

§ 153.105 OUTDOOR VENDORS.

(A) *Purpose and intent.* The regulations contained herein are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature. It is the intent of these regulations:

- (1) To serve and protect the health, safety and welfare of the general public;
- (2) To establish a uniform set of rules and regulations that are fair and equitable;
- (3) To provide economic development opportunities to small entrepreneurs in the city; and
- (4) To promote stable vendors who will enrich the city's ambiance and be assets to public security.

(B) *Permit required.*

(1) *Applicability.* It shall be unlawful for any person to engage in the business of outdoor vending unless he or she has first obtained a vending permit from the Building Department, except as exempted in division (C) below. All permits shall be issued according to the regulations herein.

(2) *Application for permit.* Applicants may request a permit from the Planning Department. ~~for a short term sale lasting no longer than five consecutive days at a fixed location.~~ The application for a vending permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including, but not limited to:

- (a) The applicants full name, current address, telephone number and proof of identity. ~~together with a full face photograph of the applicant, not less than two inches square nor more than three inches square.~~
- (b) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale.
- (c) Site plan showing proposed location and distances in compliance with the location requirements in division (G).
- ~~(d) Detailed sealed drawing or photo of the conveyance showing dimensions and location of any proposed signs.~~
- (e) Written consent of the property owner.
- ~~(f) Proof of notification of adjacent property owner (i.e., certified mail receipt or letter from the owner).~~
- (g) If the applicant is engaged in the sale of food or beverages, a copy of the Washington County Health Department certificate shall be provided.
- (h) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation of employment.
- (i) If a motor vehicle is to be used, the motor vehicle make, year, model and license number.

(3) The applicant shall pay the fee as adopted from time to time by City Council.

(4) *Issuance of permit.*

(a) The applicant shall be notified in writing by the Code Official or his or her designee of the city's decision to issue or deny the vending permit not later than 30 days after the applicant has filed a completed application with the Planning Department.

(b) Each permit shall show the name and address of the vendor, the type of permit issued, the kind of goods to be sold, the amount of the permit, the date of issuance, the permit number, an identifying description of any motor vehicle or conveyance used by the vendor plus, where

applicable, the motor vehicle registration number. ~~and a photograph of the vendor not less than two inches square nor more than three inches square.~~ Each permit shall also show the expiration date of the permit.

(c) All permits issued under this section shall be both non-assignable and nontransferable.

(5) *Display of permit.* Any permit issued by the Building Official or his or her designee shall be carried with the vendor whenever he or she is engaged in vending. Certificate of health inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

(6) *Expiration and renewal.* All permits issued shall be valid only for the time period established on the permit.

(7) *Notification of name or address change.* All vendors shall assure that the current and correct name, residence address and mailing address are on file with the Planning Department. Whenever either the name or address provided by a permitted vendor on his application for a vending permit changes, the vendor shall notify the Building Official in writing within 60 days of such change and provide the same with the name change or address change.

(C) *Exemptions.*

(1) *Exempt activities.* The provisions of this chapter do not apply to:

(a) Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer.

(b) The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books.

(c) The distribution of free samples of goods, wares and merchandise by any individual from his or her person.

(d) Sidewalk sales lasting no longer than three consecutive days, so long as at least four feet of sidewalk remains clear for pedestrian access. No more than three sidewalk sales per business shall be permitted per calendar year.

(e) Temporary sales to benefit nonprofit organizations and conducted on private property. Such sales shall be conducted no longer than five consecutive days.

(f) Merchants participating in outdoor markets or special events organized or administered by the city, the Grape Festival, and the Rolling Relics. Such merchants/vendors shall be approved by the city or the organizing or administering agency. Any and all merchants/vendors must be located by the area designated by the organizing or administering agency.

(g) Farmers and growers selling fruits and vegetables, farm products or provisions, which they have grown, provided these products are sold on parking lots where the owner has granted permission.

(2) *Claims of exemption.* Any person claiming to be legally exempt from the regulations set forth herein, or from the payment of a permit fee, shall cite to the Building Official the statute or other legal authority under which exemption is claimed and shall present proof of qualification of such exemption.

(D) *Private property.*

(1) *Zoning districts.* Outdoor vendors shall be permitted ~~on developed private property only~~ in commercial or industrial zoning districts. Outdoor vendors are prohibited in residential zoning districts.

