

Chapter 839 - PEDDLERS AND ITINERANT VENDORS ^[72]

⁽⁷²⁾ **Cross reference**— Peddling, begging prohibited, § 704-7; streets and sidewalks, use regulations, ch. 723; street solicitation, ch. 863.

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Sec. 839-1. - Definitions.

For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(C.M.C. 839-1; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979)

Analogous to C.O. 725-2; renumbered to C.M.C. 839-1, eff. Jan. 1, 1972; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-1-C. - Repealed.

(Ordained by Ord. No. 445-1983, eff. Sept. 21, 1983; a. Ord. No. 228-1984, eff. June 6, 1984; a. Ord. No. 41-1986, eff. Jan. 29, 1986; a. Ord. No. 251-1986, eff. July, 2, 1986; r. by Ord. No. 393-1997, eff. Nov. 13, 1997; reordained by Ord. No. 288-2000, eff. 8-2-00; r. Ord. No. 072-2001, eff. Mar. 14, 2001)

Sec. 839-1-D. - Downtown Vending District.

"Downtown Vending District" shall be defined as the area within the bounds beginning at the intersection of the north property line of East Central Parkway and the east property line of Eggleston Avenue as projected northeastwardly; thence south-

eastwardly along the projected east property line, the actual east property line, and projected east property line of Eggleston Avenue to the south city corporate limit; thence west along the south city corporate limit to the west property line of Central Avenue as projected southwardly to the city corporate limit; thence northwardly along the west property line of projected Central Avenue and the actual west property line of Central Avenue to the north property line of West Court Street; thence eastwardly along the north property line of West Court Street to the west property line of Plum Street; thence northwardly along the west property line of Plum Street to the projected north property line of West Central Parkway; thence east along the projected and actual north property line of Central Parkway to the west property line of Main Street, to the south property line of Liberty Street, thence eastwardly along the projected south property line of Liberty Street to the east property line of Main Street, thence southwardly along the east property line of Main Street to the actual north property line of East Central Parkway, thence eastwardly along the north property line of East Central Parkway to the point of beginning; except the Court Street Market as described in Section 845-5(a).

(Ordained by Ord. No. 393-1997, eff. Nov. 13, 1997; a. Ord. No. 431-1999, eff. Dec. 10, 1999)

Sec. 839-1-I. - Itinerant Vendor.

"Itinerant vendor" shall mean and include any person, firm or corporation, except any person peddling shopping bags in a city market pursuant to a permit issued by the market manager, and except peddlers on the street from vehicles or door-to-door, who engages in or conducts, either as principal or agent, in the City of Cincinnati, a temporary or transient business buying or selling goods, wares, merchandise, food, confectionery or drink with the intention of continuing such business in any one place for a period of not more than 120 days.

(C.M.C. 839-1-I; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 333-1981, eff. Aug. 5, 1981; a. Ord. No. 288-1994, eff. Aug. 8, 1994)

Analogous to C.O. 725-2; renumbered to C.M.C. 839-1-I, eff. Jan. 1, 1972; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-1-L. - Liberty-Dalton Vending District.

"Liberty-Dalton Vending District" shall be defined as the area beginning at a point being the intersection of the west right-of-way line of Dalton Street and the north right-of-way line of Flint Street. Thence north along the west right-of-way line of Dalton Street to the point of intersection with the south right-of-way line of Findlay Street. Thence east along the south right-of-way line of Findlay Street to the point of intersection with the east right-of-way line of Dalton Street. Thence south along the east right-of-way line of Dalton Street to the point of intersection with the north right-of-way line of Flint Street. Thence west along the north right-of-way line of Flint Street to the point of intersection with the west right-of-way line of Dalton Street, being the point and place of beginning.

(Ordained by Ord. No. 447-1985, eff. Sept. 11, 1985)

Sec. 839-1-P. - Peddler.

"Peddler" shall mean and include any person who goes from city-to-city, or from place-to-place, or from door-to-door, selling or offering to sell or barter, or carrying for sale or barter, or exposing therefor, any goods, wares, merchandise, food, confectionery, drink, or other commodity, carried by hand, from portable stands or tables, or by manually propelled vehicles, or by motor- or animal-drawn vehicles.

