

ORDINANCE NO. 070209
0-07-75

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4 **An ordinance of the City of Gainesville, Florida, amending**
5 **Chapter 19 and Chapter 30 of the City of Gainesville Code of**
6 **Ordinances, relating to itinerant food vendors; amending Section**
7 **30-61(c) to add itinerant food vendors as a permitted use in the**
8 **General Business (BUS) zoning district subject to limitations and**
9 **in accordance with Chapter 19, Article IV; amending Article IV of**
10 **Chapter 19 by revising the definitions of vending booths and**
11 **itinerant food vending conveyances; imposing size limitations and**
12 **standards and clarifying the permit procedures, requirements and**
13 **regulations for both vending booths and itinerant food vending**
14 **conveyances; providing directions to the codifier; providing a**
15 **severability clause; providing a repealing clause; and providing an**
16 **immediate effective date.**

17
18 **WHEREAS**, the City Plan Board authorized the publication of notice of a public hearing
19 that the text of the Land Development Code and the Code of Ordinances of the City of
20 Gainesville, Florida, be amended; and

21 **WHEREAS**, notice was given and publication made as required by law on July 3, 2007
22 and a public hearing was then held by the City Plan Board on July 19, 2007; and

23 **WHEREAS**, notice was given and publication made as required by law and a public
24 hearing on the Petition was then held by the City Commission on August 13, 2007; and

25 **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10
26 inches long was placed in a newspaper of general circulation and of the public hearing to be held
27 in the City Commission Meeting Room, First Floor, City Hall, in the City of Gainesville at least
28 seven (7) days after the day the first advertisement was published; and

29 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long
30 was placed in the aforesaid newspaper notifying the public of the second public hearing to be held
31 at the adoption stage at least five (5) days after the day the second advertisement was published;
32 and

1 **WHEREAS**, Public Hearings were held pursuant to the published and mailed notices
 2 described above at which hearings the parties in interest and all others had an opportunity to be
 3 and were, in fact, heard.

4 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
 5 **CITY OF GAINESVILLE, FLORIDA:**

6 **Section 1.** Subsection 30-61(c) of Sec. 30-61. General Business District (BUS), of the
 7 Land Development Code of the City of Gainesville, is amended as follows:

8 **Sec. 30-61. General Business District (BUS).**

9 (c) *Permitted uses.*

SIC	<i>Uses</i>	<i>Conditions</i>
	USES BY RIGHT:	
	Any accessory uses customarily and clearly incidental to any permitted principal use	
	Bed and breakfast establishments	In accordance with article VI
	Compound uses	
	Eating places	
	<u>Itinerant Food Vendor</u>	<u>Only on parcels that contain a retail store with a minimum gross floor area of 50,000 square feet and in accordance with chapter 19, article IV</u>
	Outdoor cafe	As defined in article II and in accordance with article VI
	Personal fitting and sales of prosthetic or orthopedic appliances	
	Places of religious assembly	In accordance with article VI
	Public service vehicles	As defined in article II and in accordance with article VI

	Repair services for household needs	As defined in article II
	Forest nursery for sale of planted trees only	In a non-enclosed (outdoor), fenced area; excluding storage and outside storage of all other items other than: (1) trees planted in the ground, and (2) mechanical and vehicular equipment used to plant, cultivate and harvest the trees; subject to development plan review
GN-074	Veterinary services	Only within enclosed buildings and in accordance with article VI
IN-0752	Animal specialty services, except veterinary	Only within enclosed buildings
GN-078	Landscape and horticultural services	
MG-15	Building construction - General contractors and operative builders	
GN-171	Plumbing, heating and air conditioning contractors	
GN-172	Painting and paper hangers	
GN-173	Electrical work	
IN-2261	Finishers of broadwoven fabrics of cotton	
IN-2262	Finishers of broadwoven fabrics of manmade fiber and silk	
MG-27	Printing, publishing and allied industries	
MG-43	U.S. Postal Service	
GN-472	Arrangement of passenger transportation	Offices only, with no operation of passenger tours from the site
MG-48	Communications	Accessory transmission, retransmission and microwave towers up to and including 100 feet in height in accordance with article VI

