

## Chapter 14.55

### SIDEWALK VENDORS

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#### **14.55.010 Purposes.**

It is found and declared that sidewalk vendors promote the public interest by:

- (a) Making B-zoned districts an active and attractive pedestrian environment;
  - (b) Providing the opportunity for creative, colorful, pedestrian-focused commercial activities on a day/night, year-round, and seasonal basis;
  - (c) Encouraging commercial activities which add excitement, charm, vitality, and diversity to B-zoned districts;
  - (d) Encouraging the up-grading and development within such districts; and
  - (e) Promoting land conservation, redevelopment, energy saving, and indirect tax revenue.
- (Ord. 12952 § 3; July 7, 1980).

#### **14.55.020 Definitions.**

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

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

**Stand** shall mean any table, rack, or other device moveable by one or two persons which is placed on a sidewalk from or at which food, fresh flowers, or balloons are offered for sale at retail. (Ord. 18379 §1; June 14, 2004; prior Ord. 17499 §1; May 3, 1999; Ord. 13360 § 1; May 3, 1982; Ord. 12952 § 4; July 7, 1980).

#### **14.55.030 Permit.**

It shall be unlawful for any individual to act as a vendor without having first obtained a permit therefor from the city in accordance with the provisions of this title. Said permit may be issued by the City upon compliance with the provisions of this chapter and the Lincoln Municipal Code and upon the payment of a fifty dollar permit fee for each permit period and the applicable

occupation tax for each pushcart or stand. All permits will be valid for one-year only, from the date of issuance. Renewal of such permit may be made for a one-year period under the same procedure and conditions as set forth herein. The renewal privilege herein provided for shall not be construed as a vested right nor shall in any case prevent the City from revoking any permit within the city. (Ord. 18379 §2; June 14, 2004: prior Ord. 16982 §1; May 6, 1996: Ord. 13572 § 1; April 11, 1983: Ord. 13360 § 2; May 3, 1982: Ord. 12952 § 5; July 7, 1980).

**14.55.040 Pushcart.**

Every person holding a vendor's permit, as defined in this code, shall pay an occupation tax of fifty dollars per year for each pushcart or stand. (Ord. 18379 §3; June 14, 2004: prior Ord. 16982 §2; May 6, 1996: P.C. § 4.08.111: Ord. 12952 § 1; July 7, 1980).

**14.55.050 Application for Permit.**

Notwithstanding any provisions of the Lincoln Municipal Code to the contrary and subject to the provisions of this chapter, vendors may be allowed within designated sidewalk space of areas zoned B-3 Commercial, B-4 Lincoln Center Business and P Public Use within and abutting the B-4 Lincoln Center Business District.

Persons seeking issuance of a vendor's permit shall file an application with the City Clerk on such forms provided by the City Clerk. Such persons must consent to a police investigation of his/her character and reputation. Such permit is a personal privilege and cannot be assigned or alienated, voluntarily or involuntarily. The application shall set forth the following information:

- (a) Name, home, and business address of applicant, and the name and address of the owner, if other than the applicant, of the vending business or the pushcart, to be used in the business;
- (b) A description of the food, balloons, and/or fresh flowers to be offered for sale and a description of the pushcart or stand to be used;
- (c) Three prints of a full-face photograph of the applicant taken not more than fifteen (15) days prior the date of the application;
- (d) Proof that the applicant has obtained authority to collect sales taxes;
- (e) A photograph or a scale drawing of the pushcart or stand and any other equipment to be used.
- (f) If the application is for a vendor's permit in the B-3 Commercial District, the application shall also set forth:
  - (1) The specific sidewalk space location for the pushcart or stand;
  - (2) A letter from the record owner of the abutting property consenting to the applicant's use of the designated sidewalk space for applicant's pushcart or stand, or verification that the applicant is the record owner of the abutting property. In addition, if the designated sidewalk space is within fifty (50) feet of the property line of any building used for residential purposes, a letter from the record owner of the building consenting to the applicant's use of the designated space must be provided.

Upon receipt of an application for a vendor's permit, the City Clerk shall forward the application to the Sidewalk Café Review Committee, consisting of representatives from the Health Department, Planning Department, Department of Public Works and Utilities, Police Department, Urban Development Department, and Fire Prevention Bureau for their recommendation and report regarding approval, conditional approval, or disapproval of the application. Such application shall be reviewed by the Sidewalk Café Review Committee in regard to the background of the applicants, compliance with state laws, city ordinances; and regulations, present or potential problems with the

design and quality of the pushcart, aesthetics, pedestrian movement, public health, safety standards, and the appropriateness of the design and materials of the pushcart or stand.