(C.M.C. 839-1-P; Ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 314-1982, eff. Sept. 3,

1982)

Analogous to C.O. Chapter 726; a. Ord. No. 265-1962, eff. Aug. 4, 1962; a. Ord. No. 90-1969, eff. Apr. 1, 1969; renumbered to C.M.C. Chapter 849, eff. Jan. 1, 1972; a. Ord. No. 327-1975, eff. Sept. 1, 1975; a. Ord. No. 139-1977, eff. Apr. 13, 1977; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-1-SV. - Short Vine Vending District.

"Short Vine Vending District" shall be defined as the area beginning at a point being the intersection of the north right-of-way line of Corry Street and the east right-of-way line of Vine Street. Thence north along the east right-of-way line of Vine Street to the point of intersection with the south right-of-way line of Martin Luther King Jr. Drive. Thence west along the south right-of-way line of Martin Luther King Jr. Drive to the point of intersection with the west right-of-way line of Vine Street. Thence south along the west right-of-way line of Vine Street to the point of intersection with the north right-of-way line of Corry Street. Thence east along the north right-of-way line of Corry Street to the east right-of-way line of Vine Street, being the point and place of beginning.

(Ordained by Ord. No. 0318-2007, § 1, eff. 10-6-2007; a. Ord. No. 363-2008, § 1, eff. Nov. 22, 2008)

Sec. 839-1-U. - University Hospital Vending District.

"University Hospital Vending District" shall be defined as the area beginning at a point being the intersection of the south right-of-way line of Piedmont Avenue and the west right-of-way line of Eden Avenue. Thence north along the west right-of-way line of Eden Avenue to the point of intersection with the north right-of-way line of Bethesda Avenue. Thence east along the north right-of-way line of Bethesda Avenue to the point of intersection with the northeast right-of-way line of Elland Avenue. Thence southeast and east along that right-of-way line and that right-of-way line extended to the east right-of-way line of Burnet Avenue. Thence south along the east right-of-way line of Burnet Avenue to the point of intersection with the south right-of-way line extended of Piedmont Avenue. Thence west along the south right-of-way line extended and the right-of-way line of Piedmont Avenue to the point of intersection with the west right-of-way of Eden Avenue, being the point and place of beginning.

(Ordained by Ord. No. 447-1985, eff. Sept. 11, 1985)

Sec. 839-3. - Scope of Chapter.

The provisions of this chapter do not apply to:

- (a) Sales made to dealers by commercial travelers or selling agents in the usual course of business;
- (b) Bona fide sales of goods, wares or merchandise by samples for future delivery;
- (c) Sales at trade shows or conventions;
- (d) Sales or solicitations made pursuant to Chapter 863, Street Solicitations, of the Cincinnati Municipal Code;
- (e) Sales from city market spaces regulated under Chapter 845, Markets, of the Cincinnati Municipal Code or sales otherwise authorized by Chapter 845
- (f) Sales of tickets to an event, without regard to whether the sale is regulated under Chapter 840, Street Ticket Sales, of the Cincinnati Municipal Code; or

(g) Sales from Neighborhood Farmers Market Project sites on city-owned, non-right-of-way property, provided that such sites have been approved by the city manager.

(C.M.C. 839-3; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 393-1997, eff. Nov. 13, 1997; a. Ord. No. 072-2001, eff. Mar. 14, 2001; a. Ord. No. 189-2001, eff. June 20, 2001)

Sec. 839-5. - Operation Without License Unlawful; Failure To Display License and Identification Card Unlawful.

No person, firm or corporation shall engage in the business or trade of itinerant vendor without first obtaining a license from the city treasurer. The itinerant vendor's license shall be displayed at all times. Each day's operation of such business without a license shall constitute a separate offense.

