

Exhibit 2
Some Relevant Code Reference

Definition of Building

Sec. 30-67

Building means any structure, either temporary or permanent, except a fence or as otherwise provided in this definition, used or built for the enclosure or shelter of persons, vehicles, goods, merchandise, equipment, materials or property generally. This definition shall include tents, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms, jails, barns or vehicles serving in any way the function of a building as described herein. This definition shall not include individual doll houses, play houses, and animal or bird houses.

Outdoor storage and sales.

Sec. 30-67

g) *Outdoor storage and sales.* All principal uses in any business or mixed use district shall be contained within completely enclosed buildings, except as otherwise specifically provided as a permitted use. When not so specifically provided, outdoor storage or display of goods and commodities not contained within completely enclosed buildings is prohibited, except the following uses under the conditions prescribed herein:

(1) *Outdoor promotional sales, special event sales and the sale of seasonal or temporary goods and commodities other than farmers markets.* The city manager may issue a permit for the sale of certain goods and commodities which are strictly of a temporary nature, other than for farmers markets, provided the following conditions and requirements are met:

a. Such sales shall not be permitted on public rights-of-way; provided, however, that in areas zoned CCD such sales and displays may be permitted on sidewalks only; and provided, further, that parades and art shows may be

permitted on public rights-of-way under such conditions as are otherwise provided by ordinances and policies of the city commission.

b. The sales period for seasonal or temporary goods, such as Christmas trees, shall not exceed 30 days; promotional sales such as characterized by the so-called "midnight madness," "truck sale," "tent sale" or "sidewalk sale" shall not exceed 72 hours; and special event sales such as may be permitted in conjunction with a parade, festival or other such event shall not exceed the specified period approved for such event. No more than one permit per applicant per location shall be issued in any given six-month period for seasonal type sales, and no more than one special use permit per applicant per location shall be issued in any given 60-day period of time for promotional type sales.

c. Application for a permit under the provisions herein shall be examined and approved by the appropriate departments of the city to ensure protection of the public health, safety and general welfare. In addition to normal concerns of each such department, particular attention shall be given to traffic flow and control, auto and pedestrian safety, and the effect which such use and activity will have on surrounding uses, particularly where the adjoining use is residential.

d. When, in the opinion of the city manager, it is deemed necessary, the applicant may be required to post a bond or otherwise provide adequate assurance that the site of the selling activity will be returned to its original or an improved state when the selling activity has ceased.

ARTICLE IV. - VENDING BOOTHS AND ITINERANT VENDORS ^[4]

Sec. 19-91. - Definitions.

Sec. 19-92. - Annual permit.

Sec. 19-93. - Regulations.

Sec. 19-94. - Revocation of permit/license.

Sec. 19-95. - Vendors' stands.

Secs. 19-96—19-109. - Reserved.

Sec. 19-91. - Definitions.

A "vending booth" is a temporary wheeled cart-mounted food or retail establishment located on public property, or a permanent structure constructed by the city on the Gainesville Community Plaza. A vending booth cannot be propelled by an internal combustion engine, electric motor or other similar mechanical device. A vending booth, except a permanent structure constructed by the city on the Gainesville Community Plaza, must be capable of being moved from place to place, but may be stationary during the business day. Examples of vending booths are, but are not limited to, the following: coffee/cappuccino stands; stands selling muffins, bagels and other bakery items; ice cream carts; snow cone and Italian Ice carts; fast-food carts; souvenirs carts; and newsstands.

An "itinerant food vendor" is a natural person or business entity, that sells immediately consumable food products and non-alcoholic beverage items from a non-permanent cart, trailer, or vehicle (an "itinerant food vending conveyance") at a fixed location on private property.

(Ord. No. 970631, § 1, 6-8-98; Ord. No. 990299, § 1, 10-25-99; Ord. No. 070209, § 2, 7-14-08)

Sec. 19-92. - Annual permit.

(a)

A vending booth permit or itinerant food vendor permit is required and can be obtained from the city manager, or designee, upon payment of the fee specified in Appendix A of this Code, along with submitting a completed application that includes a description of the nature, character and quality of food, beverage or retail items to be offered for sale; photographs of the vending booth or itinerant food vending conveyance; and sufficient information for city reviewing staff to determine compliance with the requirements listed in subsection (b) or (c) below, the applicable regulations listed in section 19-93 and other applicable code and safety requirements. Vending booth and itinerant food vendor permits expire on September 30 of each year. Vending booth and itinerant food vendor permits issued between April 1 and September 30 are subject to one-half the permit fees for the initial period (between issuance and September 30). Vending booth and itinerant food vendor permits shall not be valid during any event declared to be a special event by the city manager or designee. A separate permit shall be required for vending at these events.