GN-523	Paint, glass and wallpaper stores	
GN-525	Hardware stores	
GN-526	Retail nurseries, lawn and garden supply stores	
MG-53	General merchandise stores	
MG-54	Food stores	Accessory gasoline and alternative fuel pumps in accordance with article VI
GN-553	Auto and home supply stores	Excluding garage and installation facilities except as provided for with a special use permit
GN-554	Gasoline service stations including the sale of alternative fuels for automobiles	In accordance with article VI
MG-56	Apparel and accessory stores	
MG-57	Home furniture, furnishings and equipment stores	
MG-59	Miscellaneous retail	Direct selling establishments (IN-5963) and fuel oil dealers (IN-5983) with inside storage, display and sales only
Div. H	Finance, insurance and real estate	Excluding cemetery subdivisions and developers (IN-6553)
MG-72	Personal services	Including funeral services and crematories in accordance with article VI
MG-73	Business services	Excluding outdoor advertising services (IN-7312, heavy construction equipment rental and leasing (IN-7353), and equipment rental and leasing, not elsewhere classified (IN-7359); and including disinfecting and pest control services (IN-7342), in accordance with article VI.
GN-752	Automobile parking	
MG-76	Miscellaneous repair services	Excluding miscellaneous repair shops and related services (GN-769), and including repair services for household needs as defined in article II

MG-78	Motion pictures	Excluding drive-in theaters (IN-7833) and outdoor filming facilities
MG-79	Amusement and recreation services	Only within enclosed structures, and excluding go-cart rental and raceway operations and also excluding commercial sports (GN-794)
MG-80	Health services	Including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding hospitals (GN-806) and rehabilitation centers.
MG-81	Legal services	
MG-82	Educational services	Private schools in accordance with article VI
MG-83	Social services	Including day care as defined in article II and in accordance with article VI, excluding rehabilitation centers, halfway houses, social service homes, and residences for destitute people as defined in article II
GN-841	Museums and art galleries	
MG-86	Membership organizations	See also definition of places of religious assembly and in accordance with article VI
MG-87	Engineering, accounting, research, management and related services	Excluding testing laboratories, (IN-8734) and facility support management services (IN-8744)
MG-89	Services, not elsewhere classified	
Div. J	Public administration	
	USES BY SPECIAL USE PERMIT	
	Accessory transmission, retransmission and microwave towers over 100 feet in height	In accordance with article VI
	Alcoholic beverage establishments	In accordance with article VI
	Food distribution center for the needy	In accordance with article VI

	Limited automotive services	In accordance with article VI
	Rehabilitation centers	In accordance with article VI
	Residences for destitute people	In accordance with article VI
GN-598	Fuel dealers	In accordance with article IX
GN-701	Hotels and motels	
GN-702	Roominghouses and boardinghouses	In accordance with article VI

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2 **Section 2.** Article IV, Vending Booths and Itinerant Vendors, consisting of sections 19-
3 91 through 19-98, City of Gainesville Code of Ordinances, is amended in its entirety as follows:

4 **ARTICLE IV. VENDING BOOTHS AND ITINERANT VENDORS***

5 **Sec. 19-91. Definitions.**

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

15 An "itinerant food vendor" is a natural person or business entity, ~~corporation, company or~~
16 ~~business~~ that sells immediately consumable food products and non-alcoholic beverage items from
17 a non-permanent ~~structure~~ cart, trailer, or vehicle (an "itinerant food vending conveyance") at a

1 fixed location on private property.

