

## Chapter 133, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Common Council of the City of Lockport 4-6-1960. Amendments noted where applicable.]

### § 133-1 Definitions.

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

**PUBLIC PLACE** -- A place other than private property.

**SOLICITOR** -- Any person who goes from place to place or house to house or who stands in any street or public place, taking or offering to take orders for goods, wares or merchandise, or for service to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

**VENDOR, HAWKER OR PEDDLER** -- Except as hereinafter expressly provided, any person, either principal or agent, who, from any boat or car, on a railroad track or on any public street or public place, or by going from house to house on foot or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise.

### § 133-2 License required.

No person shall engage in a business, occupation or activity (hereinafter collectively referred to as "vending" or to vend" of a vendor, hawker, peddler, salesman, canvasser or solicitor of goods, wares and merchandise, as buyer or seller (hereinafter called "vendor" or "vendors"), in the public streets and places and from door to door within the City without first applying for and securing a license, hereinafter called a "vendor's license," as hereinafter provided.

### § 133-3 Application; fee.

- A. An applicant for a license shall execute an application form at the office of the City Clerk, which application form shall require the following: [Amended 6-4-2003; 5-3-2006; 9-20-2006]
- (1) The applicant's name, residence, places of residence previous to moving to present address, including out-of-state addresses, and business and local address, if any.
  - (2) A physical description of the applicant, setting forth the applicant's age, sex, height,

weight, complexion, color of hair and eyes and any other distinguishing physical characteristics. Each applicant must submit with the application two unmounted, unretouched photographs of self, two inches by two inches in size showing only head (uncovered), neck, and shoulders, taken within 30 days preceding the filing of the application. One photograph shall be attached to the permit when issued, and the other shall be filed with the application. The photograph shall be so attached to the permit that it cannot be removed and another photograph substituted without detection. When the application for a permit is denied, the photographs shall be returned to the applicant by the City Clerk.

- (3) The name and address or local principal office of the person, firm, organization or corporation, if any, for or through whom or under whose auspices the applicant is authorized to conduct such activity; if a partnership, the names and addresses of the partners; if a corporation, the names and addresses of the president, vice president, secretary and treasurer: or a statement that the applicant is engaged in such activity solely on his own behalf.
  - (4) A brief description of the type or types of articles or services for which sales, purchases or orders are to be solicited.
  - (5) A statement as to the approximate amount to be collected by the applicant and whether in full or partial payment.
  - (6) The length of time during which the applicant intends to remain in the City of Lockport for the purpose of engaging in such activity.
  - (7) A statement whether any license similar to or like that provided for in this chapter was issued or denied to the applicant within the current or prior calendar year, whether in Lockport or elsewhere, and, if issued, whether such license had, been revoked, setting forth the reasons for such revocation.
  - (8) A statement as to whether the applicant has been convicted of any crime or misdemeanor, and, if so, the place where, the nature of the offense and the punishment or penalty assessed therefor, or if the matter is pending. Submission of a criminal background check shall be required upon request at the applicant's expense.
  - (9) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.
- B. The applicant, at the time of executing such application, shall also submit identification satisfactory to the City Clerk which shall contain a specimen of the applicant's signature. The City shall not be required to issue a license to any person who has been convicted of any crime or misdemeanor or whose license has been previously revoked. [Amended 6-4-2003;

9-20-2006]

- C. Each applicant hereunder shall pay at the time of application a nonrefundable registration fee of \$35. [Amended 11-2-1983; 5-15-2002; 5-3-2006]
- D. In the event that the City Clerk determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within 45 days of the receipt of its application by the City Clerk, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than 10 days at any time before the notice is issued in order to make modifications necessary to comply with this chapter. [Added 9-20-2006]
- E. An applicant may appeal the decision of the City Clerk regarding a denial to the City of Lockport Common Council by filing a written notice of appeal with the City of Lockport Common Council within 15 days after the applicant is given notice of the City Clerk's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The City Clerk may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Common Council. After reviewing such memoranda, as well as the City Clerk's written decision, if any, and exhibits submitted to the City Clerk, the Common Council shall vote to either uphold or overrule the City Clerk's decision. Such vote shall be taken within 21 calendar days after the date on which the City Clerk receives the notice of appeal. However, all parties shall be required to comply with the City Clerk's decision during the pendency of the appeal. [Added 9-20-2006]

#### **§ 133-4 Term and form of license.**

The license issued hereunder shall be for a term expiring on December 31 of the year in which the same is issued. Such license shall be signed by the City Clerk. The form shall include the name and address of the applicant; the name and address of the person, if any, for or through whom or under whose auspices the applicant is authorized to vend, or, if none, a statement to such effect; a brief description of the type or types of the goods, wares and merchandise to be vended; and the expiration date of the license.

