



CHAPTER 146 PEDDLING AND SOLICITING

§ 146-1. Permit required; exemptions.

It is hereby declared unlawful for any person or persons to conduct business as a peddler, solicitor, street vendor or itinerant or transient merchant within the corporate boundaries of the City unless the person or persons so soliciting shall have first secured a permit from the City Clerk authorizing him to conduct such operations within the corporate limits. A permit shall not be required by any person under 16 years of age engaged in solicitation associated with the delivery or distribution of newspapers or shopping news or who is working on behalf of his or her own individual entrepreneurial endeavor.

§ 146-2. Purpose.

- A. The purpose of this chapter is to prevent fraud and other crimes, to protect citizens of Papillion from undue invasions of privacy and from undue annoyance and harassment, and to maintain the health, safety and welfare of residents of the City by means of investigation and regulation of peddlers, solicitors, canvassers and transient merchants.
- B. A permit under this chapter shall not be used or represented in any manner as an endorsement by this City or by any department, officer or employee thereof.

§ 146-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

INDIVIDUAL ENTREPRENEURIAL ENDEAVOR -- Sales activity by grade and high school students of districts within Sarpy and Douglas Counties specifically designed to fundraise for school, nonprofit, and other service group functions and operations.

ITINERANT MERCHANT -- Any farmer, truck grower or others who produce, hawk or peddle products of the farm, fruit or other staples of food or who sell or offer to sell any commodity or articles of commerce or trade who park their conveyances or erect a place of business for the purpose of selling said products.

PEDDLER -- Any person or persons who travel from place to place selling and delivering at the same time.

PERSON or PERSONS -- Any natural person and any firm, proprietorship, partnership or corporation.

SOLICITOR -- Any person or persons who travel from place to place not carrying his goods with him but taking orders for future delivery to the general public.

STREET VENDOR -- Any person or persons who travel from street to street, upon public or private property, carrying, conveying or transporting such items as food, beverages, flowers and balloons, and offering and exposing the same for sale by hand or from a mobile-type device such as a pushcart.

TRANSIENT MERCHANT -- Any person or persons who engage temporarily within the City in the business of soliciting alms, selling and delivering goods, wares and

merchandise or taking orders for goods or merchandise to or at homes, apartments or other residential premises in the City.

§ 146-4. Permit application contents.

Applicants for a permit shall file a written sworn application, signed by the applicant, with the City Clerk, showing:

A. The applicant's name and the name of the person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the City; the applicant's local address and the address of such person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the City; the capacity in which such applicant will act (that is, whether as proprietor, agent or otherwise); and, if a corporation is the management or supervision of the applicant, provide documentation under the law of what state the same is incorporated.

B. The place or places in the City where it is proposed to carry on the applicants business and the length of time during which it is proposed that such business shall be conducted.

C. A statement of the nature of merchandise to be sold or offered for sale by the applicant.

D. A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.

E. Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.

F. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the City Clerk may deem proper, including but not limited to telephone numbers and a physical description, including height, weight, color of eyes, color of hair, and a recent photograph.

G. If the applicant is a minor, such applicant shall not be licensed unless the minor's parent(s) or guardian(s) appear personally before the City Clerk and provide the following:

(1) Satisfactory evidence that the person or persons are in fact the parent(s) or guardian(s) of the particular applicant.

(2) A written statement signed by the parent(s) or guardian(s) and witnessed by the City Clerk giving permission for the applicant to be licensed upon meeting the requirements of this chapter.

§ 146-5. Permit approval, authority and appeals.

A. Upon receipt of such application, the application shall be referred to the Chief of Police, who shall, within three workdays after the receipt thereof, cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and return said application to

the City Clerk, who shall notify the applicant that his/her application is disapproved and that no permit will be issued.

C. No permit shall be issued to any applicant where any of the following has been determined during the investigation and review of the application:

(1) If the applicant has been convicted of a crime, the nature of which indicates a lack of honesty and reliability which would lead one to believe that future violations of the law could occur. An example of such crimes would be theft, burglary, robbery, fraud, deceit or any other crime of violence.

(2) If the applicant has been convicted of a felony or a crime involving moral turpitude within the 10 years preceding the date of filing of such application.

(3) Any previous history relating to the manner in which the applicant made door-to-door sales which resulted in a violation of the law.

(4) Providing false information on the application form.

D. If, as a result of some investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application the approval and return said application to the City Clerk, who shall notify the applicant that his/her application has been approved. Such permit shall contain the name and address of the applicant, the kind of goods to be sold thereunder, the date of issuance and the length of time the same shall be operative.

E. Any person aggrieved by the decision of the Police Chief and/or City Clerk in regard to the denial of an application for a permit shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing on such appeal, and notice shall be given to such person by registered mail, postage prepaid, at his last known address. The order of the City Council on such appeal shall be final.

