

CHAPTER 4 BUSINESS REGULATIONS

ARTICLE 4-6 PEDDLERS AND ITINERANT VENDORS*

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Division 1. Generally

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Sec. 4-6-1 Definitions

For the purpose of this article, the following terms shall have the following meanings:

Itinerant vendor. Any person who sells or offers for sale merchandise or services from a tent, vehicle, or place which is not a permanent building or structure, for any period of time, or from a permanent building or structure for a period which is six (6) months or less.

Peddler. Any person who travels from house to house or place to place selling or offering for sale merchandise or services, which may be immediately or subsequently delivered or performed.

Person. Any individual, firm, association, partnership, company, society, corporation, group or entity of any nature.

(Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-1)

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Sec. 4-6-2 Penalty

Any person who violates or fails to comply with the provisions of any section of this article shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not exceeding five hundred dollars (\$500.00). (Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 98-35, sec. 1, adopted 5/26/98; 1957 Code, sec. 14-16)

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Sec. 4-6-3 Exemptions

The provisions of this article concerning permit requirements shall not apply to persons who come within any of the following classifications:

- (1) Peddlers selling to or soliciting orders from retail business houses only;
- (2) Peddlers going to a house or place at the express invitation of the owner or occupant of such house or place;
- (3) Persons engaged in a business or activity which the state or federal government has exclusive authority to regulate;
- (4) Persons distributing or selling newspapers, pamphlets, handbills or other written or printed matter sold or distributed for the purpose of disseminating news, information or religious materials;
- (5) Persons living in the city who hold "garage sales," which consist of the sale of used domestic merchandise, for two (2) days' or less duration, no more than twice a year;
- (6) Governmental entities;
- (7) Persons who sell, trade or barter on any property that has been approved by specific use permit under the city zoning ordinance for "sales space contracting."

(Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 83-82, sec. 4, adopted 8/23/83; 1957 Code, sec. 14-2)

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Sec. 4-6-4 Selling merchandise on streets, alleys or sidewalks

It shall be unlawful for any person to sell or solicit for the sale of any merchandise upon or within any public street, alley or sidewalk unless pursuant to a

valid current permit issued by the city and in compliance with all other laws of the city, state and federal government, if applicable. This section shall not prohibit a merchant from utilizing the sidewalks abutting his place of business for the temporary display of merchandise, provided such display does not unreasonably interfere with automobile or pedestrian traffic. (Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 90-07, sec. 3, adopted 1/23/90; 1957 Code, sec. 14-13)

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Sec. 4-6-5 Trespassing

Any itinerant vendor, mobile street vendor or peddler who enters upon property owned, leased or controlled by another and willfully refuses to leave said property after having been notified by such owner or possessor of said property, or his agent, to leave such property, shall be guilty of a misdemeanor. (Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 98-35, sec. 1, adopted 5/26/98; 1957 Code, sec. 14-14)

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Sec. 4-6-6 Hours of operation

No peddler required to obtain a permit under this article shall commence operation and go from place to place, or door to door, without prior invitation or appointment with the occupant of the premises, before 9:00 a.m., or after 8:00 p.m., on any day. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-15)

Division 1. Generally

Sec. 4-6-7 Mobile street vendors

(a) Applicability. The special provisions set forth in this section shall apply to mobile street vendors and operators as herein defined and shall supersede any conflicting provisions found elsewhere in the city code.

(b) Definitions. The listed words shall be defined as follows:

Mobile street vendor. Persons that offer food or drink for sale from a motor vehicle on the city streets.

Motor vehicle. Every motor vehicle used to vend food or drink on city streets.

Operator. Any person, firm or corporation who owns, leases, contracts or in any other manner operates or permits a person to operate upon the city streets any motor vehicles for the purpose of vending as herein defined.

Vend or vending. Offering food or drink for sale from a motor vehicle on the city streets.

