

City of Papillion, NE  
Friday, December 15, 2023

## Chapter 146. Door-To-Door Sales, Mobile Vendors, and Facility Use and Event Permits

### Article I. General Provisions

#### § 146-1. Purpose.

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, to prevent exploitation, and to maintain the health, safety and welfare of the residents of the City by means of investigation and regulation of door-to-door sales, mobile vendors and for events that will be held on City property.

#### § 146-2. Permit required.

It is hereby declared unlawful for any person or persons to engage in door-to-door sales, mobile vending or hold an event on City property within the corporate boundaries of the City unless the person(s) has first secured a permit from the City Clerk to conduct such operations within the corporate City limits. The City reserves the right to establish and enforce policies for mobile vendors and facility use and event permits. Applicants may apply for a daily or annual permit.

#### § 146-3. Permit exemptions.

- A. A permit shall not be required by any person under the age of 16 engaged in door-to-door sales associated with:
- (1) School fund-raising activities;
  - (2) The delivery or distribution of newspapers or shopping news; or
  - (3) Working on behalf of his/her own individual entrepreneurial endeavor.
- B. Additionally, a door-to-door permit shall not be required for any canvasser. A mobile vendor permit shall not be required by any person engaging in sales on his or her personal private property for not to exceed 48 hours.

#### § 146-4. Permit to be posted.

Permits issued by the City shall be posted and/or made available for inspection at any time upon request.

#### § 146-5. Permit not to be used as endorsement.

It shall be unlawful for any person, organization, society, association, or corporation holding a permit, or for any agent, member, or representative thereof, to advertise, represent, or hold out in any manner that said permit is an endorsement of said holder by the City of Papillion.

## § 146-6. Permit nontransferable.

No permit issued pursuant to this chapter shall be transferable.

## § 146-7. Fees.

The permit fee for any door-to-door sales, mobile vendor or facility use and event permit shall be set by the Papillion City Council by resolution. Any person or persons representing organizations that qualify as nonprofit, charitable and tax-exempt shall be exempt from all required permit 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.

## Article II. Definitions

### § 146-8. Terms defined.

As used in this chapter, the following terms shall mean:

#### **ACCESSORY EQUIPMENT**

Any item, furniture or piece of equipment which has been placed or fixed in place outside the exterior of a mobile vending unit, but which may be detached from the mobile vending unit. These items include, but are not limited to, tables, benches, storage equipment and generators.

#### **ADVERTISING**

Methods used to attract attention to the event, company, organization, and/or product.

#### **ANNUAL PERMIT**

A permit that is valid for one year from the date the permit is issued.

#### **APPLICANT**

Any person, firm, corporation or proprietor applying for a door-to-door sales, mobile vendor or facility use and event permit.

#### **CANVASSER**

Any person whose primary purpose is to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, or to conduct opinion sampling.

#### **CITY-SPONSORED COMMUNITY EVENT**

An event that is sponsored and operated by the City of Papillion or an event where the City is a sponsoring partner of the event. Participation in City-sponsored community events requires completion and approval of a separate application and does not require a permit listed in this chapter.

#### **DAILY PERMIT**

A permit that is valid for one day during the designated hours of the permit issued.

#### **DOOR-TO-DOOR SALES**

The process in which a person goes house to house, door to door, business to business, street to street, or any other type of place-to-place movement for the purpose of obtaining or attempting to

obtain orders or sales for goods, wares, products, merchandise, or services of which he/she may be carrying, transporting, or providing samples of, or that may be described in a catalog or by other means and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain sales orders.

## **EVENT**

- A. An occasion or activity whereby:
- (1) More than 100 people are expected to gather; or
  - (2) More than one vendor gathers to conduct business on City-owned property for a set date(s) and time(s) for a period of time not to exceed 10 consecutive calendar days; or
  - (3) As administratively determined to be necessary for any specific City-owned property.
- B. This definition shall exclude occasions or activities and participants in City-sponsored community events and sporting tournaments.

## **INDIVIDUAL ENTREPRENEURIAL ENDEAVOR**

Sales activities by:

- A. Unpaid or otherwise not compensated grade, junior high and high school students specifically designed to fundraise for school, nonprofit, and other service group functions and operations, which are sponsored and authorized by such school and/or organization; and
- B. Grade, junior and high school students on behalf of their sole proprietorship.