2 **Sec. 19-92. Annual permit.**

3 ~~(a) — A vending booth permit or itinerant food vendor permit is required and can be renewed~~
4 ~~annually upon payment of the fee specified in Appendix A of this Code. Vending booth and~~
5 ~~itinerant food vendor permits expire on October 1 and are delinquent if not renewed. Vending~~
6 ~~booth and itinerant food vendor permits initially received between April 1 and September 30 are~~
7 ~~subject to one-half the permit fees for the initial period ending September 30. In order to obtain a~~
8 ~~vending booth permit, written approval of the proposed vending booth is required from the fire~~
9 ~~department and code enforcement office, who will approve the application if it meets the~~
10 ~~requirements of this article and all applicable fire safety regulations. In order to obtain an itinerant~~
11 ~~food vendor permit, a minor site plan, meeting the requirements of Article VII of the land~~
12 ~~development code, must be approved by the city manager or designee, including written approval~~
13 ~~from the fire department if applicable. The application for an itinerant food vendor permit must~~
14 ~~include sufficient information for staff to determine that all of the applicable requirements of~~
15 ~~section 19-97 are met.~~

16 ~~(b) — When applying for the vending booth or itinerant food vendor permit, photographs of the~~
17 ~~vending booth or itinerant food vending conveyance must be submitted for review. The city~~
18 ~~manager or designee will examine the photographs and shall determine the acceptability of the~~
19 ~~vending booth or itinerant food vending conveyance as to design and appearance. Items to be~~
20 ~~considered will be size, material and color of the vending booths or itinerant food vending~~
21 ~~conveyance, canopy and signs.~~

22 A vending booth permit or itinerant food vendor permit is required and can be obtained from the
23 City Manager, or designee, upon payment of the fee specified in Appendix A of this Code, along

1 with submitting a completed application that includes a description of the nature, character and
2 quality of food, beverage or retail items to be offered for sale; photographs of the vending booth
3 or itinerant food vending conveyance; and sufficient information for city reviewing staff to
4 determine compliance with the requirements listed in (a) or (b) below, the applicable regulations
5 listed in Section 19-93 and other applicable code and safety requirements. Vending booth and
6 itinerant food vendor permits expire on September 30 of each year. Vending booth and itinerant
7 food vendor permits issued between April 1 and September 30 are subject to one-half the permit
8 fees for the initial period (between issuance and September 30). Vending booth and itinerant food
9 vendor permits shall not be valid during any event declared to be a special event by the city
10 manager or designee. A separate permit shall be required for vending at these events.

11 (a) *Requirements to obtain a vending booth permit:*

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

18 (2) Proof of workers compensation insurance or provide a certificate of exemption.

19 (3) Select an available public property site from the official vending booth site map on
20 file with the City Manager or designee. When more than one application is received for a
21 designated site, that site will be made available by random drawing of all qualified
22 applicants. Once an operator has received a space, that site will not become available again
23 unless the operator does not renew the permit or the owner's permit is revoked under this

1 article.

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

11 (b) Requirements to obtain an itinerant food vendor permit:

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

13 (2) Provide written permission or lease from the owner of the property where the
14 itinerant food vendor will operate.

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

21 **~~Sec. 19-93. Insurance requirements.~~**

22 ~~Each vending booth operator located on public property shall be required to carry liability~~

23 ~~insurance, in amounts to annually be determined by the city manager, which shall include the city~~

1 as an additional insured and which shall indemnify, defend and save harmless the city, its elected
2 and appointed officers, employees and agents, from any resultant claims which may arise from
3 operation of the booth due to intentional wrongdoing or negligence by the operator, or
4 employees, contractors or agents of the operator.

5 **Sec. 19-94. Public areas available by drawing.**

6 Vending booths on public property will only be allowed in areas as designated by the city
7 manager. When more than one application is received for a designated space, that space will be
8 made available by random drawing of all qualified applicants. Once an operator has received a
9 space, that space will not become available again unless the operator does not renew the permit or
10 the owner's permit is revoked under section 19-98.

11 **Sec. 19-95. Setbacks.**

12 Vending booths on public property must be located a minimum of five feet from the curb or
13 improved right-of-way and so positioned as to leave an unobstructed way for pedestrian passage
14 on any sidewalk and shall not be positioned within five feet of any crosswalk or fire hydrant, nor
15 block any ingress or egress from a building entrance or emergency exit. Vending booths shall be
16 25 feet from intersections.

