

A BILL FOR AN ORDINANCE AMENDING LEBANON ) Ordinance Bill No. 36  
MUNICIPAL CODE CHAPTER 5.32, PEDDLERS, STREET ) for 2002  
VENDORS AND ITINERANT MERCHANTS ) Bill Number 2323

THE PEOPLE OF THE CITY OF LEBANON ORDAIN AS FOLLOWS:

**Section 1.** Chapter 5.32 of the Lebanon Municipal Code is amended to read as follows:

**5.32.005 Purpose.**

The purpose of this chapter is to regulate the use of public streets, roadways, sidewalks, and open spaces by peddlers, street vendor and itinerant merchants, as well as protect public health and safety by regulating those who provide or offer goods or services to the public not from an established or fixed location.

**5.32.010 Definitions.**

A. "Nonprofit organizations" means any corporation, association, society or other organization which is organized or associated together on a nonprofit basis and the purpose of such organization or association, in its operations, is conducted without the intent to produce profit in money.

B. "Peddler" includes any person traveling by any means from place to place, house to house or street to street, offering or exposing goods, wares, merchandise or services for sale, or making sales and delivering articles to purchasers or taking or attempting to take orders for sale of goods or services for future delivery or seeking money or contributions for charitable causes.

C. "Person" includes the singular and plural, and any firm, corporation, association, partnership, society or other organization.

D. "Itinerant Merchant" includes any person who offers goods or services to the public on a temporary (less than 30 days) basis whether from a, vehicle, trailer, table, booth or cart provided that the business location remains fixed for the term of the license.

E. "Street vendor" includes any person traveling by any means from place to place, business to business, street to street, or located in any open space outside an enclosed building, and utilizing or employing any cart, trailer, vehicle or other mobile device offering or exposing goods, wares, merchandise or services for sale, or making sales and delivering articles to purchasers, but not going door to door to individual residences .

**5.32.020 License--Required.**

It is unlawful for any person to engage in business as a peddler, street vendor, or itinerant merchant

as defined in this chapter, within the corporate limits of the city without first obtaining a license as provided in this chapter.

### **5.32.030 Exemptions--Regular business calls.**

“Peddler,” “street vendor,” or “itinerant merchant” shall not be interpreted to include those persons calling upon business firms, either in delivery of goods or soliciting orders for merchandise, goods or services which are regularly handled or used by the business firms in their regular course of business. This exemption shall not apply to those peddlers, street vendors or itinerant merchants who call on a series of business firms to offer goods or services not directly related to the principle business activity of the business firm being solicited.

### **5.32.040 Exemptions.**

A. Certain Deliveries. This chapter shall not be interpreted to apply to milk, grocery or other merchandise deliveries, or services ordered by a resident or sold by an area merchant and delivered to the purchaser as a service.

B. Subscriptions & Application. No license shall be required of a newspaper carrier soliciting subscriptions or a nonprofit organization making applications on behalf of its members recognized under provisions of the Internal Revenue Code Section 501c.

C. Direct Contact. These provisions shall not apply to any individual, or group, desiring to contact persons on a door-to-door basis for personal, political, charitable, religious or philanthropic purposes provided that there is no selling of merchandise or services, or solicitation of contributions.

### **5.32.060 License--Application--Contents.**

A licensee under this chapter must file with the city recorder a sworn application, in writing, on a form to be furnished by the city recorder, which shall give the following information:

A. The full legal name, including all former names and aliases, and description of the applicant or, if made on behalf of a nonprofit organization, the name and address of an officer whose residence is in the city;

B. Address, both permanent and local, if any;

C. A brief description of the nature of business and the goods or services to be sold. In the case of products of farms or orchards, a statement whether the produce to be sold is grown by the applicant;

D. If the applicant is employed, the name and address of the employer, together with credentials establishing an exact relationship, except in the case of a nonprofit organization, and a photograph of the applicant shall be furnished, which photograph shall have been taken within sixty days immediately prior to the date of the filing of the application and shall be two inches in dimension, showing the head and shoulders of the applicant in a clear and distinguishing manner.

E. The period of time during which the solicitation is to be carried on.

F. The social security number and driver's license number and date of birth of the applicant and all employees of the applicant engaging in solicitation in the city.

G. Proposed business location(s), if any, and written approval from the respective property owner(s).

H. Blanket Application: Established educational, religious, charitable or nonprofit organizations may apply for a blanket annual license, at no charge, provided the general dates and nature of all peddlers, street vendors or itinerant merchant activities are described in the blanket application.

#### **5.32.070 License--Application--Investigation.**

Upon receipt of an application, the same shall be referred to the chief of police, who shall cause investigation of the applicant's business and moral character to be made as shall be deemed necessary for the protection of the public interest.

#### **5.32.080 License--Application--Endorsement.**

The chief of police, within fifteen days from the date of the application, shall endorse the application as "satisfactory" or "unsatisfactory," and if the same is endorsed unsatisfactory, the reason for such endorsement shall be set forth thereon. If the application is not returned to the city recorder within fifteen days, it shall be presumed that the endorsement is satisfactory unless the chief of police has requested of the city recorder additional time to investigate the applicant.

#### **5.32.090 License--Issuance--Contents-- Recordkeeping.**

A. Where the application is endorsed "satisfactory" or (in those cases where the chief of police has not requested additional time) if fifteen days shall have elapsed without the return of the application by the chief of police, the city recorder shall then issue a license card addressed to the applicant for the carrying on of the business applied for.

B. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee, if such licensee is not a nonprofit organization, and the kind and nature of goods to be sold thereunder, the date of issuance and the expiration date of the license.