The reports from the Sidewalk Café Review Committee shall be returned to the City Clerk within forty-five (45) days from receipt of the complete application. If the report recommends approval of the application, the City Clerk shall grant the permit subject to the provisions of Section 14.55.070 and/or Section 14.55.075. If the report recommends conditional approval or a combination of approval and conditional approval of the application and the applicant in writing consents to the conditions of approval, the City Clerk may grant the permit subject to the provisions of Section 14.55.070. If the applicant does not consent to any of the conditions of approval or the report recommends disapproval of the application, the City Clerk shall place such pushcart vendor permit request on the Council agenda for final action. (Ord. 19455 §1; September 27, 2010: prior Ord. 18379 §4; June 14, 2004: Ord. 16982 §3; May 6, 1996: Ord. 16951 §111; March 11, 1996: P.C. § 14.55.040: Ord. 13572 § 2; April 11, 1983: Ord. 13360 § 3; May 3, 1982: Ord. 12952 § 6; July 7, 1980).

**14.55.060 Permit Criteria.**

(Repealed by Ord. 18379 §5; June 14, 2004: Ord. 16982 §4; May 6, 1996: P.C. § 14.55.045: Ord. 12952 § 7; July 7, 1980).

**14.55.070 Restrictions on Pushcarts.**

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

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

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

(d) All items relating to the operation of a pushcart or stand vending business shall be kept in, on, or under the pushcart or stand. No such item other than an adjoining, accessible waste container shall be placed upon any street space adjacent to the pushcart or stand; and no food shall be sold except from an authorized pushcart or stand.

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

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

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

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

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

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

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

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

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

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

(n) That the vendor shall comply with all health and sanitation regulations.

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

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

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

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

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

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

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

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

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

(x) No vendor shall solicit or conduct business with persons in motor vehicles or to persons standing in the street. (Ord. 19455 §2; September 27, 2010: prior Ord. 18379 §6; June 14, 2004: Ord. 17499 §2; May 3, 2999: Ord. 16982 §5; May 6, 1996: Ord. 16951 §112; March 11, 1996: P.C § 14.55.050: Ord. 13572 § 3; April 11, 1983: Ord. 13435 § 1; August 16, 1982: Ord. 12952 § 8; July 7, 1980).

**14.55.075 Additional Restrictions on Pushcarts Operating in the B-3 Commercial District.**

The below restrictions are in addition to the restrictions in Section 14.55.070:

(a) No vendor shall vend within any sidewalk space other than the sidewalk space designated in the approved permit application.

(b) The designated sidewalk space may not abut more than one property.

(c) The designated sidewalk space may not occupy any parking space(s) or a portion thereof required under the B-3 Commercial District parking requirements.

(d) No vendor shall operate a pushcart or stand in front of any abutting property without the written approval of the record owner of such property.

(e) No vendor shall operate a pushcart or stand within 50 feet of the property line of any building used for residential purposes without the written approval of the owner of said building.

(f) A vendor who has been granted approval to operate a pushcart or stand at a designated sidewalk space in the B-3 Commercial District is also authorized to operate a pushcart or stand within designated sidewalk space areas zoned B-4 Lincoln Center Business and P Public Use within, and abutting, the B-4 Lincoln Center Business District without obtaining a separate permit therefor. (Ord. 19455 §3; September 27, 2010)

**14.55.080 Insurance.**

The applicant shall be required to:

(a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section;

(b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the city as an additional insured for the coverage required by subsection (a) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring thirty day's notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter. (P.C. § 14.55.050: Ord. 15654 § 12; July 9, 1990: prior Ord. 12952 § 9; July 7, 1980).

**14.55.090 One-day Permits for City Parades.**

Notwithstanding provisions elsewhere in this chapter, the City Clerk may issue one-day permits for the sale of food, fresh flowers, balloons, souvenirs, or other promotional items in

conjunction with any parade permit issued to the city. (P.C. § 14.55.065: Ord. 14560 § 1; November 24, 1986).

**14.55.095 Annual Review.**

On or before March 31st of each year, the City Clerk shall submit a written report to the Council regarding the number of permits issued under this Chapter and the type of goods for which such permits were issued; the number and type of violations of this Chapter, if any, which have been reported in the preceding year and their disposition; and a survey of the effect of this sidewalk vending on the B-4 District and P District generally and businesses competing with sidewalk vendors. (Ord. 18379 §7; June 14, 2004: prior Ord. 16982 §6; May 6, 1996).

**14.55.100 Enforcement.**

Upon the issuance of a vendor's permit, it shall be the duty of the Director of Public Works and Utilities to enforce the provisions of this chapter. (Ord. 19972 §4; December 16, 2013: P.C. § 14.55.080: Ord. 12952 § 12; July 7, 1980).