## **MOBILE VENDING UNIT**

Any vehicle, cart, street stand, or other temporary contrivance with wheels from which street sales are made or offered to be made, and which may be moved from place to place for the purpose of making or offering to make street sales and which does not have permanent structures attached or affixed to the unit.

## **MOBILE VENDOR**

A person, firm, corporation or nonprofit that engages in any of the following types of activities, excluding participants in City-sponsored community events:

- A. Any farmers, growers 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 mobile vending units or erect a place of business for the purpose of selling said products or services;
- B. Any person(s) who travels from street to street, upon public or private property, carrying, conveying or transporting items or services and offering and exposing the same for sale by hand or from a mobile vending unit; or
- C. Any person(s), whether owner, agent, bailee, consignee or employee, who temporarily engages in business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty storefront for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, services or other personal property within the City limits.

## **PERMITTEE**

A person, firm, corporation or nonprofit that is granted a permit under this chapter.

## **PERMIT OPERATOR**

A person, firm, corporation or nonprofit that is engaged in the operations of the permitted business within the permit operating area on behalf of the permittee.

**PERMIT OPERATING AREA**

The specific area designated for the permittee's operations.

**PERSON or PERSONS**

Any natural person, or any firm, proprietorship, partnership or corporation.

**REGULAR BUSINESS DAY**

Any day during which City Hall is normally open for the purpose of conducting public business.

**RIGHT-OF-WAY**

A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment), such as grade separation, landscaped areas, viaducts and bridges.

**TEMPORARY**

Lasting for a limited amount of time, not to exceed a six-month period of time.

## Article IV. Mobile Vendors

### § 146-13. Permit application.

- A. Applicants for a mobile vendor permit shall file with the City Clerk a complete written sworn application signed by the applicant at least 10 regular business days prior to the date when the intended business is to commence. mobile vendors shall be classified as either right-of-way or non-right-of-way.
- B. Applicants operating on private property shall provide the City Clerk with written consent of the property owner specifying the proposed location for conducting business.
- C. Applicants selling food shall be required to include a Health Department food permit with their application.
- D. The application and all information submitted to the City Clerk shall remain in the City Clerk's office and shall be available for inspection by the public.
- E. Any amendments or revisions to the original application shall be promptly provided to the City Clerk in writing.

### § 146-14. Permit approval, authority and appeals.

[Amended 11-17-2020 by Ord. No. 1870]

- A. Upon receipt of a completed application, the application shall be reviewed to investigate the applicant's business and moral character, and to ensure it complies with the requirements of this chapter. The review process shall be based on the following criteria, but shall not be limited to:
  - (1) The applicant shall not have been convicted in the past five years of any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business in a professional, honest, and legal manner. Such violations shall include, but are not limited to, burglary, theft, robbery, larceny, swindling, fraud, deceit, unlawful business practices, and any form of actual or threatened physical harm against another person.
  - (2) The applicant shall not have had a revocation of any permit issued under this chapter within the past five years.

- (3) The applicant's operating area shall not be located within a City park unless the application complies with the rules and policies of the Parks Department and is specifically approved by the Director of the Parks Department.
- B. If, as a result of such investigation and review, the information provided in the application is found to be satisfactory, the City shall endorse on the application their respective approvals and shall 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 business name, the date of issuance and the length of time the same shall be operative.
- C. If, as a result of such investigation and review, the information provided in the application is found to be unsatisfactory, the City shall endorse on such application his/her denial(s) and state the reasons for the same and return said application to the City Clerk, who shall notify the applicant that his/her application is denied and that no permit will be issued. Any applicant who has been denied a permit under this chapter three times within a calendar year shall not be allowed to apply again for a full calendar year from the date the last denied application was received by the City Clerk.
- D. Any person aggrieved by the denial of an application for a permit shall have the right to appeal to the District Court of the County as provided by state law.