§ 146-6. Fees; exemptions.

The permit fee for any itinerant vendor, peddler, solicitor, street vendor or transient merchant shall be set forth by resolution of the City Council. The annual fee shall cover a period of one year from the date of issue. Any person or persons representing organizations that qualify as nonprofit, charitable and tax-exempt shall be exempt from all required fees when proof of status is attached to the permit application and status is verified through the Nebraska Secretary of State by the City Clerk.

§ 146-7. Bond.

To secure the full and faithful performance of each and every term and condition of peddling and soliciting, a performance bond shall be furnished to the City Clerk prior to the issuance of any permit. The bond amount shall be set by resolution of the City Council. Any person or persons representing organizations that qualify as nonprofit, charitable and tax-exempt shall be exempt from all bond requirements when proof of status is attached to the permit application and status is verified through the Nebraska Secretary of State by the City Clerk.

§ 146-8. Appointment of agent.

A. Before any permit shall be issued, such applicant shall file with the City Clerk an instrument nominating and appointing the City Clerk, or the person performing the duties of such position, his true and lawful agent with full power and authority to acknowledge service of notice or process in respect to any matters connected with or arising out of the business transacted under such license.

B. Immediately upon being served with process, the City Clerk shall send to the permit holder, at his last known address, by registered mail, a copy of such process. Nothing herein shall be construed to apply to any applicant required to appoint a state official as an agent for the purpose of receiving service of process as a prerequisite for doing business within the State of Nebraska.

§ 146-9. Hours and places of solicitations.

A. All solicitations to private residences, including but not limited to homes, duplexes, rooming houses and apartments, shall occur only between the hours of 9:00 a.m. and 7:00 p.m., unless otherwise posted and prohibited by the private property owner or by someone with apparent authority to act for the owner. This regulation does not apply where the solicitor is on the property by express prior invitation of the person residing on the premises.

B. Solicitations on public property are permissible except as follows:

(1) Solicitors may not solicit in public streets or rights-of-way or from medians in the streets or in any way block, obstruct or unduly hinder passage on public streets and rights-of-way.

(2) Solicitors may not block, obstruct or unduly hinder passage on public sidewalks or passageways.

C. For the purposes of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is blocked or obstructed or passage is hindered or the public is impeded or inconvenienced.

§ 146-10. Prohibited conduct.

A person engaged in solicitation shall not:

A. Make physical contact with the person being solicited unless that person's permission is obtained;

B. Misrepresent the purpose of the solicitation;

C. Misrepresent the affiliation of those engaged in the solicitation;

D. Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or buy anything from that solicitor,

E. Represent the issuance of any permit or registration under this chapter as an endorsement or recommendation of the solicitation; or

F. Enter upon any private premises when the same is posted with a sign stating "No Peddlers Allowed" or "No Solicitation Allowed" or other words to that effect.

§ 146-11. Permit to be posted.

The permit issued by the City Clerk shall be posted in a conspicuous place if the licensee is using a vehicle or a building in his business and otherwise must be kept by the person and exhibited at any time upon request.

§ 146-12. Permit revocation; hearing.

A. Upon recommendation of the Chief of Police, permits issued may be revoked by the City Council, after notice and a hearing, for any of the following causes:

(1) Any fraud, misrepresentation or false statement contained in the application for a license.

(2) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares or merchandise.

(3) Any violation of this chapter.

(4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.

(5) Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to threaten the health, safety or general welfare of the public.

B. Notice of a hearing for the revocation of a license shall be given, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by registered mail, postage prepaid, to the permit holder, at his last known address, at least five days prior to the date set for hearing.

§ 146-13. Permit suspension; hearing.

A. Any three violations of this chapter by any permit holder during the permit period shall result in suspension for the remainder of the person's permit period or until all violations are adjudicated in the appropriate court proceeding(s), whichever is earlier. Notice of the suspension shall be sent by registered mail, postage prepaid, to the permit holder, at his last known address.

B. Any person may appeal permit suspension. Such appeal shall be taken by filing with the City Council, within 14 days after notice of the suspension has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing on such appeal, and notice shall be given to such person by registered mail, postage prepaid, at his last known address. The order of the City Council on such appeal shall be final.

§ 146-14. Police enforcement.

It shall be the duty of the City police to examine all places of business and persons subject to the provisions of this chapter and to enforce the provisions herein against any person found to be violating the same.

§ 146-15. Permit nontransferable.

No license issued pursuant to this chapter shall be transferable.

§ 146-16. Violations and penalties.

Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular section which the person stands convicted of violating, the penalty for such violation shall be a fine in any sum not exceeding \$500 or imprisonment for six months, or both said fine and imprisonment, at the discretion of the sentencing court. Each day or part thereof in which a violation under this chapter continues shall be a separate offense.