C. The City Recorder shall keep a permanent record of all licenses for a period of two years from the date of issuance.

**5.32.100 License--Disapproval--Notice.**

If the application is returned from the chief of police endorsed “unsatisfactory,” the city recorder shall notify the applicant that his application has been disapproved.

**5.32.120 License--Firms.**

Persons, firms and organizations who employ several individuals as peddlers or solicitors shall apply for a license in the name of the firm and each individual representing the firm within the city limits, and shall provide such information as required in Section 5.32.060 of this Chapter for which there shall be a fee as established by City Council Resolution..

**5.32.130 License--Term.**

All licenses shall run from 30 days to one year from the date of issue, at the option of the applicant.

**5.32.140 License--Nontransferability.**

No license shall be used at any time by any person other than the one to whom it is issued.

**5.32.150 License--Exhibition.**

Peddlers, street vendors and itinerant merchants are required to display or exhibit their license card at all times.

**5.32.160 License--Denial or Revocation--Grounds.**

Licenses may be denied or revoked by the City Recorder for any of the following causes:

- A. Fraud and misrepresentation or false statement contained in an application for license;
- B. The applicant has been convicted of a crime involving unlawful trade practices, as defined in state law, fraud or moral turpitude within the last seven years.
- C. Any violation of this chapter;

D. The applicant has been the subject of an unreasonable number of consumer complaints in the last five years or has been the subject of an unlawful trade practice suit or investigation which resulted in the assessment of civil penalties.

E. Conducting the business of peddling or soliciting in an unlawful manner or in such a manner to constitute a menace to the health, safety or general welfare of the public.

F. The applicant is unable to provide proof of compliance with all relevant federal, state or county regulations, bonding or licensing requirements.

G. Upon receipt of two or more written and signed complaints relating to any interference of a citizen, blocking of public right-of-way, unsanitary conditions or other violations of city, county or state regulations of sufficient merit and gravity to warrant a denial or revocation of a license.

**5.32.170 License–Denial or Revocation--Hearing notice.**

Notice of a license denial or revocation shall be given in writing, setting forth the grounds of the denial or revocation as well as the applicants right of appeal as provided in Section 5.32.180 of this chapter. Such notice shall be mailed, postage prepaid, to the applicant or licensee at the address on file with the City has shown on the license or in the application.

**5.32.180 Appeal.**

Any person aggrieved by the action by the chief of police or the city recorder in denial or revocation of his license shall have the right to appeal to the city council. Such appeal shall be taken by filing with the council, within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for the hearing of such appeal and notice of such hearing shall be given to the appellant in the same manner as notice of revocation. The decision and order of the council on such appeal shall be final and conclusive.

**5.32.190 Enforcement authority.**

It shall be the duty of any police officer of the city to require any person seen peddling or soliciting and who is not known by such officer to be duly licensed to produce his license card and to enforce the provisions of this chapter against any person found to be violating the same.

**5.32.200 Prohibited activities.**

Selling goods on the public streets, sidewalks, or in areas not within an enclosed building in the city is specifically prohibited. The following exceptions to this prohibition shall apply:

A. The holder, or designate of the holder, of a parade license properly issued pursuant to Chapter 10.48 of this code, shall be permitted to engage in selling goods on the public streets and sidewalks during, and in the immediate vicinity of, the parade or other public event for which that license was issued.

B. Other persons, firms or organizations may engage in selling goods on sidewalks only during, and in the immediate vicinity of, a properly licensed parade or other public event.

C. Any other persons, firms or organizations may engage in selling goods in areas not within an enclosed building, as allowed after applying for and obtaining a license as required by this chapter or by other provision of this code. (Ord. 2047 §§ 9, 1989: Ord. 1987 §§ 1, 1986: Ord. 1802 §§ 1 (part), 1980: Ord. 1138 §§ 11(1), 1963)

D. If a residence or business has a posted sign advising that solicitation and or solicitors are not welcome, or unwanted, then peddlers or street vendors may not solicit or call upon such locations.

E. Door to door solicitation shall only occur between the hours of 10:00 a.m. and 7:00 p.m. There shall be no door to door solicitation on Sundays.

F. No street vendor or itinerant merchant shall sell, or offer for sale, goods or services from any cart, trailer, vehicle facility, or other equipment that is not maintained in a clean, sanitary, and neat condition and which shall conform to all standards prescribed by city, county and state law.

G. No street vendor or itinerant merchant shall block or interfere with parking, public safety access, public signage, clear vision areas or in anyway impair or impede the safe use of public or private property.

#### **5.32.210 Business call restriction.**

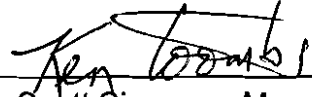
The practice of entering places of business for the purpose of selling or soliciting orders for sale of goods which are not used or handled in the regular course of that business is specifically prohibited.

#### **5.32.220 Violation--Penalty.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof in the municipal court, be punished by a fine not to exceed five hundred dollars.

Section 2. The provisions of this ordinance shall become effective thirty days after its passage by the City Council.

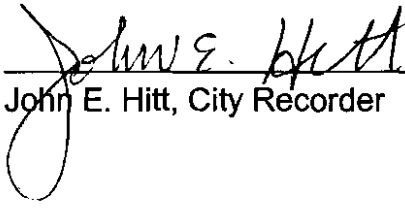
Passed by the City Council by a vote of 5 yes and 0 no, on this 14 day of August, 2002.



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J. Scott Simpson, Mayor

Ken Toombs, Council President

Attest:



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John E. Hitt, City Recorder