No person shall engage in the business or trade of peddler without first obtaining a license and identification card from the city treasurer. The peddler license shall be displayed conspicuously at all times upon the peddler's stand, cart or container. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times upon the peddler's stand, cart or container. The identification card issued by the city treasurer shall be worn conspicuously and affixed to the outer garment of the peddler at all times. The identification card is not a license and shall so state.

(C.M.C. 839-5; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 314-1982, eff. Sept. 3, 1982; reordained by Ord. No. 467-1982, eff. Nov. 10, 1982; a. Ord. No. 136-1988, eff. May 27, 1988; a. Ord. No. 072-2001, eff. Mar. 14, 2001)

Analogous to C.O. 725-1; renumbered to C.M.C. 839-3, eff. Jan. 1, 1979; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-6. - Operation Without License Unlawful.

No person, firm or corporation shall engage in the business or trade of itinerant vendor or peddler without first obtaining a license from the city treasurer. Each day's operation of such business without a license shall constitute a separate offense.

(C.M.C. 839-5; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979)

Analogous to C.O. 725-1; renumbered to C.M.C. 839-3, eff. Jan. 1, 1972; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-7. - License Fees.

The license fee for engaging in the trade or business of itinerant vendor shall be \$150 for each day that such business is to be carried on. The license shall terminate with the last day for which such license fee shall have been paid.

The minimum license fee for engaging in the trade or business of peddler shall be \$150 for a minimum period of one year. The license period may be extended at the time of issuance for a period not to exceed the number of calendar days which will extend the expiration date to the last day of the months of March, June, September or December which month and day first comes following the expiration date of the minimum license period. The fee for extension beyond the minimum one-year license period shall be 50 cents per calendar day.

(C.M.C. 839-7; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 314-1982, eff. Sept. 3, 1982; a. Ord. No. 262-1985, eff. July 5, 1985; a. Ord. No. 272-1985, eff. June 12, 1985)

Analogous to C.O. 725-4; a. Ord. No. 90-1969, eff. Apr. 1, 1969; renumbered to C.M.C. 839-7, eff. Jan. 1, 1972; a. Ord.

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No. 327-1975, eff. Sept. 1, 1975; a. Ord. No. 313-1979, eff. Aug. 1, 1979; and to C.O. 726-1; a. Ord. No. 265-1962, eff. Aug. 4, 1965; a. Ord. No. 90-1969, eff. Apr. 1, 1969; renumbered to C.M.C. 849-1, eff. Jan. 1, 1972; a. Ord. No. 327-1975, eff. Sept. 1, 1975; a. Ord. No. 139-1977, eff. Apr. 13, 1977; a. Ord. No. 531-1977, eff. Dec. 29, 1977; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-9. - Application for Peddler License.

Each applicant for a peddler license shall file an application with the city treasurer in such form as prescribed by the city treasurer. The applicant may be an individual peddler or a person, firm or corporation on behalf of an individual peddler. In the case where a person, firm or corporation applies for the license on behalf of an individual peddler, the license shall be issued in the name of the applicant, the license shall also bear the name and identification card number of the peddler on whose behalf the license is issued. The identification card shall be issued in the name of the peddler on whose behalf the license was purchased. Each applicant for a peddler license shall furnish two photographs of the peddler on whose behalf the license is purchased, taken within 30 days preceding the date of application, of a size designated by the city treasurer, one of which shall be attached to a consecutively numbered identification card. Applicants for the sale of food or beverage shall exhibit to the city treasurer the necessary permit from the board of health.

In the case of loss of an identification card, the licensee shall file with the city treasurer a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency and upon payment of \$25 shall receive a replacement identification card. Each applicant for a replacement identification card shall furnish two photographs of the peddler on whose behalf the license was issued, of a size designated by the city treasurer, which photographs shall have been taken within 30 days of the date of application. The replacement identification card shall expire on the same date as the original being replaced.

(C.M.C. 839-9; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 314-1982, eff. Sept. 3, 1982; reordained by Ord. No. 467-1982, eff. Nov. 10, 1982)

Analogous to C.O. 725-8; renumbered to C.M.C. 839-11, eff. Jan. 1, 1972; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-10. - Transfer of Identification Card.