(b)

Requirements to obtain a vending booth permit:

(1)

Proof of liability insurance, in amounts to annually be determined by the city manager, which shall include the city as an additional insured and which shall indemnify, defend and hold harmless the city, its elected and appointed officers, employees and agents, from any resultant claims which may arise from operation of the booth due to intentional or unintentional wrongdoing or negligence by the operator, or employees, contractors or agents of the operator.

(2)

Proof of workers compensation insurance or provide a certificate of exemption.

(3)

Select an available public property site from the official vending booth site map on file with the city manager or

designee. When more than one application is received for a designated site, that site will be made available by random drawing of all qualified applicants. Once an operator has received a space, that site will not become available again unless the operator does not renew the permit or the owner's permit is revoked under this article.

(4)

Submission of a site drawing clearly depicting the public property site location, size of the vending booth, set up of the vending booth and any other information necessary for the city reviewing staff to determine that the vending booth will comply with all applicable city codes. The vending booth must be located a minimum of five feet from the curb or improved right-of-way and so positioned as to leave an unobstructed way for pedestrian passage on any sidewalk and shall not be positioned within five feet of any crosswalk or fire hydrant, nor block any ingress or egress from a building entrance or emergency exit. Vending booths shall be located a minimum of 25 feet from intersections and shall be located outside of the vision triangle.

(c)

Requirements to obtain an itinerant food vendor permit:

(1)

Provide the name and address of the applicant's employer, if not self-employed.

(2)

Provide written permission or lease from the owner of the property where the itinerant food vendor will operate.

(3)

Submit a site plan meeting the requirements of Article VII of the land development code for a minor development plan to include dimensions and the proposed location of the itinerant food vending conveyance as well as entrance and exits to the host business, parking areas, bus stops, loading zones, fire hydrants, zoning district setbacks and any other information necessary for the city reviewing staff to determine that the itinerant food vending conveyance will comply with all applicable city codes.

(Ord. No. 970631, § 1, 6-8-98; Ord. No. 990299, § 1, 10-25-99; Ord. No. 070209, § 2, 7-14-08)

Sec. 19-93. - Regulations.

(a)

Vending booths and itinerant food vending conveyances operating in the city shall be subject to the following regulations:

(1)

The county/state health department must license any vending booths and itinerant food vending operations preparing and selling food items. All applicable codes of the health department shall be met.

(2)

A trash container must be available on the vending booth or itinerant food vending conveyance.

(3)

Lighting may be used to continuously illuminate the vending booth or itinerant food vending conveyance canopy and provide task lighting for night operation, provided it is in conformity with the city's lighting regulations.

(4)

Change of ownership, booth/conveyance or location will require that the owner apply for a new vending booth or itinerant food vendor permit.

(5)

All required licenses must be conspicuously displayed on the vending booth or itinerant food vending conveyance.

(6)

Vending booths and itinerant food vending conveyances must be provided with at least one approved portable fire extinguisher having a minimum rating of 8 BC.

(7)

All liquefied petroleum gas containers must be installed on the outside of the vending booth or itinerant food vending conveyance, protected from physical damage and, if enclosed, vented at the lowest point of the enclosure. All liquefied petroleum gas containers must be

properly secured and comply with all applicable standards.

(8)

Signs using lettering painted on or applied to the canopy valance will be allowed. Two additional signs in conformity with the city's sign regulations will be allowed at a maximum size of six square feet each, to be mounted on the vending booth or itinerant food vending conveyance. No other signs, pictures or advertisements of any kind, such as stickers, flags, balloons, inflatables or lights shall be allowed.

(9)

The vendor must obtain a local business tax receipt from the city.

(10)

The vendor shall keep the sidewalks, parking areas and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from their vending operation.

(11)

Sales shall be oriented to pedestrians. No vendor shall sell or attempt to sell any product or engage in any commercial transaction with the occupant of any motor vehicle.

(12)

Vendors shall not conduct business in a way that will restrict or interfere with the entrance or exit of a business, create a nuisance, create a hazard to pedestrians, life or property, or obstruct vehicular circulation, pedestrian circulation, or access to emergency exits.

(13)

Vending booth vendors operating within the Central City Zoning District (CCD), as this area is shown on the city's zoning map atlas, and the College Park Area, as delineated in the College Park-Master Plan and Regulation Plan for New Construction map in Appendix A Section 3 of the Land Development Code, shall be limited to the hours between 7:00 a.m. and 3:00 a.m. the following day and shall take place only at the approved

location. The "vending booth" conveyance shall not be set up prior to 6:00 a.m. and must be removed by 4:00 a.m. the following day.