17 **Sec. 19-96. Signage.**

18 Signs using lettering painted on or applied to the canopy valance will be allowed. Two additional
19 signs will be allowed at six square feet each, to be mounted on the vending booth or itinerant food
20 vending conveyance. No other signs, pictures or advertisements of any kind, such as stickers,
21 flags, balloons, or lights other than as discussed below, shall be allowed.

22 **Section 19-97 19-93. Regulations.**

1 (a) *Vending booths and itinerant food vending conveyances operating in the city shall be subject*
2 *to the following regulations:*

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

6 (2) A trash container must be available on the vending booth or itinerant food vending
7 conveyance.

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

11 (4) Change of ownership, booth/conveyance ~~cart~~ or location will require that the
12 owner apply for a new vending ~~or~~ booth or itinerant food vendor permit.

13 (5) All required licenses must be conspicuously displayed on the vending booth or
14 itinerant food vending conveyance.

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

17 (7) All liquefied petroleum gas containers must be installed on the outside of the
18 vending booth or itinerant food vending conveyance, protected from physical damage and,
19 if enclosed, vented at the lowest point of the enclosure. All liquefied petroleum gas
20 containers must be properly secured and comply with all applicable standards.

21 (8) Signs using lettering painted on or applied to the canopy valance will be allowed.
22 Two additional signs in conformity with the City's sign regulations will be allowed at a
23 maximum size of six square feet each, to be mounted on the vending booth or itinerant

1 food vending conveyance. No other signs, pictures or advertisements of any kind, such as
2 stickers, flags, balloons, inflatables or lights shall be allowed.

3 (9) The vendor must obtain a local business tax receipt from the City.

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

7 (11) Sales shall be oriented to pedestrians. No vendor shall sell or attempt to sell any
8 product or engage in any commercial transaction with the occupant of any motor vehicle,
9 unless requested by a person with a disability.

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

14 ~~(8)(b)~~ *The following additional regulations shall apply to itinerant food vendors:*

15 ~~a.(1)~~ Tent structures shall not be permitted.

16 ~~b.(2)~~ Sale of hot dogs, sausages or barbecue meat shall only be made from a cart
17 approved by the applicable state agency. No alcoholic beverages may be sold.

18 (3) All food shall be prepared on-site from the itinerant food vending conveyance.

19 ~~e.(4)~~ Vendors are restricted to mixed-use low intensity (MU-1) zoning district and
20 mixed-use medium intensity (MU-2) zoning districts. There shall be only one itinerant
21 food vending conveyance per property, parcel, location or development.

22 ~~d.~~ Itinerant food vendors applying to operate on private property must provide the
23 following information:

1 1. ~~A brief description of the nature, character and quality of food and beverage to~~
2 ~~be offered for sale.~~

3 2. ~~The specific location of the proposed operation.~~

4 3. ~~The name and address of the applicant's employer, if not self-employed.~~

5 4. ~~Written permission or lease from the owner of the property where the business~~
6 ~~will operate.~~

7 5. ~~A site plan meeting the requirements of Article VII of the land development~~
8 ~~code for a minor development plan to include dimensions and the proposed~~
9 ~~location of the itinerant food vending conveyance as well as entrance and~~
10 ~~exits to the host business, parking areas, bus stops, loading zones, fire~~
11 ~~hydrants, zoning district setbacks and any other information necessary for~~
12 ~~the city to determine that the itinerant food vending conveyance will~~
13 ~~comply with all city codes.~~

14 (9) ~~Itinerant food vendors shall keep the sidewalks, parking areas and other spaces~~
15 ~~adjacent to their vending sites or locations clean and free of paper, peelings and refuse of~~
16 ~~any kind generated from their vending operation.~~

17 (10)(5) No itinerant food vendor shall be permitted to operate in any of the following
18 areas:

19 a. Within 25 feet of any loading zone or bus stop.

20 b. Within 15 feet of a building entrance or exit.

21 c. Against display windows of a business.

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

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

3 f. Outside of the established building setbacks of the zoning district.

4 g. Within required parking spaces ~~unless the city manager or designee~~
5 ~~determines that the parking spaces are not needed and the property owner agrees~~
6 ~~that the itinerant food vendor may operate there.~~ or within the required interior or
7 terminal islands of the vehicle use area.

