale at retail.

17 Section 2. That Section 14.55.030 of the Lincoln Municipal Code be amended to read  
 18 as follows:

19 **14.55.030 Permit.**

20 It shall be unlawful for any individual to act as a pushcart vendor without having first  
 21 obtained a permit therefor ~~each pushcart~~ from the city in accordance with the provisions of this title.

22 Said permit may be issued by the ~~Mayor~~ City upon compliance with the provisions of this chapter

1 and the Lincoln Municipal Code and upon the payment of a fifty dollar permit fee for each permit  
2 period and the applicable occupation tax for each ~~such~~ pushcart or stand. All permits will be valid  
3 for one-year only, from the date of issuance. Renewal of such permit may be made for a one-year  
4 period under the same procedure and conditions as set forth herein. The renewal privilege herein  
5 provided for shall not be construed as a vested right nor shall in any case prevent the ~~Mayor~~ City  
6 from revoking any permit within the city.

7 Section 3. That Section 14.55.040 of the Lincoln Municipal Code be amended to read  
8 as follows:

9 **14.55.040 Pushcart.**

10 Every person holding a pushcart vendor's permit, as defined in this code, shall pay an  
11 occupation tax of fifty dollars per year for each pushcart or stand.

12 Section 4. That Section 14.55.050 of the Lincoln Municipal Code be amended to read  
13 as follows:

14 **14.55.050 Application for Permit.**

15 Notwithstanding any provisions of the Lincoln Municipal Code to the contrary and subject  
16 to the provisions of this chapter, vendors may be allowed within designated sidewalk space of areas  
17 zoned B-4 Lincoln Center Business and P Public Use within and abutting the Lincoln Center  
18 Business District.

19 Persons seeking issuance of a pushcart vendor's permit shall file an application with the City  
20 Clerk on such forms provided by the City Clerk. Such persons must consent to a police investigation  
21 of his/her character and reputation. Such permit is a personal privilege and cannot be assigned or  
22 alienated, voluntarily or involuntarily. In addition to any other information required, the City Clerk  
23 shall require the following information:

24 (a) Name, home, and business address of applicant, and the name and address of the  
25 owner, if other than the applicant, of the vending business or the pushcart, to be used in the business;

26 (b) A description of the food, balloons, and/or fresh flowers to be offered for sale and a  
27 description of the pushcart or stand to be used;

1 (c) Three prints of a full-face photograph of the applicant taken not more than fifteen (15)  
2 days prior the date of the application;

3 (d) Proof that the applicant has obtained authority to collect sales taxes;

4 (e) A photograph or a scale drawing of the pushcart or stand and any other equipment  
5 to be used.

6 ~~Not later than thirty days after filing a completed application for a vending permit, the~~  
7 ~~applicant shall be notified by the City Clerk of the Mayor's decision on the issuance or denial of the~~  
8 ~~permit. Such application will be reviewed by the Police Department, Health Department, Public~~  
9 ~~Works and Utilities Department, and Planning Department. The failure of the Mayor to issue or~~  
10 ~~deny a permit within thirty days will be deemed a denial of such application.~~

11 ~~—The Fire Prevention Bureau will review all applications proposing the use of any combustible~~  
12 ~~fuel.~~

13 ~~—The Urban Design Committee shall review the design of any pushcart it has not previously~~  
14 ~~approved. Such action and notification shall be accomplished within sixty days.~~

15 The City Clerk shall forward the application to the Sidewalk Café Review Committee,  
16 consisting of representatives from the Health Department, Planning Department, Department of  
17 Public Works and Utilities, Police Department, Urban Development Department, and Fire  
18 Prevention Bureau, and to the Urban Design Committee for their recommendation and report  
19 regarding approval, conditional approval, or disapproval of the application. Such application shall  
20 be reviewed by the Sidewalk Café Review Committee in regard to the background of the applicants,  
21 compliance with state laws, city ordinances, and regulations, present or potential problems with the  
22 design and quality of the pushcart, aesthetics, pedestrian movement, public health, and safety  
23 standards, and by the Urban Design Committee in regard to the appropriateness of the design and  
24 materials of the pushcart or stand.

25 The reports from the Sidewalk Café Review Committee and the Urban Design Committee  
26 shall be returned to the City Clerk within forty-five (45) days from receipt of the complete  
27 application. If both reports recommend approval of the application, the City Clerk shall grant the  
28 permit subject to the provisions of Section 14.55.070. If the reports recommend conditional approval

1 or a combination of approval and conditional approval of the application and the applicant in writing  
2 consents to the conditions of approval, the City Clerk may grant the permit subject to the provisions  
3 of Section 14.55.070. If the applicant does not consent to any of the conditions of approval or any  
4 report recommends disapproval of the application, the City Clerk shall place such pushcart vendor  
5 permit request on the Council agenda.