(14)

Itinerant food vendors operating within the Central City Zoning District (CCD), as this area is shown on the city's zoning map atlas, shall be limited to the hours between 7:00 a.m. and 3:00 a.m. the following day and shall take place only at the approved location. The "vending booth" conveyance shall not be set up prior to 6:00 a.m. and must be removed by 4:00 a.m. the following day.

(b)

The following additional regulations shall apply to itinerant food vendors:

(1)

Tent structures shall not be permitted.

(2)

No alcoholic beverages may be sold.

(3)

All food shall be prepared on-site from the itinerant food vending conveyance.

(4)

There shall be only one itinerant food vending conveyance per parcel, location or development.

(5)

No itinerant food vendor shall be permitted to operate in any of the following areas:

a.

Within 25 feet of any loading zone or bus stop.

b.

Within 15 feet of a building entrance or exit.

c.

Against display windows of a business.

d.

Within 25 feet of any fire hydrant, fire escape or fire control device.

e.

Within 25 feet of any parking space or access ramp designated for persons with disabilities.

f.

Outside of the established building setbacks of the zoning district.

g.

Within required parking spaces or within the required interior or terminal islands of the vehicle use area.

h.

On a vacant lot or property.

(6)

Except as provided in section 19-93(a), itinerant food vendors shall be limited to the hours between 7:00 a.m. and 10:00 p.m. daily and shall take place only at the approved location. The itinerant food vending conveyance shall not be set up prior to 6:00 a.m. and must be removed by 11:00 p.m. of that same day.

(7)

Outdoor seating shall not be permitted.

(8)

An itinerant food vending conveyance shall not exceed a size of ten feet in width and 20 feet in length. If the itinerant food vending conveyance is a trailer, the trailer shall be unhitched from the motorized vehicle and stabilized prior to operating the vending conveyance and it is the trailer alone that will be considered the itinerant food vending conveyance for purposes of the size limitation.

(9)

The itinerant food vending conveyance shall not be operated in a manner that destroys existing sodded areas, results in erosion or breaks down the previous or impervious surface of the site. In the event of erosion or destruction of the site surface, the owner of the site shall be required to restore the site to its original condition.

(Ord. No. 970631, § 1, 6-8-98; Ord. No. 990299, § 1, 10-25-99; Ord. No. 070209, § 2, 7-14-08; Ord. No. 110283, § 1, 6-7-12)

Editor's note—

Ord. No. 070209, § 2, adopted July 14, 2008, repealed the former §§ 19-93—19-96 which pertained to insurance requirements, public areas available by drawing, setbacks, and signage, respectively, and derived from Ord. No. 970631, § 1, adopted June 8, 1998; Ord. No. 990299, § 1, adopted Oct. 25, 1999; and Ord. No. 061107, § 4, adopted July 23, 2007. Section 2 of Ord. No. 070209 renumbered the former § 19-97 as § 19-93. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 19-94. - Revocation of permit/license.

Permits/licenses issued under this article may be revoked by the city manager or designee after written notice and opportunity for hearing for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for permit.
- (2) Any violation of this article.
- (3) Conviction of a felony by a court of competent jurisdiction of the operator, or any shareholder, partner or member of a business entity holding a 50-percent or greater interest in the vending both or itinerant food vending conveyance for any of the following: homicide, rape, aggravated battery, burglary, aggravated assault, kidnapping, robbery, child molestation, lewd and lascivious acts, criminal solicitation to commit any of the above, criminal attempt to commit any of the above, or possession, sale or distribution of narcotic drugs, barbituric acid derivatives or central nervous system stimulants.
- (4) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

- (5) With respect to a vending booth, failure to operate for more than 14 days during the period from May 1 through September 30 of each year.
- (6) Refusal to remove the vending booth or itinerant food vending conveyance from the site at the end of each business day.
- (7) The vending booth or itinerant food vendor has been adjudicated guilty of, been found guilty of with adjudication withheld, waived the right to contest, or pled no contest to, three or more violations of city ordinances with respect to the vending operation.

Such revocation may be appealed directly to the city commission provided such appeal is filed with the clerk of the commission within 15 days of the time of the revocation by the city manager. The clerk shall schedule the hearing on the appeal at the next regular meeting of the city commission scheduled to be at least ten days from the date the appeal is filed. The clerk shall inform the city manager of the appeal, and the city manager shall forward the evidence used to determine the revocation, including minutes of the hearing, if any, to the clerk. No new evidence or testimony may be introduced before the city commission, which shall render its decision based upon the record. The city commission may reinstate the permit only if it finds an abuse of discretion in the decision of the city manager or designee.