(c) Special requirements. Mobile street vendors shall be required to comply, and it shall be an offense not to comply, with the following special requirements:

- (1) A person shall vend only when the motor vehicle is lawfully stopped.
- (2) A person shall vend only from the side of the motor vehicle away from moving traffic and as near as possible to the curb or side of the street.
- (3) A person shall not vend to a person standing in the roadway.
- (4) A person shall not stop on the left side of a one-way street to vend.
- (5) Display on the rear and front of the vehicle a sign with a white background and red letters (in block form that are uniform in size and three (3) to five (5) inches in height) that provides the following warning: "Warning: Watch for Child Near This Vehicle and Stop Before Passing When Stop Arm Is Extended."
- (6) A person shall not stop in a congested area where vending might impede or inconvenience the public.
- (7) A person shall not vend in a street adjacent to a public school.
- (8) A person shall actuate the special flashing lights required by subsection (e)(4) whenever stopped on the street for the purpose of vending.
- (9) A person shall not back up, do a U-turn or reverse a motor vehicle for the purpose of vending.
- (10) A person shall not actuate the special flashing lights required by subsection (e)(4) if not stopped on the street for purpose of vending.
- (11) A person shall extend the required stop signal arm whenever stopped on the street for the purpose of vending.

(12) A person shall not extend the stop signal arm when the motor vehicle is in motion nor at any time the truck is stopped for a purpose other than vending.

(13) A person shall not stop a motor vehicle for purposes of vending within one hundred (100) feet of a street intersection.

(14) No mobile street vendor shall be in operation, doing business, or going from place to place at nighttime or before 9:00 a.m. or after 8:00 p.m. For purposes of this section, "nighttime" shall mean the time between sunset and sunrise. Sunrise and sunset shall be as specified by the weather bureau. A violation of this section shall be a misdemeanor offense.

(d) Conclusive police judgment. For purposes of this section, the judgment of a police officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced or a stop is for a temporary or stationary period of time.

(e) Operator and vehicle requirements. An operator shall comply with the following requirements:

(1) The operator shall comply with all permitting requirements as a peddler unless modified or amended by the provisions of this section.

(2) No permit shall be issued to an operator unless a certificate is furnished to the city showing that the operator is carrying the following minimum amounts of insurance: public liability insurance in an amount of not less than three hundred thousand dollars (\$300,000.00) for injuries, including those resulting in death, resulting from any one (1) occurrence and on account of any one (1) accident; property damage insurance in an amount of not less than twenty-five thousand dollars (\$25,000.00) for damages on account of any one (1) accident or occurrence.

(3) The insurance certificates shall contain an agreement signed by the insurance company that, prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the city by said insurance company.

(4) Install on the motor vehicle signal lamps to be mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be five (5) to seven (7) inches in diameter and shall display two (2) alternately flashing yellow lights on the front of the vehicle and two (2) alternately flashing red lights on the rear of the vehicle; all lights shall be visible at five hundred (500) feet in normal sunlight upon a straight level street.

(5) Display on the rear of the vehicle a sign that shall provide the following warning: "Warning: Watch For Child Near This Vehicle."

(6) The operator shall install on each motor vehicle to be used for vending an octagonal stop signal arm that is eighteen (18) inches by eighteen (18) inches and that can be extended horizontally from the left side of the motor vehicle duplicating the design of a standard octagonal stop sign as set forth in the state manual of uniform traffic-control devices. This arm shall be red and white in color and contain two (2) alternately flashing lights three (3) to five (5) inches in diameter at the top and bottom thereof, visible at three hundred (300) feet to the front and rear in normal sunlight upon a straight level street. The color of the two (2) lights facing to the front shall be red, and the two (2) lights facing to the rear shall be red. The bottom of the signal arm shall be forty-two (42) inches above the highway.

(f) Duty of other drivers. The driver of a vehicle meeting or overtaking from either direction a mobile street vendor stopped on the street shall stop no less than twenty-five (25) feet from the front or rear of said mobile street vendor when the flashing lights and stop signal arm described herein are in use. After stopping, a driver may proceed past such mobile street vendor at a reasonable and prudent speed not exceeding fifteen (15) miles per hour and shall yield the right-of-way to any pedestrian who crosses the roadway to or from the mobile street vendor. The driver of a vehicle on a street with separate roadways separated by a divider of some nature need not stop upon meeting or passing a mobile street vendor on the parallel roadway.