6 Section 5. That Section 14.55.060 of the Lincoln Municipal Code be and the same  
7 is hereby repealed:

8 ~~**14.55.060 Permit Criteria.**~~

9 ~~In issuing or denying a permit, the Mayor shall consider the background of the applicants,~~  
10 ~~compliance with state laws, city ordinances, and regulations, present or potential problems with the~~  
11 ~~design and quality of the pushcart, aesthetics, pedestrian movement, public health, and safety~~  
12 ~~standards.~~

13 Section 6. That Section 14.55.070 of the Lincoln Municipal Code be amended to read  
14 as follows:

15 **14.55.070 Restrictions on Pushcarts.**

16 (a) No pushcart or stand shall be placed upon any sidewalk unless such sidewalk has at  
17 least a paved eight-foot clear pedestrian path after the location of any pushcart or stand within said  
18 sidewalk space.

19 (b) No pushcart or stand or any other item related to the operation of a food vendor's  
20 business shall touch, lean against, or be affixed permanently or temporarily to any building or  
21 structure including, but not limited to, lampposts, parking meters, mailboxes, traffic signals, fire  
22 hydrants, trees, tree boxes, benches, bus shelters, refuse baskets, street lights, bicycle racks, kiosks,  
23 traffic barriers, or signs.

24 (c) No pushcart or stand shall occupy more than eighty-three inches, parallel to the curb,  
25 on any sidewalk or be more than fifty-six inches in width. The vendor shall insure that customer  
26 service lines are formed parallel to the curb and that customers do not stand in the street.

27 (d) All items relating to the operation of a pushcart or stand vending business shall be  
28 kept in, on, or under the pushcart or stand . No such item other than an adjoining, accessible waste

1 container shall be placed upon any street space adjacent to the pushcart or stand; and no food shall  
2 be sold except from an authorized pushcart or stand.

3 (e) No vending pushcart or stand shall be located against display windows of fixed  
4 location businesses nor shall any vending pushcart be within twenty feet of an entrance way to any  
5 building, store, theater, movie house, sports arena, or other place of public assembly unless such  
6 pushcart is placed upon that part of the sidewalk which abuts the curb.

7 (f) No pushcart or stand shall be located within fifty feet of any business, except another  
8 pushcart or stand, that offers the same product or products as its primary product for sale; however,  
9 this prohibition shall not apply to a business desiring to locate a pushcart or stand in front of its  
10 building. No pushcart or stand shall be located within fifty feet of any public building zoned P  
11 Public Use without approval from the owner of said public building. No pushcart or stand shall be  
12 located within any City park, except for Iron Horse Park, Government Square Park, and Centennial  
13 Mall and the requirements of Lincoln Municipal Code Section 12.08.230 have been met.

14 (f g) No vendor shall vend within any skywalk, within any bus stop, within thirty feet of  
15 any other vendor, within ten feet of any driveway, or any crosswalk at any intersection, unless the  
16 Director of Public Works and Utilities determines that such location will not impede pedestrian or  
17 vehicular movement or pose a sight distance problem.

18 (g h) No vendor shall vend within any public space during the hours for which such space  
19 has been reserved for temporary and exclusive use through the issuance of a special events permit  
20 or any other temporary and exclusive use permit without the approval of such permittee.

21 (h i) Where exigent circumstances exist and a police officer or other authorized officer or  
22 employee of the city gives notice to a vendor to temporarily move from a location, such vendor shall  
23 not vend from such location.

24 For the purpose of this subdivision, exigent circumstances shall include, but not be  
25 limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public  
26 space at or near such location, an accident, fire, or other emergency situation at or near such  
27 locations, or a parade, demonstration, or other such event or occurrence at or near such location.

28 (i j) No motorized vending pushcart may be operated or driven on any sidewalk space.

1 (j k) That the vendor shall promptly remove any litter deposited on or in the vicinity of the  
2 surface space used by the permittee resulting from the activity or activities conducted by the  
3 permittee on or adjoining such space.

4 (k l) Each pushcart or stand shall have either an attached or accessible trash container.

5 (l m) That the vendor shall at all times conduct such activity or activities in an orderly  
6 fashion and in such a manner as to protect the public health and safety.