(Ord. No. 970631, § 1, 6-8-98; Ord. No. 990299, § 1, 10-25-99; Ord. No. 070209, § 2, 7-14-08)

Editor's note—

Ord. No. 070209, § 2, adopted July 14, 2008, renumbered the former § 19-98 as § 19-94. The historical notation has been retained with the amended provisions for reference purposes. See the editor's note to § 19-93 for further information.


Sec. 19-95. - Vendors' stands.

It shall be unlawful for any person to display, keep or maintain any stand, article or item of personal property, whether for sale, advertising or other purpose, on any of the streets or sidewalks of the city, or within 50 feet of the main entrance to any public building in the city during normal operating hours for that building, without first obtaining a permit from the city manager. This section does not apply to a vending booth properly permitted under this chapter.

(Code 1960, § 23-17, Ord. No. 3956, § 1, 2-14-94; Ord. No. 970631, § 2, 6-8-98; Ord. No. 090297, § 3, 10-15-09)

Editor's note—

Ord. No. 090297, § 3, adopted Oct. 15, 2009, renumbered the former § 23-41 as § 19-95. The historical notation has been retained with the amended provisions for reference purposes.

Secs. 19-96—19-109. - Reserved. 

*DIVISION 1. - GENERALLY*Sec. 19-15. - Purpose, intent and findings.Sec. 19-16. - Definitions.Sec. 19-17. - Restrictions and requirements.Sec. 19-18. - Sales of food items.Sec. 19-19. - Business tax receipt requirement.Sec. 19-20. - Penalty.Secs. 19-21—19-30. - Reserved.**Sec. 19-15. - Purpose, intent and findings.**

It is the purpose and intent of this article to preserve public safety, human life and convenience; to secure the comfort, health, welfare and prosperity of all city inhabitants; to ensure that the use of streets in the city does not become dangerous and that the free flow of traffic thereon is not impeded; to preserve privacy and quiet to those in the home; to protect city inhabitants against crime and undue annoyance; and to protect those on the streets and at home against abusive behavior by peddlers and canvassers.

It is also the purpose and intent of this article to address the significant public health, welfare and safety concerns and crowd control problems caused by peddling and canvassing on or near public streets which are in use by vehicular traffic. The city commission finds that such public health, welfare and safety concerns and crowd control problems arise because peddling involves the process of a peddler offering for sale goods, merchandise or wares to an occupant or operator of a vehicle which is in traffic, that vehicle occupant or operator must consider the offer, and, if the vehicle occupant or operator decides to purchase the goods, merchandise or wares, that person must reach for a wallet, search for money, or write a check, all while the peddler and vehicle are located on a public street in use by vehicular traffic. Based on the foregoing, the city commission finds that the activity of peddling from

occupants or operators of vehicles located on streets in use by vehicular traffic distracts drivers from their primary duty to watch traffic and potential hazards in the road, observe all traffic signals or warnings and move through the city's streets and intersections in a lawful and safe manner and creates a potential safety hazard and poses a substantial risk to the public, and impedes the free flow of traffic on the streets within the city resulting in the delay and obstruction of the public's free flow of travel on the city's streets. The city commission further finds that the safety of peddlers, canvassers, pedestrians and operators or occupants of vehicles is at significant risk when peddlers or canvassers engage in their activities on or near public streets which are in use by vehicular traffic because the nature of these activities often entails peddlers and canvassers standing on traffic medians, bicycle paths and public streets in use by vehicular traffic, property only meant for the use and control of vehicular traffic and not peddling or canvassing activities.

It is not the purpose and intent of this article to prohibit peddling and canvassing in public areas when such activities will not interfere with vehicular traffic and cause traffic safety and traffic flow concerns. For example, peddlers may conduct their activities on public sidewalks so long as they are not conducting transactions with operators or occupants of vehicles in traffic and are otherwise in compliance with this Code. In addition, canvassers may engage in their activities on public sidewalks so long as they are otherwise in compliance with this Code.

(Ord. No. 990695, § 1, 12-11-00; Ord. No. 061107, § 1, 7-23-07)

Sec. 19-16. - Definitions.

For the purposes of this chapter, the following words shall have the meanings ascribed to them as follows:

Bicycle path shall mean any road, path, or way that is open to the public for bicycle travel, which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located within a right-of-way.

Canvasser shall mean any person traveling either by foot, vehicle or other conveyance, from place to place, in order to solicit

opinions for a survey or solicit support for a political campaign or any other cause, belief or issue.