(g) Denial or revocation of permit.

(1) A peddler's permit as provided for in this article shall be denied or revoked upon the failure of a motor vehicle used by a mobile street vendor to pass an inspection to be conducted by the police department to certify that the motor vehicle is in compliance with all provisions of this section. All vehicles shall be inspected within thirty (30) days after the adoption of this subsection and prior to the issuance of an original peddler's permit as defined in [section 4-6-33](#) of this article. An operator shall not use any motor vehicle that has not first been inspected by the police department and found to comply with all requirements in this section.

(2) A peddler's permit shall be denied or revoked upon the failure of the operator to comply with the requirements referenced in [section 4-6-35](#) and this section.

(Ordinance 90-07, sec. 1, adopted 1/23/90; Ordinance 90-53, sec. 2, adopted 8/14/90; Ordinance 98-35, sec. 1, adopted 5/26/98; 1957 Code, sec. 14-17)

Division 1. Generally

Sec. 4-6-8 Other street vendors

(a) Applicability. The special provisions set forth herein shall apply to other street vendors as herein defined and shall supersede any conflicting provisions found elsewhere in the city code.

(b) Definition. "Other street vendors" means persons that go from place to place and offer food or drink for sale on the city streets by some means other than from a motor vehicle as defined in [section 4-6-7](#).

(c) Prohibited acts. Other street vendors shall be prohibited, and it shall be an offense, for other street vendors to commit the following actions:

(1) Vend to a person standing in the roadway;

- (2) Vend on a street or sidewalk adjacent to a public school;
- (3) Stop for purposes of vending within one hundred (100) feet of a street intersection.

(Ordinance 96-16, sec. 1, adopted 2/27/96; 1957 Code, sec. 14-18)

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Secs. 4-6-9 through 4-6-30 Reserved

ARTICLE 4-6 PEDDLERS AND ITINERANT VENDORS*

Division 2. Permit

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Sec. 4-6-31 Required

Except as otherwise provided in [section 4-6-3](#), it shall be unlawful for any person to engage in the business of itinerant vendor or peddler, as defined in [section 4-6-1](#), within the city without having first obtained a permit therefor as hereinafter provided. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-3)

Division 2. Permit

Sec. 4-6-32 Application

Applicants for an itinerant vendor's or peddler's permit under this article shall make a sworn application to the city upon forms to be furnished by the billing and collection office of the city. Each application shall give the following information:

- (1) Full name and all information contained on the driver's license of the applicant and each agent or employee working under the permit;
- (2) Permanent home address and present local address of the applicant;
- (3) Name and home office address of the applicant's employer;
- (4) If the applicant owns or uses a motor vehicle in connection with his business, a description of such motor vehicle and the license number of same;
- (5) A brief description of the merchandise or services to be sold;
- (6) A statement as to whether or not the applicant has been convicted of any felony and the disposition of same;
- (7) A site plan to be drawn by the applicant, not to scale, which need only show the location to be used by the itinerant vendor and to be made the basis of the permit;
- (8) Proposed duration of temporary sales operation;
- (9) Written permission of the owner of the land or building where the sales are to take place (itinerant vendor only);
- (10) A copy of the applicant's Texas limited sales and use tax permit;
- (11) A copy of the applicant's driver's license or other identification card;
- (12) A certified letter from the business represented certifying that the applicant is an agent or employee of the business, unless the applicant is self-employed;
- (13) Name of property owner and address of the property where the selling is to occur.

(Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 2008-06, sec. 1, adopted 2/26/08; 1957 Code, sec. 14-4)

Division 2. Permit

Sec. 4-6-33 Fees

Each application shall be accompanied with payment of a processing fee of twenty-five dollars (\$25.00) per ten (10) days. There shall also be charged a fee of fifty dollars (\$50.00) for any required investigation of sales location by the office of planning and inspection. No more than one investigation charge shall be made for any one location. An additional five-dollar (\$5.00) fee shall be charged for each agent in excess of two (2). These fees shall be applied to the expenses incurred in processing the application and enforcing this article. Persons selling or offering for sale merchandise or services for the purpose of a periodic fundraising project or a nonprofit organization (such as a civic club, church or school organization), when the person selling on behalf of the organization receives no individual financial gain, will not be required to pay any fees. (Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 84-50, sec. 1, adopted 6/12/84; 1957 Code, sec. 14-5; Ordinance 2008-37, sec. 24, adopted 9/9/08)

Division 2. Permit

Sec. 4-6-34 Investigation of applicant and proposed sales area

Each application or a copy thereof shall be referred to the office of planning for investigation and approval of the proposed sales area with regard to city zoning ordinances, if an itinerant vendor's permit is requested, and to the police department for an investigation with regard to the other requirements of this article. (Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 2008-06, sec. 2, adopted 2/26/08; 1957 Code, sec. 14-6)

Division 2. Permit

Sec. 4-6-35 Grounds for denial or revocation

Any application for an itinerant vendor's or peddler's permit may be denied or such permit may be revoked for any of the following reasons:

- (1) Any misrepresentation or false statement contained in the application for the permit;
- (2) A violation of any of the provisions of this article;
- (3) An application for a permit to operate as an itinerant vendor or peddler may be denied, revoked or suspended if the applicant or operator is convicted of a crime that directly relates to the duties and responsibilities of the itinerant vendor as provided in [section 4-1-1](#) and guidelines adopted by the city manager on file for public inspection in the office of the city secretary;
- (4) The proposed operation would not comply with federal or state law or city ordinance, including zoning restrictions;
- (5) Failure to provide parking spaces, which need not be paved, sufficient in number to accommodate the number of automobiles being reasonably expected to be parked at any one time, taking into consideration the type, size and quantity of merchandise to be offered for sale, and in addition to those parking spaces required under the zoning ordinance for existing businesses;
- (6) The use blocks access or a driveway;
- (7) Failure to provide adequate trash containers for the proposed use. The trash containers need not be city trash containers;
- (8) Failure to comply with all provisions of [section 4-6-7](#) of this article;
- (9) Mental incompetence to a degree that the person is not held responsible for criminal actions in a court of law or is not competent to stand trial.

(Ordinance 83-78, sec. 1, adopted 8/9/83; Ordinance 90-53, sec. 1, adopted 8/14/90; Ordinance 94-86, sec. 1, adopted 11/22/94; Ordinance 2008-03, sec. 6, adopted 2/12/08; 1957 Code, sec. 14-7)

Division 2. Permit

Sec. 4-6-36 Notice of denial or revocation; appeals

Upon the denial or revocation of an itinerant vendor's or peddler's permit, the city's office of planning and inspection shall notify in writing the applicant or permittee of the reason for such denial or revocation. The applicant or permittee shall have a right of appeal to the city council upon the denial or revocation of the permit. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-8)

Division 2. Permit

Sec. 4-6-37 Duration

Each itinerant vendor's or peddler's permit issued under the authority of this article shall be valid for the period of anticipated use of the applicant, but not to exceed ten (10) days for itinerant vendors and ninety (90) days for peddlers from the date it is issued, or until revoked under the provisions of this article. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-9)

Division 2. Permit

Sec. 4-6-38 Display

Every peddler or itinerant vendor who has secured a permit under the authority of this article shall keep a copy of any permit upon his person at all times and shall display the same upon the request of any city official, customer, policeman or owner or occupant upon whose property the itinerant vendor or peddler has gone for business purposes. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-10)

Division 2. Permit

Sec. 4-6-39 Transfer

The permits issued under the authority of this article shall not be transferable or assignable. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-11)

Division 2. Permit

Sec. 4-6-40 Use by other person

It shall be unlawful for any person other than the person to whom the permit was issued to display or otherwise use any itinerant vendor's or peddler's permit. (Ordinance 83-78, sec. 1, adopted 8/9/83; 1957 Code, sec. 14-12)