8 h. On a vacant lot or property.

9 ~~(11) Sales shall be oriented to pedestrians. No itinerant food vendor shall sell or attempt~~
10 ~~to sell any product or engage in any commercial transaction with the occupant of any~~
11 ~~motor vehicle, unless requested by a person with a disability.~~

12 ~~(12) Vendors shall not conduct business in a way that will restrict or interfere with the~~
13 ~~entrance or exit of a business, create a nuisance, create a hazard to pedestrians, life or~~
14 ~~property, or obstruct access to emergency exits.~~

15 ~~(13)~~(6) Itinerant food vending shall be limited to the hours between 7:00 a.m. and 11:00
16 10:00 p.m. daily and shall take place only at the approved location. The itinerant food
17 vending conveyance ~~operations~~ shall not be set up prior to 6:00 ~~7:00~~ a.m. and must be
18 removed by 11:00 p.m. of that same day at the end of the business day.

19 ~~(14)~~ (7) Outdoor seating shall not be permitted.

20 (8) An itinerant food vending conveyance shall not exceed a size of 10 feet in width
21 and 20 feet in length. If the itinerant food vending conveyance is a trailer, the trailer shall
22 be unhitched from the motorized vehicle and stabilized prior to operating the vending

1 conveyance and it is the trailer alone that will be considered the itinerant food vending
2 conveyance for purposes of the size limitation.

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

7 ~~(15) Vending booth and itinerant food vendor permits shall not be valid during any event~~
8 ~~declared to be a special event by the city manager or designee. A separate permit shall be~~
9 ~~required for vending at these events.~~

10 **Sec. ~~19-98.~~ 19-94. Revocation of permit/license.**

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

- 13 (1) Fraud, misrepresentation or false statement contained in the application for permit.
14 (2) Any violation of this ~~section~~ article.
15 (3) Conviction of a felony by a court of competent jurisdiction of the operator, or any
16 shareholder, partner or member of a business entity ~~an organization~~ holding a 50-percent
17 or greater interest in the vending both or itinerant food vending conveyance ~~permit~~ for any
18 of the following: homicide, rape, aggravated battery, burglary, aggravated assault,
19 kidnapping, robbery, child molestation, lewd and lascivious acts, criminal solicitation to
20 commit any of the above, criminal attempt to commit any of the above, or possession, sale
21 or distribution of narcotic drugs, barbituric acid derivatives or central nervous system
22 stimulants.

1 (4) Conducting business in an unlawful manner or in such a manner as to constitute a
2 breach of the peace or to constitute a menace to the health, safety or general welfare of
3 the public.

4 (5) With respect to a vending booth, fFailure to operate for more than 14 consecutive
5 days during the period from May 1 through September 30 of each year.

6 (6) Refusal to remove the vending booth or itinerant food vending conveyance from
7 the site at the end of each business day.

8 (7) The vending booth or itinerant food vendor has been adjudicated guilty of, been
9 found guilty of with adjudication withheld, waived the right to contest, or pled no contest
10 to, three or more violations of city ordinances with respect to the vending operation.

11 Such revocation may be appealed directly to the city commission provided such appeal is filed
12 with the clerk of the commission within 15 days of the time of the revocation by the city manager.

13 The clerk shall schedule the hearing on the appeal at the next regular meeting of the city
14 commission scheduled to be at least ten days from the date the appeal is filed. The clerk shall
15 inform the city manager of the appeal, and the city manager shall forward the evidence used to
16 determine the revocation, including minutes of the hearing, if any, to the clerk. No new evidence
17 or testimony may be introduced before the city commission, which shall render its decision based
18 upon the record. The city commission ~~shall review the record and~~ may reinstate ~~restore~~ the
19 permit only if it finds an abuse of discretion in the decision of the City Manager or designee.

20 **Section 3.** It is the intention of the City Commission that the provisions of Section 1 and
21 Section 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City
22 of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
23 renumbered or relettered in order to accomplish such intentions.

