

Chapter 5.64 PEDDLERS¹

5.64.010 Definitions.

For purposes of this Chapter, the following definitions apply unless the context in which they are used clearly requires otherwise:

"Certified Farmers Market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

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"Chief of Police" means the Chief of Police of the City or his or her designee.

"City" means the City of Beaumont.

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"Director" means the Planning Director of the City or his or her designee.

"Food" means any type of raw, cooked, or processed edible substance, including any food product or beverage.

"Merchandise" means goods, wares, merchandise, meats, fish, vegetables, fruits, farm products, or prepared foods.

"Peddler" shall mean any person, traveling by foot, automotive vehicle, or any other type of conveyance from place to place, house to house, or from street to street carrying, conveying, or transporting merchandise and offering and exposing the same for sale, or making sales and delivering articles to purchasers, or any person who traveling from place to place, shall sell or offer for sale such merchandise from an automotive vehicle, or other vehicle or conveyance; or any person who solicits orders and as a separate transaction makes deliveries to purchaser. "Peddler" shall not include a person engaged in, conducting or carrying on the business of vending on a sidewalk, pursuant to a valid permit issued pursuant to Chapter 5.66.

"Swap Meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, outdoor concerts, festivals, carnivals, and street fairs.

"Vend" or "vending" means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase, food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

(Ord. No. 1110 , § 3, 9-3-2019)

¹Ord. No. 1110 , § 3, adopted Sept. 3, 2019, repealed the former Ch. 5.64, §§ 5.64.010—5.64.220, and enacted a new Ch. 5.64 as set out herein. The former Ch. 5.64 pertained to commercial peddlers, solicitors and itinerant merchants and derived from Ord. No. 992, § 2, adopted May 3, 2011.

5.64.020 Permit required.

No person shall engage in, conduct, or carry on the business of vending as a peddler without a permit issued under the provisions of this Chapter.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.030 Permit application.

Every person, prior to engaging in, conducting, or carrying on the business of a peddler, shall file an application for a permit with the Director or his or her designee, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name, current mailing address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A copy of a California's driver's license or identification number, an individual taxpayer identification number, or a social security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order;
- D. A description of the merchandise;
- E. A current valid California seller's permit number pursuant to Section 6067 of the California Revenue and Taxation Code;
- F. If a vendor of food, a food handler certificate issued by the Riverside County Department of Environmental Health and other applicable requirements of the County.
- G. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any damage or injury caused to the City as a result of the peddler conduct or activity;
- H. Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
- I. Any other reasonable information regarding the time, place, and manner of the proposed peddler activities.
- J. The applicant's consent to a fingerprint check by the Chief of Police or his designee.

Applications for permits shall be filed a minimum of 30 days prior to the date requested for issuance of the permit. Renewal permit applications shall be filed a minimum of 30 days prior to the expiration of any existing permit.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.040 Issuance of permit.

The Director or his designee shall grant a peddler permit within ten days after receiving the completed application and proof of a valid City business license if he or she finds that all of the following requirements have been met:

- A. The business license fees have been paid.

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- B. The application conforms in all respects to the provisions of this Chapter.
 - C. The applicant has not made a material misrepresentation of fact in the application.
 - D. The applicant has not had a similar permit or license denied or revoked by the City within one year prior to the date of the application.
 - E. The applicant has not been convicted, during the three-year period immediately preceding the issuance of the permit, of any offenses involving the sale of a controlled substance specified in sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code in conjunction with, or while conducting, business or activity as a peddler.
 - F. The applicant has obtained any other applicable City or county permits, including any City or county health permit required for the preparation and sale of food products.
 - G. The applicant has obtained a valid City business license and paid the appropriate business license fee.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.050 Denial of permit.

If the Director or his designee finds that all the requirements of Section 5.64.060 of the Municipal Code have not been met, he or she shall deny the application for the peddler permit. Written notification of denial of the permit application, setting forth the grounds for denial, shall be served on the applicant by personal delivery or by first class and certified or registered mail, return receipt requested, addressed to the applicant at his or her mailing address as set forth in the permit application. Notice of denial of the application shall be deemed to have been served on the date it is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her mailing address as set forth in the permit application, regardless whether the certified mail receipt is returned to the City signed or unsigned.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.060 Conditions imposed on permit.

Any person issued a permit pursuant to this Chapter shall comply with all operating requirements that are imposed as part of the permit pursuant to Sections 5.64.150 and 5.64.160 of this Chapter.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.070 Permit expiration.

A permit issued pursuant to this Chapter shall be effective for a period of one year from the date of issuance.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.080 Permits nontransferable.

No permit issued pursuant to this Chapter shall be transferable.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.090 Revocation of permit.