The peddler license is nontransferable. When the license is issued to a person, firm or corporation on behalf of another peddler, the licensee may make application with the city treasurer to transfer the identification card from one peddler to another peddler. The licensee must exhibit the original license receipt and surrender the identification card to the city treasurer at the time of application for transfer. Each applicant for transfer of the identification card shall furnish two photographs of the peddler on whose behalf the identification card is to be issued of a size designated by the city treasurer, which photographs shall have been taken within 30 days of the date of application for transfer.

A fee of \$15.00 shall be charged for the transfer of an identification card. The transferred identification card shall expire on the same date as the original being transferred.

In the event the licensee fails to surrender the original identification card because it is lost or stolen, the application for transfer shall be accompanied by a signed and sworn affidavit that the identification card was lost or in the case of theft, a copy of the theft report submitted to any law enforcement agency. The fee for a replacement identification card shall be paid in addition to the transfer fee.

(Ordained by Ord. No. 467-1982, eff. Nov. 10, 1982)

Sec. 839-11. - Street Sales—General.

No person licensed as a peddler shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection or drink upon any highway or sidewalk or any other city-owned property within the City of Cincinnati except in accordance with all of the following provisions:

- (a) No merchandise shall be displayed or sold on Fountain Square, on the overhead walkway system, or in any parking lots or garages owned or operated by the City of Cincinnati.
- (b) No merchandise shall be displayed or sold to the occupants of vehicles stopped in traffic.
- (c) Each peddler selling from a motor or animal-drawn vehicle must comply with all traffic regulations at the location the vehicle is parked or standing.
- (d) No merchandise shall be displayed or sold at any location where the sidewalk is less than 12 feet in width from the private property line to the curbline.
- (e) No merchandise shall be displayed or sold within 20 feet from the point of intersection of the curb lines (except alleys), crosswalk, bus stop, escalator or stairway leading to or from the overhead walkway system.
- (f) No merchandise shall be displayed or sold within ten feet of a fire hydrant, a standpipe, a sprinkler intake, a doorway or other access point to abutting property, a store window or a sidewalk elevator.
- (g) No merchandise shall be displayed, or sold at a location which hinders or restricts access to a telephone booth, mailbox, parking meter, fire alarm call box or traffic-control box.
- (h) No merchandise shall be displayed or sold within 40 feet of the location at which another peddler is already displaying or selling merchandise except on Sundays and legal holidays. On Sundays and legal holidays, the distance between peddlers shall be no less than 20 feet. In the case of a dispute between peddlers, the peddler who arrived first on the day involved shall be deemed to have the privilege of operating at that location on that day. One peddler must continue to be there in person with wares to claim such privilege. Such distance shall be measured from the end of one display stand, table, cart, container or other appurtenance to the beginning of the next.
- (i) No merchandise shall be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.
- (j) All merchandise shall be displayed or sold from portable stands or containers. Each peddler shall remove all merchandise, packaging, paper, containers, display stands or tables, or other materials brought to the location at the termination of sales each day. No permanent stands or displays will be permitted.
- (k) No peddler's display stand, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage shall occupy more than 42 inches of lateral sidewalk width, nor more than 72 inches of longitudinal sidewalk area.
- (l) Each peddler during the period of selling shall keep the area within 10 feet of the location where the peddler sells or displays merchandise free from all litter and debris arising from the operations, including the litter which arises from actions of customers in disposing of wrapping or

packaging materials on merchandise sold by the peddler.

(m) No peddler's display stand, cart, container or other appurtenance or paraphernalia shall be set up along street plantings or street furniture.

(n) Peddlers shall at all times exercise reasonable care that their merchandise, packaging material, display equipment and other paraphernalia shall not create a safety or health hazard to customers or other persons using the public highways or sidewalks or to persons on or in abutting property.

(o) No food, confection or drink except prepackaged and/or containerized products shall be displayed or sold from any unimproved public property, including unimproved sidewalks or pedestrian walkways.

(p) No street sales shall be conducted nor shall any display stand, cart, container, or other appurtenances be permitted on any public property between the hours of midnight and 6:00 a.m. daily.