(2) *Number of vendors.* Only one outdoor vendor shall be permitted per lot.

(3) *Permission required.* Outdoor vendors shall first obtain written permission from the property owner prior to submitting for an application.

(E) *Public property/right-of-way.* Outdoor vending on public right-of-way and public property shall only be permitted in special outdoor vendor districts as identified herein or otherwise established by City Council.

(F) *Size restrictions.*

(1) *Vending stand.* Vending stand dimensions shall not exceed ~~eight sixteen~~ feet in length, ~~four eight~~ feet in width, and ~~six eight~~ feet in height, (exclusive of canopies or umbrellas).

(2) *Vending trailer.* Vending trailer dimensions shall not exceed ~~ten twenty-four~~ feet in length, ~~six feet eight and one-half feet~~ in width, and eight feet in height (exclusive of tires).

(G) *Location restrictions.* No vendor shall be permitted to operate in the following areas:

(1) Within any residential district.

(2) Within ten feet of any street intersection or pedestrian crosswalk.

(3) Within ten feet of any driveway, loading/zone or bus stop.

(4) In any area within 15 feet of a building entrance.

(5) On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza.

(6) Any area within 100 feet of a hospital, college, university, elementary school, middle school or high school.

(7) Within 50 feet of any fire hydrant or fire escape.

(8) Within ten feet of any parking space or access ramp designated for persons with disabilities.

(9) In a public parking space or public parking lot.

(10) Within 25 feet of any bus stop sign.

(11) Within 50 feet of driveway to police or fire station.

(12) Within 50 feet of principal public entrance to food service business not owned by vendor.

(13) Any area that obstructs pedestrian traffic. Must provide four feet clear passageway for pedestrians at all times.

~~(14) Vacant or undeveloped property.~~

(15) Any location other than the assigned location as expressly described on the permit.

(16) On a city sidewalk or other public easement or within 20 feet of a public street or roadway.

(H) *Goods, wares, and merchandise permitted.* Permits may be issued for the retail sale of flowers and plants, fruits, vegetables, beverages, hot dogs, and other foods including prepared and prepackaged hamburgers, sandwiches, ice cream and snack type edibles. Any other merchandise proposed shall require a conditional use permit.

(I) *Hours of operation.* Vendors shall be allowed to engage in the business of vending only between the hours of 7:00 a.m. and 12:00 a.m. No vending station, conveyance or ~~either other~~ item related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. Nor shall any motor vehicle be parked, stored or left overnight other than in a lawful parking place.

(J) *Littering and trash removal.*

(1) Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending site or locations, clean and free of paper, peelings and refuse of any kind generated from the operation of their business. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.

(2) Persons engaged in food vending shall provide a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

(K) *Prohibited conduct.* No person authorized to engage in the business of vending under these regulations shall do any of the following:

(1) Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to 20 minutes to load and unload vending conveyance and/or vending merchandise.

(2) Obstruct traffic signals or regulatory signs.

(3) Stop, stand or park any motor vehicle or any other conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.

(4) Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public way overnight.

(5) Use any conveyance that when fully loaded with merchandise cannot be easily moved and maintained under control by the permittee, his or her employee or an attendant.

(6) Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.

(7) Conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(8) ~~Use, install or display any signage that is not in compliance with §§ 153.140 through 153.150 Code. or lighting that is not in compliance with § 152.150.~~

(L) *Suspension and revocation of permit.*

(1) *Conditions for suspension/revocation.* In addition to the penalties punishable as set forth in this code any permit issued under these regulations may be suspended or revoked for any of the following reasons:

(a) Fraud, misrepresentation or knowingly false statement contained in the application for the permit:

(b) Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;

(c) Conducting the business of vending in any manner contrary to the conditions of the permit;

(d) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or

(e) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.

(2) *Notification of suspension or revocation.* The Building Official shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the vendor of his right to appeal to the City Council. Such notice shall be mailed to the address shown on the permit holder's application by certified mail, return receipt requested.

(3) *Forfeiture of fee.* If the city revokes a vending permit, the fee already paid for the permit shall be forfeited. A person whose permit has been revoked under this section may not apply for a new permit for a period of one year from the date that the revocation took effect.

(Ord. 2012-07-393, passed 7-3-12; Am. Ord. 2012-11-401, passed 11-7-12; Am. Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-441, § 153.601.16, passed 9-3-13; Am. Ord. 2014-12-489, passed 12-2-14)