The Director may revoke a permit issued under this Chapter for any of the following reasons:

- A. The permittee has made a material misrepresentation in the application.
- B. The permittee has committed violations of this Chapter on four or more separate days;
- C. The permittee has failed to maintain the insurance required by this Chapter;
- D. The permittee has failed to comply with applicable federal, state or local laws and regulations;
- E. The permittee has conducted the vending in a manner which endangers the public health or safety.
- F. The permittee's conviction at any time of an offense involving the sale of a controlled substance specified in sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code in conjunction with, or while conducting, peddler business or activity.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.100 Notice of hearing and grounds for revocation.

Prior to the revocation of a permit issued under this Chapter, the permittee shall be notified in writing of the grounds for the revocation of the permit and a hearing shall be held thereon. Written notification of revocation of the permit, setting forth the grounds for the revocation, shall be served on the permittee by personal delivery or by first class and certified or registered mail, return receipt requested, addressed to the permittee at his or her mailing address as set forth in the permit application. Notice of revocation of the permit shall be deemed to have been served on the date it is personally served on the permittee or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her mailing address as set forth in the permit application, regardless whether the certified mail receipt is returned to the City signed or unsigned. Notice of the hearing shall be given in accordance with Chapter 1.17 of the Municipal Code to the permittee at least ten days prior to the hearing.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.110 Emergency temporary suspension of permit.

Where the conduct or the activity of the permittee creates an imminent peril to the public health or safety, a permit issued pursuant to this Chapter may be summarily suspended upon notice to the permittee, provided that the permittee shall be entitled to a hearing within three days thereafter and any emergency suspension shall not exceed 15 days pending a hearing under Section 5.64.100.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.120 Conduct of hearing on suspension or revocation.

The Director shall conduct a hearing and make the determination on the suspension or revocation of a permit. The Director may promulgate rules of procedure for such hearings, which shall recognize the right of the permittee to be heard and to call witnesses on the permittee's behalf.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.130 Decision of hearing on suspension or revocation.

The decision of the Director shall be rendered within ten days of the close of the hearing. The decision shall be in writing and shall set forth the findings and reasons for the decision, and the permittee shall be notified in writing of his or her right to appeal to the Hearing Officer as set forth in Section 5.64.140.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.140 Appeal to Hearing Officer.

- A. Any applicant for a permit under this Chapter, or a permittee, shall have the right to appeal from a decision by the Director to deny a permit application or to revoke a permit, by filing with the City Clerk a written notice of appeal, specifying the grounds for such appeal, within 15 days after the decision has been served on the applicant or permittee. Such appeal shall be heard by the Hearing Officer, as designated by the City Council from time to time, or by an administrative hearing officer designated by or at the request of the Hearing Officer, upon not less than 15 days' written notice to the appellant. The Hearing Officer, as the designated administrative hearing officer, shall consider all relevant evidence at the hearing, continue the hearing for good cause, and require such legal briefing as may be required to address any issues raised by the appeal. Within a reasonable time, but not more than 30 days following the conclusion of the hearing, the Hearing Officer or the designated administrative hearing officer shall issue a written decision affirming, denying or modifying the decision from which the appeal was taken, supported by factual findings and determinations referenced by supporting evidence. The decision of the Hearing Officer or designated administrative hearing officer shall be final. The written decision shall be served on the appellant as provided in Code of Civil Procedure section 1094.6(b), with a copy submitted to the City Clerk. The written decision shall include a notice to the appellant that the decision is subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure section 1094.6. If a timely appeal is filed, any revocation shall be stayed pending the decision of the Hearing Officer. Otherwise, the revocation shall become effective immediately upon expiration of the period for filing an appeal.
- B. No person whose permit is finally denied or revoked shall be eligible to apply for a new permit for a period of one year following such final action.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.150 Operating requirements.

- A. Except as otherwise permitted in this Chapter or the Municipal Code, no peddler shall vend in the following locations:
 - 1. To the fullest extent permitted by law, Any public property, including, without limitation, streets, alleys, and City-owned parking structures;
 - 2. Within 100 feet of a police officer, firefighter, or emergency medical personnel who is actively performing his or her duties or providing services to the public;
 - 3. Within 100 feet of a street intersection or traffic signal;
 - 4. Within 15 feet of a fire hydrant, fire call box, police call box, traffic signal controller, or streetlight controller;
 - 5. Within ten feet of any driveway or driveway approach;
 - 6. Within ten feet of a marked crosswalk;

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7. Within ten feet of the curb return of an unmarked crosswalk;
 8. Within any median strip or dividing section;
 9. Within 200 feet of a Police Station or Fire Station.

10. Within 200 feet of a Certified Farmers Market or Swap Meet during the limited operating hours of that Certified Farmers Market or Swap Meet.

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11. Within 200 feet of an event held pursuant to a Temporary Special Permit during the limited duration of that special event, provided the City provides the peddler any notice, business interruption mitigation, or other rights the City provided to any affected business or property owners under the City's Temporary Special Permit.