(q) No peddler selling from a motor or animal-drawn vehicle may remain in any one place for a period longer than necessary to make a sale and remove any associated trash as required in subsection (r), herein, after having been approached or stopped for the purpose of such sale.

(r) No peddler may leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the peddler.

Nothing herein shall be construed to prohibit the distribution of noncommercial handbills, cards, leaflets, other literature or the sale of newspapers and magazines on the sidewalks.

(C.M.C. 839-11; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 445-1983, eff. Sept. 21, 1983; a. Ord. No. 288-2000, eff. 8-2-00; a. Ord. No. 072-2001, eff. Mar. 14, 2001; a. Ord. No. 0062-2008, eff. 3-13-08)

Analogous to C.O. 510-6; a. Ord. No. 353-1958, eff. Nov. 7, 1958; renumbered to C.M.C. 510-6, eff. Jan. 1, 1972; a. Ord. No. 140-1973, eff. Apr. 27, 1973; a. Ord. No. 425-1976, eff. Sept. 15, 1976; r. Ord. No. 313-1979, eff. Aug. 1, 1979.

Sec. 839-13. - Street Sales in Vending Districts.

No person licensed as a peddler shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection, or drink:

(a) In the Downtown Vending District.

(b) In any other vending district except in accordance with all of the following provisions:

(i) No merchandise shall be displayed or sold from a motor or animal-drawn vehicle.

(ii) No merchandise shall be displayed or sold from any location except sidewalk locations identified and established by the city. Pursuant to this section, the department of public works shall establish and mark specific locations from which street sales may be conducted. The department shall establish locations consistent with customers' needs, a reasonable disbursement throughout the various districts, the requirements of Section 839-11(a)—(p), and other similar criteria reasonably necessary for the public health, welfare and safety. The

city manager is authorized to and shall establish regulations for the assignment of such locations. Merchandise shall be displayed or sold only by the peddler assigned to or allocated a location pursuant to such regulations.

(iii) The curb marking shall be considered the center of the maximum longitudinal space which may be occupied in accordance with the provisions of Section 839-11, "Street Sales - General," subsection (k).

(Ordained by Ord. No. 445-1983, eff. Sept. 1, 1983; a. Ord. No. 447-1985, eff. Sept. 11, 1985; a. Ord. No. 393-1997, eff. Nov. 13, 1997)

Sec. 839-15. - Time Restriction in Residential Neighborhoods.

No peddler selling from a motor or animal-drawn vehicle may sell or offer for sale, any food, beverage or merchandise from a motor vehicle on a public street at any one location or at any location in the same city block on any street that abuts any residential zoning district denoted by the letters SF or RM for a period of time in excess of 30 minutes in any 24-hour period.

(Ordained by Ord. No. 0062-2008, eff. 3-13-08)

Sec. 839-99. - Penalties.

Whoever violates the provisions of Section 839-5, Cincinnati Municipal Code, of operating as an itinerant vendor or peddler without a license is guilty of a misdemeanor of the third degree. Each subsequent violation is a misdemeanor of the second degree. In addition, offenders will forfeit their goods upon each conviction.

Whoever violates any provisions of Chapter 839, C.M.C., even though operating with a valid license is guilty of a misdemeanor of the fourth degree. Each subsequent violation of this chapter while operating with a valid license shall be a misdemeanor of the third degree, including forfeiture of goods.

Whoever is convicted of violating any provision of Chapter 839, C.M.C., shall surrender to the court all licenses and identification cards issued by the city treasurer pursuant to this chapter for return and revocation by the city treasurer for a period of one year from date of conviction.

(C.M.C. 839-99; ordained by Ord. No. 313-1979, eff. Aug. 1, 1979; a. Ord. No. 314-1982, eff. Sept. 3, 1982; reordained by Ord. No. 467-1982, eff. Nov. 10, 1982)

Analogous to C.O. 725-21; renumbered to C.M.C. 839-99, eff. Jan. 1, 1972; r. Ord. No. 313-1979, eff. Aug. 1, 1979.