## § 146-15. Rules and regulations for mobile vendors.

[Amended 11-17-2020 by Ord. No. 1870]

- A. Right-of-way mobile vendors. It shall be unlawful for any right-of-way mobile vendor to violate any of the rules and regulations set forth below for right-of-way mobile vendors, or as set forth in the policy governing mobile vending in the parks. Any such right-of-way mobile vendor who violates any of such rules, regulations, or policy shall be subject to denial of a permit and/or revocation of a permit.
  - (1) The applicant shall truthfully provide all information requested by the City as part of the application process.
  - (2) The applicant shall sign the permit application.
  - (3) The applicant shall pay the required fee at the time of application.
  - (4) The permit shall be valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a change request form and paying any applicable change fees.
  - (5) The permit shall be valid for only one mobile vending unit.
  - (6) The permit, as it applies to a given permit operating area, may be suspended by the City Administrator for a length of time not to exceed 10 consecutive days for a City-sponsored community event.
  - (7) The use of the permit operating area for mobile vending must be compatible with the public interest in use of the sidewalk or street areas and other public rights-of-way. In making such determination, the Chief Building Official shall consider the width of the sidewalk or street or right-of-way, the proximity and location of existing street furniture, including, but not limited to, signposts, lampposts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, to determine whether the proposed use would result in pedestrian or street congestion. The permittee shall comply with the Chief Building Official's determination and/or adjustments of the permit operating area.
  - (8) The proposed activity shall not be in violation of any City ordinances relating to zoning, health, fire, building or safety requirements.

- (9) The permit operating area shall not exceed 24 square feet of sidewalk space or 170 square feet of street space, which shall include the area of the mobile vending unit, accessory equipment and signage.
- (10) The permit operating area shall include no more than one sign not exceeding 12 square feet, which shall be freestanding, removable, and displayed only during times of operation. A separate sign permit shall not be required when the permittee's sign is approved as part of the mobile vendor permit.
- (11) The permittee and/or permit operator shall not conduct business on a sidewalk or street in any of the following places:
  - (a) Within 10 feet of the intersection of the sidewalk with any other sidewalk, except that the Chief Building Official may waive this restriction.
  - (b) Within 10 feet of any handicapped parking space or access ramp.
  - (c) Within 15 feet of a fire hydrant.
  - (d) Within the Washington Street right-of-way, between First Street and Second Street, except pursuant to a temporary permit issued by the City Administrator or his/her designee for a period during which the City temporarily closes Washington Street to regular motor vehicle traffic for purposes of a special event.
  - (e) From a location or position which would involve customers to be waited on or served while standing in a lane of a street traversed by motor vehicle traffic.
- (12) The permittee and/or permit operator shall have a five-pound ABC fire extinguisher available at all times within the permit operating area if any fire or electrical heating and/or cooking appliances or other potential sources of fire are used by the mobile vendor.
- (13) The business name shall be visible to the public.
- (14) Mobile vendors conducting business shall not make loud or unreasonable noises by vocalization or otherwise for the purpose of advertising or attracting business.
- (15) The permit operating area shall be kept in a clean and sanitary condition, and the permittee and/or permit operator shall remove any structure, device, trash, or debris caused by, created or associated with the business or activities on a daily basis.
- (16) All operations and equipment shall be restricted to the permit operating area.
- (17) Mobile vendors shall not make physical contact with the person being solicited or otherwise impose themselves beyond the presence of their mobile vending unit, unless that person's permission is obtained.
- (18) Mobile vendors conducting business shall not operate or conduct business or activities that create a traffic or visual obstruction hazard or any other type of public hazard or danger.
- (19) Mobile vendors shall not operate or conduct business or activities if the permittee, permit operator, or any agent or employee of the permittee or permit operator who is assigned to work or conduct business or activities within the permit operating area has been convicted of a felony, misdemeanor, or ordinance violation involving force, violence, moral turpitude, deceit, fraud, or the violation of any law regulating the act of solicitation, peddling, hawking, canvassing, or merchandising within the past five years in this state or subdivision thereof or of the United States.
- (20) Mobile vendors shall remove their mobile vending units from the right-of-way between the hours of 12:00 midnight and 6:00 a.m. unless otherwise permitted by the City.
- (21) Mobile vendors shall not leave their mobile vending units unattended at any time.

(22) A mobile vendor permit holder may park and operate in the First Street Plaza public parking area, along with other authorized areas.

B. Non-right-of-way mobile vendors. It shall be unlawful for any non-right-of-way mobile vendor to violate any of the rules and regulations set forth below for non-right-of-way mobile vendors, or as set forth in the policy governing mobile vending in the parks. Any such non-right-of-way mobile vendor who violates any of such rules, regulations, or policy shall be subject to denial of a permit and/or revocation of a permit.

(1) The applicant shall truthfully provide all information requested by the City as part of the application process.

(2) The applicant shall sign the permit application.

(3) The applicant shall pay the required fee at the time of application.

(4) The permit shall be valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a change request form and paying any applicable change fees.