- B. Vending is permitted only between the hours of 8:00 a.m. and 9:00 p.m. or one-half hour after sunset, whichever comes first, except that the hours of operation in non-residential areas shall not be more restrictive than the hours of operation imposed on other businesses or uses on the same street.
- C. Peddlers shall possess at all times, while vending, a copy of a valid current permit issued pursuant to this Chapter, as well as any other permit required by any other appropriate governmental agency. The peddler shall display a copy of the permit upon request by authorized City employees.
- D. If a peddler of food, the peddler shall possess and display in plain view on a valid current mobile food facility permit from Riverside County Department of Public Health and, if issued by the Riverside County Department of Environmental Health, a grade.
- E. Peddlers shall comply with all applicable state and local laws, as amended from time to time, including without limitation, Chapter 9.02 (Noise Control) of the Municipal Code, Chapter 9.36 (Panhandling, Soliciting and Aggressive Solicitation the Municipal Code (Aggressive Solicitation), Chapter 8.04 (Food Handlers) of the Municipal Code, applicable California Health and Safety Code and Riverside County Ordinances, state Food labeling and preparation requirements, fire codes and regulations, and the Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards (both state and federal).
- F. Peddlers shall not engage in any of the following activities:
 1. Vending lottery tickets, alcohol, cannabis, adult oriented material, or tobacco or electronic cigarette products;
 2. Vending illegal or counterfeit merchandise;
 3. Damaging public or private property, including trees, shrubs, grass, flowers, plants or vegetation;
 4. Causing vehicles to stop in traffic lanes or persons to stand in traffic lanes or parking spaces; or
 5. Vending in a manner that blocks or obstructs the free movement of vehicles, including parked vehicles.
 6. Where food of any kind is dispensed from a vehicle, pushcart or other conveyance, shall maintain a clearly designated litter receptacle in the immediate vicinity, marked with a sign requested use by patrons; and provided further, prior to leaving the location, shall pick up, remove, and dispose of all trash or refuse which consists of materials originally dispensed by that person, including any packages or containers, or parts thereof, used with or for dispensing such food.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.160 Identification card.

Every peddler that vends food shall obtain a food handler card issued by the Riverside County Department of Environmental Health, and shall have the food handler card and a valid and current photo identification card in

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(Supp. No. 7, Update 3)

their possession at all times when engaged peddler activity. The food handler card shall be displayed to any police officer or other authorized City employee upon request of such police officer or authorized City employee.

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.170 Administrative citations.

- A. In accordance with Government Code section 51039, a violation of this Chapter by a peddler who has a valid current permit issued by the City pursuant to this Chapter is punishable only by an administrative citation, in amounts not to exceed the following:
 - 1. One hundred dollars for a first violation.
 - 2. Two hundred dollars for a second violation within one year of the first violation.
 - 3. Five hundred dollars for each additional violation within one year of the first violation.
 - 4. The City may revoke a permit issued to a peddler for the term of that permit upon the fourth violation or subsequent violations.
- B. In accordance with Government Code section 51039, a violation of this Chapter by a person engaged in peddler activity without a valid current permit issued pursuant to this Chapter is punishable only by an administrative citation, in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:
 - 1. Two hundred fifty dollars for a first violation.
 - 2. Five hundred dollars for a second violation within one year of the first violation.
 - 3. One thousand dollars for each additional violation within one year of the first violation.
 - 4. Upon proof of a valid permit issued by the City pursuant to this article, the administrative citations set forth in this paragraph shall be reduced to the amounts set forth in paragraph A.
- C. It shall constitute a new and separate offense for each and every hour during any portion of which a violation of, or failure to comply with, any provision or requirement of this Chapter is committed, continued, or permitted by any person.
- D. A violation of this Chapter shall not be punishable as an infraction or misdemeanor and a person alleged to have violated any provision of this Chapter shall not be subject to arrest except when permitted under law. Further, failure to pay an administrative citation issued pursuant to this Chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- E. When assessing administrative citations pursuant to this Chapter, the administrative hearing officer shall take into consideration the person's ability to pay the fine. The administrative hearing officer shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
- F. If the person meets the criteria described in subdivision (a) or (b) of California Government Code section 68632, the City shall accept, in full satisfaction, 20 percent of an administrative citation imposed pursuant to this Chapter.
- G. The administrative hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.

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(Supp. No. 7, Update 3)

(Ord. No. 1110 , § 3, 9-3-2019)

5.64.180 Exemptions.

The provisions of this Chapter shall not apply to transporting property owned or handled on consignment by the agents or employees of an established place of business, where such transportation is incidental to such business, and when such property is being transported to or from such established place of business. "Established place of business" shall mean any permanent warehouse, building, structure, or outdoor vending business which is owned or leased, and at which the owner or lessee carries on a legitimate permanent business in good faith and at which stocks of the goods transported are produced, stored, or kept in quantities usually carried and reasonably adequate to meet the requirements of the business.

(Ord. No. 1110 , § 3, 9-3-2019)