

## Chapter 5.36

### PEDDLERS

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#### **5.36.010 Peddlers; Permit Required.**

It shall be unlawful for any person to engage in business as a peddler as hereinafter defined within the corporate limits of the city without first having obtained a permit therefor as herein provided. (Ord. 15472 §1; March 5, 1990; P.C. §5.10.010; Ord. 14325 §1; February 17, 1986).

#### **5.36.020 Definitions.**

**Peddler** shall include any person travelling by foot, automobile, motor truck, vehicle, or other type of conveyance, from house to house, from residence to residence, or from dwelling to dwelling, carrying, conveying, or transporting goods, wares, meats, fish, vegetables, fruits, candies, magazines, or other products or merchandise or provisions of whatsoever nature, offering and exposing the same for sale, or making sales and delivering such articles to purchasers, or offering to furnish or perform services.

**Peddler** shall also include any person travelling either by foot, automobile, motor truck, vehicle, or other type of conveyance, from house to house, from residence to residence, or from dwelling to dwelling, taking or attempting to take orders for sale of goods, wares, meats, fish, vegetables, fruits, candies, magazines, books, or other products or merchandise of whatsoever nature for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale, or whether or not such person is collecting advance payment on such sales. Peddler shall include hawker, huckster, canvasser, and solicitor, except solicitors as defined in Chapter 5.18. (Ord. 15472 §2; March 5, 1990; P.C. §5.10.020; Ord. 14325 §2; February 17, 1986).

### **5.36.030 Application.**

Applications for permits under this chapter shall be filed with the City Clerk on a form to be furnished by the City Clerk which shall give the following information:

- (a) Name, age, and description of the applicant;
- (b) Address;
- (c) Brief description of the nature of the business and the goods to be sold or services to be provided;
- (d) If employed, the name and address of the employer, together with documents verifying such employment;
- (e) The length of time (not to exceed one year) for which the right to do business as a peddler is desired;
- (f) If a vehicle is to be used, description of the same, together with the license number;
- (g) A photograph of the applicant, taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (h) The fingerprints of the applicant;
- (i) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor, the nature of the offense, and the punishment or penalty assessed therefor;
- (j) At the time of filing the application, a nonrefundable permit fee of twenty-five dollars shall be paid to the City Clerk. (Ord. 15472 §3; March 5, 1990; P.C. §5.10.030; Ord. 14325 §3; February 17, 1986).

### **5.36.040 Investigation and Issuance.**

(a) Upon receipt of an application as described in Section 5.36.030, the original shall be referred to the Chief of Police, who shall cause an investigation of the statements contained within the application to be made to determine if the same be true and correct.

(b) If, as a result of such investigation, the Chief of Police finds that the statements within the application are materially untrue or incorrect, or if it is found that the applicant has been convicted within the past ten years of a felony or a crime involving moral turpitude, the Chief of Police shall disapprove such application in writing and provide the reasons for the same, and return said application to the City Clerk, who shall notify the applicant that the application is denied and that no permit will be issued.

(c) If, as a result of such investigation, the statements contained in the application are found to be true and correct, and the applicant has not been convicted within the past ten years of any felony or any crime involving moral turpitude, the Chief of Police shall approve the application in writing, and shall return the said application to the City Clerk for issuance of the permit.

The permit shall contain the signature and seal of the issuing officer and shall show the name and address of the permittee and the kind of goods to be sold thereunder, or services to be furnished or performed, the date of issuance, and the length of time the same shall be operative. The Clerk shall keep a permanent record of all permits issued. (Ord. 19970 §5; December 16, 2013; prior Ord. 15472 §4; March 5, 1990; P.C. §5.10.040; Ord. 14325 §4; February 17, 1986).

**5.36.050 Qualifications of Applicant.**

No permit shall be issued to any person:

- (a) who has been convicted of a felony or a crime involving moral turpitude within the ten years immediately preceding the date of the filing of such application with the City Clerk;
- (b) who is under the age of sixteen years unless the applicant first obtains an employment certificate as required by state law; or
- (c) whose permit has been revoked pursuant to Section 5.36.110. (Ord. 15472 §5; March 5, 1990: P.C. §5.10.050: Ord. 14325 §5; February 17, 1986).

**5.36.060 Transfer.**

Permits issued under this chapter shall be nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued. (Ord. 15472 §6; March 5, 1990: P.C. §5.10.060: Ord. 14325 §6; February 17, 1986).