#### **§ 133-5 Revocation of license.**

Any license issued hereunder may be revoked by the Mayor for any violation of this chapter or other sufficient cause shown, after a hearing on three days' written notice of cause of revocation and at which the licensed person shall be given an opportunity to be heard. Such written notice shall be given by registered mail, addressed to the local address set forth in the application of the

licensed person, or delivered personally to the licensed person. In the event that the license is revoked, there shall be no return of the registration fee.

**§ 133-6 Transferability and renewal of license.**

The license herein provided for is not assignable. It may be renewed at its expiration only upon the execution and approval of a new application.

**§ 133-7 Restrictions on vendors.**

- A. A vendor shall have such license in his possession at all times and shall exhibit the same at any time upon demand by any police officer, City official or the person approached by any vendor.
- B. A vendor shall not conduct activities in such manner as will interfere with the pedestrian or vehicular use of the public streets and places.
- C. A vendor shall not directly or indirectly cause or permit the public streets and places to be littered with papers, wrappings or other debris or refuse.
- D. A vendor shall not enter any house or building where there is posted on the front of the building or premises a written notice stating that vendors are not desired, unless the vendor has received the prior consent of the occupant thereof.
- E. A vendor shall make no false statements or misrepresentations in the course of his activities and shall conduct himself at all times in an orderly and lawful manner.
- F. A vendor shall not use or blow upon or ring or sound any instrument or thing, or shout or cry out for the purpose of attracting attention to his wares or giving notice of his approach.
- G. A vendor shall not sell any confectionery or ice cream within 250 feet of any school property line between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- H. A vendor shall not solicit any business after dusk on any day. [Added 11-30-1966; amended 7-7-1988]
- I. Vendors shall not engage in vending within the Central Business District described below during the Canal Concert Series events unless such vendor has a current City of Lockport vendor's permit; established proof that the vendor has been a resident of Niagara County for the period of one year prior to said event; and received a special permit approved by the Mayor. The City reserves the right to designate the location. This chapter shall apply to the following area situate within the City of Lockport: beginning at the northeast corner of the

intersection of East Avenue and Washburn Streets; thence southerly along the easternmost boundary of Washburn Street to the southeast corner of the intersection of Washburn and Walnut Streets; thence westerly along the southernmost boundary of Walnut Street to the southeast corner of the intersection of Walnut and South Transit Streets; thence northerly along the easternmost boundary of South Transit Street to the northeast corner of the intersection of Transit and Main Streets, at which point South Transit Street becomes North Transit Street; thence easterly along the northernmost boundary of Main Street to the place of beginning. All buildings, structures and individual parcels of real property located within the aforesaid boundaries or immediately contiguous thereto shall be included under the provisions of this chapter. [Added 6-4-2008]

**§ 133-8 Weights and measures.**

Any vendor carrying, keeping or using scales, measures or other appliances for weighing or measuring shall first have the same inspected by the Sealer of Weights and Measures, and if the latter shall find such appliances correct and true he shall issue his certificate to that effect and such certificate shall be affixed thereto in a conspicuous place. A vendor shall not carry, keep for use or use any such appliances which shall not be correct and true and do not record and give the weight and quantity claimed by said vendor.

**§ 133-9 Exemptions. [Amended 11-2-1983]**

The following persons or organizations shall be required to obtain a vendor's license in the manner required by this chapter, except that such persons or organizations shall be exempt from any fee provisions otherwise required by this chapter:

- A. Honorably discharged members of the Armed Forces of the United States and a veteran of any war who shall have obtained a license from the County Clerk of the County of Niagara pursuant to the provisions of § 32 of the General Business Law of the State of New York. However, such persons must present the license issued by the County Clerk to the City Clerk, who will issue a City license without payment of registration fee. Such persons shall otherwise be subject to the requirements of this chapter.
- B. Vendors of newspapers, farmers and growers of farm and garden produce.
- C. Salesmen calling on and selling directly to governmental, business and commercial establishments.
- D. Salesmen duly licensed by the State of New York while engaged in the activity for which they are licensed.

- E. Minors 18 years of age or under engaged in providing such services as snow shoveling, grass cutting, leaf raking, lawn clearing and other similar home services as an independent contractor.
- F. Solicitations, sales or offers on behalf of a society, association or corporation organized and operated exclusively for charitable, educational, civic, patriotic, benevolent, religious, philanthropic purposes and not for pecuniary benefit, no part of the net earnings of which inure to the benefit of any private shareholder or individual, when such solicitation, sale or offer is carried out on behalf of such society, association or corporation by volunteers or persons employed on an annual basis for a fixed wage or salary.
- G. Solicitations at the regularly appointed meetings or services in the regular place of worship or exercises of any church, religious society, lodge, benevolent order or fraternity, labor union, veterans organization or political party, fire company or any branch thereof.

**§ 133-10 Penalties for offenses. [Added 11-2-1983]**

An offense against the provisions of this chapter shall constitute a violation under the Penal Law and shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.