Peddler shall mean any person who during the course of selling travels by foot, vehicle or any other type of conveyance from place to place, offering goods, wares or merchandise for sale or making sales and delivering articles purchased.

Peddling from any operator or occupant of a vehicle that is in traffic on a public street shall mean selling goods, wares or merchandise to any operator or occupant of a vehicle, coupled with an actual exchange of money or some article of value for any goods, wares or merchandise between the peddler and any operator or occupant of a vehicle while that vehicle is on the portion of a public street currently in use by vehicular traffic.

Person shall mean and include individuals, associations, firms, corporations, partnerships, bodies politic and corporate, and all other groups or combinations thereof.

Public street shall mean the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic.

Residential areas shall mean all single-family and multi-family neighborhoods that are zoned with the residential zoning district categories referenced in the land development code, sections 30-51 through 30-55, and all residential planned developments.

Traffic median shall mean the dividing area, either paved or landscaped, between opposing lanes of vehicular traffic.

Vehicles shall mean any mobile item which normally uses wheels, whether motorized or not.

(Code 1960, § 19-1; Ord. No. 3095, § 1, 1-14-85; Ord. No. 990695, § 1, 12-11-00; Ord. No. 061107, § 1, 7-23-07)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 19-17. - Restrictions and requirements.

- (a) Peddlers and canvassers will terminate their activities in residential areas by 7:00 p.m. each day and will not resume their activities in residential areas before 9:00 a.m. the next day.
- (b) Peddlers are prohibited from peddling from any operator or occupant of a vehicle that is in traffic on a public street, as those terms are defined in this article.
- (c) Operators or occupants of vehicles that are in traffic on a public street are prohibited from offering money or other articles of value or buying goods, wares or merchandise from peddlers when doing so results in the actual exchange of money or some other article of value for goods, wares or merchandise between the peddler and the operator or occupant of a vehicle while that vehicle is on the portion of a public street currently in use by vehicular traffic.
- (d) No person shall stand on a traffic median, bicycle path or public street to peddle or canvass from an operator or occupant of any vehicle when in use by vehicular traffic.
- (e) Peddlers and canvassers are prohibited from engaging in their activities on residential premises in residential areas where a notice stating "No Solicitors" or "No Solicitation" is posted in plain view.
- (f) No more than two peddlers or canvassers shall contact any one member of the public at any one time.
- (g) Peddlers and canvassers will not persist in their activities after the request has been declined, and they will immediately and peaceably depart from the premises when requested to do so by the occupant.
- (h) Peddlers and canvassers shall not harass persons by demanding, threatening or intimidating conduct.

(Ord. No. 990695, § 1, 12-11-00; Ord. No. 060113, § 1, 10-9-06;
Ord. No. 061107, § 1, 7-23-07)

Sec. 19-18. - Sales of food items.

The sale of food items shall be permitted under article IV of this chapter.

(Ord. No. 990695, § 1, 12-11-00)

Sec. 19-19. - Business tax receipt requirement.

Peddlers must meet the business tax receipt requirements provided in article III of chapter 25.

(Ord. No. 990695, § 1, 12-11-00; Ord. No. 070022, § 6, 6-25-07)

Sec. 19-20. - Penalty.

Any person convicted of violating any of the provisions of this article shall be punished as provided in section 1-9 of this Code.

(Ord. No. 990695, § 1, 12-11-00; Ord. No. 061107, § 1, 7-23-07)

Secs. 19-21—19-30. - Reserved.

Sec. 30-107. - Temporary sales for fundraising by nonprofit agencies.

(a)

The intent of this section is to permit the sale of goods, which may include the use of a building or parcel of land for such sales, by nonprofit institutions such as places of religious assembly, schools and fraternal societies, where such sales are clearly incidental to the primary function of such institution and where such a sale is conducted with or as a special event and for a specified time period.

(b)

To qualify for permission to conduct such sales an applicant shall secure a permit from the city manager's designee. Approval of such a permit shall be based upon a consideration of the location, which may be in any zoning district, the type of goods to be sold, and the manner of sale, which shall have been examined and approved by the various departments of the city, particularly police, fire and traffic engineering, to ensure protection of the public health, safety and general welfare. In granting their approval such departments may suggest such conditions of approval as would be in keeping with their individual responsibilities and the general spirit and purpose of this section, and may recommend that approval of such permit be denied where conditions warrant. In the event of disapproval of a requested permit, the applicant may appeal directly to the city commission for final disposition.

(c)

A permit issued under the provisions of this section shall be effective for a period not to exceed 30 days.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3993, § 12, 7-25-94)

Cross reference— Noncommercial solicitation, § 19-51 et seq.