

LEGISLATIVE #

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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.

(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)

Itinerant food vending 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)

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 booth 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.

FOOTNOTE(S):

⁽⁶⁵⁾ **Editor's note—** Section 1 of Ord. No. 970631, adopted June 8, 1998, repealed §§ 19-91—19-97 in their entirety and added §§ 19-91—19-98 to read as set forth herein. Formerly, §§ 19-91—19-97 pertained to mobile food carts and derived from §§ 14-31—14-36 of the 1960 Code; and Ord. No. 3435, § 1, adopted May 16, 1988. **(Back)**

⁽⁶⁵⁾ Section 1 of Ord. No. 990299, adopted Oct. 25, 1999, changed the title of Art. IV from "Vending Booths" to "Vending Booths and Itinerant Food Vendors". **(Back)**