**5.36.070 Duty of Police to Enforce; Records.**

It shall be the duty of any police officer of the city to enforce the provisions of this chapter against any person found to be violating the same. The Chief of Police shall report to the City Clerk all convictions for violations of this chapter, and the City Clerk shall maintain a record for each permit issued and record reports of violations therein. (Ord. 15472 §7; March 5, 1990: P.C. §5.10.070: Ord. 14325 §7; February 17, 1986).

**5.36.080 Peddling; Hours Restricted.**

It shall be unlawful to make in-person calls as a peddler to prospective customers before 8:00 a.m. or after 8:00 p.m. on any day of the week, unless requested to do so by the prospective customer. (Ord. 15472 §8; March 5, 1990: P.C. §5.10.080: Ord. 14325 §8; February 17, 1986).

**5.36.090 Exhibition of Permit.**

Peddlers shall exhibit their permit at the request of any police officer or at the request of the occupant of any house, residence, or dwelling which such peddler has approached in search of a prospective customer. (Ord. 15472 §9; March 5, 1990: P.C. §5.10.090: Ord. 14325 §9; February 17, 1986).

**5.36.100 Expiration of Permit.**

All permits issued under the provisions of this chapter shall expire on the date specified in the permit, but in no event later than one year after the issuance of the same. (Ord. 15472 §10; March 5, 1990: P.C. §5.10.100: Ord. 14325 §10; February 17, 1986).

**5.36.110 Revocation of Permit.**

- (a) Permits issued under the provisions of this chapter may be revoked by the City Clerk of the city after notice and hearing for any of the following causes:
  - (1) Fraud, misrepresentation, or false statement contained in the application for the permit;
  - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the permittee's business as a peddler;
  - (3) Any violation of this chapter;
  - (4) Conviction of any felony or crime involving moral turpitude.

(b) Notice of the hearing for revocation of the permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing before the Permit Review Board. Such notice shall be mailed, postage prepaid, to the permittee at his or her last known address at least five days prior to the date set for hearing. (Ord. 18450 §1; October 11, 2004: prior Ord. 15472 §11; March 5, 1990: P.C. §5.10.110: Ord. 14325 §11; February 17, 1986).

#### **5.36.120 Appeal.**

(a) Any person aggrieved by the action of the Chief of Police in denial of an application for a permit, shall have the right of appeal to the Permit Review Board, consisting of the Chief of Police or a person from the Police Department designated by the Chief of Police, the Director of Public Works and Utilities or a person from the Public Works and Utilities Department designated by the Director of Public Works and Utilities, and a citizen of the City of Lincoln appointed by the Mayor.

(b) Such appeal shall be taken by filing with the City Clerk, within fourteen days of the denial, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for hearing thereon not less than eight days after the filing of the appeal. Notice of such hearing shall be given to the appellant in the same manner as provided in Section 5.36.110 of this chapter for notice of hearing on revocation.

(c) The appellant shall be given the opportunity to present any mitigating or extenuating circumstances relating to the disqualifying factor. If the Permit Review Board shall find, by clear and convincing evidence, that the disqualifying factor does not constitute a risk to the public and that the appellant is at least sixteen years of age or has obtained an employment certificate, the Permit Review Board shall direct the City Clerk to issue a permit. The decision and order of the Permit Review Board on such appeal shall be final and conclusive. (Ord. 19468 §1; November 8, 2010: prior Ord. 18450 §2; October 11, 2004: Ord. 15472 §12; March 5, 1990: P.C. §5.10.120: Ord. 14325 §12; February 17, 1986).

#### **5.36.130 Exceptions.**

The provisions of this chapter shall not apply to:

(a) Officers or employees of the city, county, state, or federal government or any subdivisions thereof when on official business; and

(b) Any person selling or offering for sale merchandise or services in conjunction with a charitable solicitation for which a valid solicitation permit has been issued under the provisions of Chapter 5.18 of this code. (Ord. 15472 §13; March 5, 1990: P.C. §5.10.130: Ord. 14325 § 13; February 17, 1986).

#### **5.36.140 Penalty for Violations.**

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine not to exceed \$500.00, recoverable with costs, or both. Each day that a violation of this chapter continues shall constitute a separate and distinct offense and shall be punishable as such.

The penalty provided in this section shall be cumulative with and in addition to the revocation of a permit granted under the provisions of this chapter. (Ord. 15472 §14; March 5, 1990: P.C. §5.10.140: Ord. 14325 §14; February 17, 1986).