(5) The permit shall be valid only for one mobile vending unit.

(6) The permit, as it applies to a given permit operating area, may be suspended by the City Administrator for a length of time not to exceed 10 consecutive days for a City-sponsored community event.

(7) The use of the permit operating area for mobile vending must be compatible with the public interest in use of the sidewalk or street areas and other public rights-of way. The permittee shall comply with the Chief Building Official's determination and/or adjustments of the permit operating area.

(8) The proposed activity shall not be in violation of any City ordinances relating to zoning, health, fire, building or safety requirements.

(9) The permit operating area shall include no more than two signs not exceeding 16 square feet, which shall be freestanding, removable, and only displayed during times of operation. A separate sign permit shall not be required when the permittee's sign(s) is approved as part of the mobile vendor permit.

(10) The permittee or permit operator shall not erect or construct any structure, tent or building greater than 120 square feet.

(11) The permittee and/or permit operator shall not conduct business on a sidewalk or street in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk except that the Chief Building Official may waive this restriction.

(b) Within 10 feet of any handicapped parking space or access ramp.

(c) Within 15 feet of a fire hydrant.

(d) From a location or position which would involve customers to be waited on or served while standing in a lane of a street traversed by motor vehicle traffic.

(12) The permittee and/or permit operator shall have a five-pound ABC fire extinguisher available at all times within the permit operating area if any fire or electrical heating and/or cooking appliances or other potential sources of fire are used by the mobile vendor.

(13) The business name shall be visible to the public.

(14) Mobile vendors conducting business shall not make loud or unreasonable noise by vocalization or otherwise for the purpose of advertising or attracting business.

- (15) The permit operating area shall be kept in a clean and sanitary condition. The permittee and/or permit operator shall remove any structure, device, trash, or debris caused, created or associated with the business or activities on a daily basis; consistent and continuous litter problems that may arise as the result of a mobile vendor may be grounds for revocation of the permit. Mobile vendors may not put refuse from the operation of their business in or beside any public trash container or in any drain or storm sewer along or in the streets or sidewalks.
- (16) All operations and equipment shall be restricted to the permit operating area. Mobile vendors shall not make physical contact with the person being solicited or otherwise impose themselves beyond the presence of their mobile vending unit, unless that person's permission is obtained.
- (17) Mobile vendors conducting business shall not operate or conduct business or activities that create a traffic or visual obstruction hazard or any other type of public hazard or danger.
- (18) Mobile vendors shall not operate or conduct business or activities if the permittee, permit operator, or any agent or employee of the permittee or permit operator who is assigned to work or conduct business or activities within the permit operating area has been convicted of a felony, misdemeanor, or ordinance violation involving force, violence, moral turpitude, deceit, fraud, or the violation of any law regulating the act of solicitation, peddling, hawking, canvassing, or merchandising within the past five years in this state or subdivision thereof or of the United States.
- (19) Mobile vendors shall not leave their mobile vending units unattended at any time.

## § 146-16. Permit suspension or revocation.

- A. Upon recommendation of the Chief of Police and/or Chief Building Official, any permit shall be suspended or revoked by the City Clerk for any of the following reasons:
- (1) Any fraud, misrepresentation or false statement contained in the application for a permit;
  - (2) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares or merchandise;
  - (3) A conviction of the permittee of any felony or misdemeanor involving moral turpitude;
  - (4) Conducting the business permitted under this chapter in an unlawful manner or in such a manner as to threaten the health, safety or general welfare of the public; or
  - (5) Any violation of this chapter or failure to follow the City's policy governing vending in the parks.
- B. Upon the suspension or revocation of a permit, the City Clerk shall provide written notice to the permittee, setting forth the specific reason(s) for the suspension or revocation. Such notice shall be sent by certified mail, return receipt, to the permittee's local address.
- C. If a permit is revoked, the permittee shall not be allowed to apply for a permit for five full calendar years from the date of the revocation for any permits listed under this chapter.

## Article VI. Enforcement; Violations and Penalties

### § 146-22. Enforcement.

It shall be unlawful to violate any provisions of this chapter. It shall be the duty of the Chief of Police or Chief Building Official 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.

## § 146-23. Violations and penalties.

Unless otherwise specified in this chapter, article or section, any person violating any provisions of this chapter shall be deemed guilty of a misdemeanor. 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. Each day or part thereof in which a violation under this chapter continues shall be a separate offense.