7 (m n) That the vendor shall comply with all health and sanitation regulations, ~~including the~~  
8 ~~following:-~~

9 ~~————— (1) — No person permitted to vend any food which may be potentially hazardous~~  
10 ~~shall operate a vending vehicle unless it is equipped in such a manner as to maintain such food at~~  
11 ~~a temperature of forty-five degrees Fahrenheit or less;-~~

12 ~~————— (2) — All vending pushcarts used to vend food, and all equipment utilized thereon,~~  
13 ~~shall have smooth, washable surfaces and shall be maintained in good repair and in a clean and~~  
14 ~~sanitary condition.-~~

15 ~~————— (i) — All goods, plates, cups, implements, containers, and other objects used~~  
16 ~~in storing, preparing, or serving food, and the premises where such food is stored or prepared, shall~~  
17 ~~be maintained in a clean and sanitary condition.-~~

18 ~~————— (ii) — Insect and rodentproof containers of metal or other acceptable~~  
19 ~~substitutes shall be provided for the storage of trimmings, waste, and refuse and shall be emptied and~~  
20 ~~washed daily.-~~

21 ~~————— (iii) — No fish, poultry, or other animal shall be cleaned in a food vending~~  
22 ~~vehicle or on, or at, a stand, nor shall their entrails be there removed. No such meats or meat~~  
23 ~~products shall be cut or processed in a pusheart.~~

24 ~~————— (iv) — Scales and counters shall be protected from dust, dirt, flies, and other~~  
25 ~~vermin and contaminants.-~~

26 ~~————— (3) — Every food vendor permitted under this regulation shall agree to have~~  
27 ~~inspected by the Health Department at reasonable hours any premises used for the storage or~~  
28 ~~preparation of food intended to be used in vending.-~~

1 ~~————— (4) All preparation, storage, handling, and service of food vended by permittees~~  
2 ~~approved under this regulation shall be in conformance with this regulation and the health~~  
3 ~~regulations of the city.~~

4 ~~————— (5) Every prepared food vending business shall establish a service room to be~~  
5 ~~utilized for the preparation of foods and beverages to be sold by the vendor, shall be permitted as~~  
6 ~~required by the Lincoln Comprehensive Food Ordinance including the appropriate fees, and shall~~  
7 ~~be subject to inspection by the Health Department.~~

8 ~~————— (6) All foods and beverages served outside must be protected from contamination~~  
9 ~~by dust, flies, or other insects, or filth.~~

10 (n o) The permit of the vendor may be revoked by the Mayor upon demand, with no  
11 recourse against the city for any loss or damage occasioned by any such revocation. A permit shall  
12 be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked  
13 as provided, and shall not constitute property, nor shall it be alienable or transferee, voluntarily or  
14 involuntarily.

15 (o p) No vendor shall be permitted to solicit, canvass, or peddle door-to-door until he/she  
16 has complied with the provisions of Title 5 of the Lincoln Municipal Code.

17 (p q) No vendor shall block or obstruct any fire hydrant.

18 (q r) No vendor shall sound or permit the sounding of any signal from any stationary bell,  
19 chime, siren, whistle, or device for nonemergency purposes or use or operate any loudspeaker, public  
20 address system, radio, sound amplifier, or similar device which may be heard beyond thirty feet from  
21 its source.

22 (r s) Every vendor shall visibly display on his or her pushcart all permits issued under this  
23 chapter.

24 (s t) No advertising shall be permitted on any pushcart or any extension thereof except to  
25 identify the product and/or the name of the vendor;

26 (t u) Any umbrella, canopy, or similar device attached to any pushcart shall be no more  
27 than seven and one-half feet above ground level.

1           ~~(u) No pushcart shall be located within fifty feet of any business, except another~~  
2 ~~pushcart, that offers the same product or products as its primary product for sale; however, this~~  
3 ~~prohibition shall not apply to a business desiring to locate a pushcart in front of its building.~~

4           (v) That such use is temporary, and that the user acquires no right, title, or interest in the  
5 space permitted to be used.

6           (w) That the City Council may require such space to be vacated upon demand and its use  
7 discontinued, with no recourse against the city for any loss or damage occasioned by any such  
8 requirement.

9           (x) No vendor shall solicit or conduct business with persons in motor vehicles or to  
10 persons standing in the street.

11           Section 7. That Section 14.55.095 of the Lincoln Municipal Code be amended to read  
12 as follows:

13 **14.55.095     Annual Review.**

14           On or before March 31st of each year, the ~~Mayor~~ City Clerk shall submit a written report to  
15 the Council regarding the number of permits issued under this Chapter and the type of goods for  
16 which such permits were issued; the number and type of violations of this Chapter, if any, which  
17 have been reported in the preceding year and their disposition; and a survey of the effect of this  
18 sidewalk vending on the B-4 District and P District generally and businesses competing with  
19 sidewalk vendors.

20           Section 8. That Sections 14.55.020, 14.55.030, 14.55.040, 14.55.050, 14.55.070 and  
21 14.55.095 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

22           Section 9. That this ordinance shall take effect and be in force from and after its  
23 passage and publication according to law.

Introduced by:

---

Approved as to Form & Legality:

---

City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2004:

---

Mayor