ARTICLE IV. - VENDORS, SOLICITORS AND CANVASSERS[4]

Footnotes:

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Cross reference— *Motor vehicles and traffic, Ch. 10; vending or selling in park, § 12-15.*

Editor's note— *Ord. No. 14-019, § 1, adopted September 15, 2014, amended article IV in its entirety to read as herein set out. Former article IV, §§ 9-76—9-82, 9-91—9-98, 9-111—9-119, pertained to peddlers, solicitors and canvassers. See Code Comparative Table for complete derivation.*

DIVISION 1. - GENERALLY

Sec. 9-76. - Definitions.

As used in this article:

Canvasser, vendor or *solicitor* is defined as any individual soliciting or traveling either by foot, or conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

Commissary is a state approved facility that provides support services for specific required functions to any mobile food vendor, including but not limited to a mobile food vehicle or a mobile food cart. Services required of the commissary are based upon the food sold and the mobile food vendor type. A private residence may not be used as a commissary.

Forcible felony means treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb, and any other felony which involves the use of threat of physical force or violence against an individual. See F.S. § 776.08.

Itinerant retail produce vendor shall mean any person going from place to place who engages in a business, by selling or offering for sale to consumers, any fruit, vegetables, or garden produce, which are sold in their whole, natural and unaltered state.

Mobile food dispensing vehicle (MFDV) is classified as a vehicle-mounted public food service establishment, self-propelled or otherwise movable from place to place. Such vehicles must be self-sufficient for utilities (e.g., gas, water, electricity, and liquid waste disposal). Each MFDV is required to have a state approved commissary that they report to at least once a day. MFDVs may also be referred to as mobile food establishments.

(a) *Hot dog carts* are MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.

(b) *Mobile food carts* are any non-motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.

(c) *Ice cream vendors* are MFDVs that limit food sales to pre-packaged individually portioned frozen novelties, soft served or hand dipped frozen dairy products or frozen water based products.

(d) *Lunch trucks* are MFDVs that are transient in nature and specifically authorized to cater to customers on private commercial or industrial property for a short period of time not to exceed sixty (60) minutes.

(e) *Mobile food vehicles* are any motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.

Mobile merchant sales shall include any vendor selling non-food products.

Mobile merchant vehicle shall be any vehicle mounted establishment, which is self-propelled or otherwise movable from place to place, utilized for mobile merchant sales.

Place of business shall include any commercial zoned off-street location, lot, or premises where any truck, wagon, automobile, trailer, cart, or vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any prepared food, beverages, fruit, vegetable, or garden produce.

Seasonal sales vendor shall mean outside vendors of products traditionally associated with seasonal sales or holidays.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-77. - Duty to enforce.

It shall be the duty of any police officer or code enforcement officer of the city to enforce the provisions of this article against any person found to be violating the same.

(Ord. No. 14-019, § 1, 9-15-14)

Cross reference— Police department, Ch. 14.

Sec. 9-78. - Records.

All violations of this article shall be reported to the code enforcement department, who shall maintain a record for each permit issued and record the reports of violations therein.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-79. - Prohibited acts.

(a) It shall be unlawful for any person to enter upon any private premises without permission or invitation from the occupant or homeowner.

(b) It shall be unlawful for any solicitor, canvasser or vendor to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant or person in charge thereof.

(c) No solicitor, canvasser or vendor shall enter in or upon any house, building or other structure or upon any land or property, without the prior consent of the owner or occupant thereof, where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons engaged in such or similar activity to enter upon the premises.

(d) No solicitor, canvasser or vendor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of peace, offensive to public decency or menace to the health, safety or general welfare of the public in violation of F.S. § 877.03.

(Ord. No. 14-019, § 1, 9-15-14)

State Law reference— Burglary and trespass, F.S. Ch. 810.

Sec. 9-80. - Permit.

(a)

It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right-of-way or private property in the city, without first securing a permit and paying the annual permit fee, such fee to be set by resolution of the city commission. Such fees and the maximum number of permits for commercial zoned districts to be set by resolution of the city commission.

(b) Permits shall be for a term of twelve (12) months, beginning on October 1st and expiring on September 30th of the following year.

(c) Existing businesses, otherwise in compliance with all state and local code, are eligible for a single reduced fee vendor permit, to be utilized in the same name as it currently operates under.

(d) Violations of this section shall be a class III violation.

(Ord. No. 14-019, § 1, 9-15-14)

Secs. 9-81—9-90. - Reserved.

DIVISION 2. - PERMIT GENERALLY

Sec. 9-91. - Application.

(a) Applicants for permit under this article must file with the city clerk a sworn application in writing which shall give the following information:

(1) Name of the applicant.

(2) Permanent home address and valid telephone number of the applicant.

(3) A brief description of the nature of the business and the goods, food or beverages to be sold.

(4) E-mail address of the applicant.

(5) The address of the planned vending site, including the property owner's name and telephone number.

(6) For mobile food dispensing vehicles:

(i) Copy of current license from the State of Florida/Department of Business and Professional Regulations or Department of Agriculture; and

(ii) Copy of the vehicle or unit plans as submitted to the State of Florida/Department of Business and Professional Regulations or Department of Agriculture.

(iii)

Copy of the notarized commissary agreement as submitted to the State of Florida/Department of Business and Professional Regulations or Department of Agriculture.

(7) For mobile merchant sales:

(i) Submit a plan of the proposed vehicle or unit.

a. The plan does not need to be drawn by a professional, but must be to scale and clear for review.

b. The plan should show both a top view and front view of the vehicle or unit.

c. The plan should include, but is not limited to, all equipment, shelving, windows, wheels, umbrellas, or awnings.

(8) Copy of a valid vehicle registration for any motorized unit.

(9) For use of any private commercial property, a limited site plan must be submitted.

(i) The plan does not need to be drawn by a professional, but must be to scale and clear for review. A general survey or sketch will be acceptable. For large properties, only a drawing of the immediate area is required.

(ii) The plan must show all existing structures or significant features.

(iii) Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.

(iv) Identify appropriate set-backs for accessory structures.

(v) A notarized affidavit of permission to vend from the property owner, if different from the applicant.

(10) For door-to-door solicitors or vendors:

(i) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(ii) The length of time for which the right to do business is desired.

(iii) Minors conducting home solicitation sales under the supervision of an adult, or solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or other non-profit organization are exempt from this section.

(11) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two-inches by two-inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(12) Photographs of the vehicle or unit, showing front, side and back views.

(13) A sworn affidavit as to whether or not the applicant has been convicted of any felony and the nature of the offense.

(14) Proof of general liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, including death, which may arise from operations under or in connection with mobile vending.

(15) For all motorized mobile vending units, proof of auto liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with mobile vending and shall be in an amount no less than $500,000.00 per occurrence.

(16) Any permit application and/or review fee that may be assessed by resolution of the city commission.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-92. - Issuance.

(a) The city clerk may revoke, suspend, or deny the issuance of any vendor's license if it is determined that an applicant has:

(1) Been convicted of a felony within two (2) years prior to the date of application; or

(2) Has ever been convicted of a 'forcible felony', child abuse or any sexual offense; or

(3) Has been placed on the State of Florida's sexual offenders or sexual predators lists.

(4) Has obtained a permit by fraud, false statement, misrepresentation, or failure to truthfully answer any question in the required permit application.

(5) Has failed to obtain required approvals from the state or obtain a city business tax receipt.

(6) Has failed in any material respect to comply with the provision of section 9-91.

(b) Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified by the city clerk's office of the decision on the issuance or denial of the license. If the issuance of the license is approved, the city clerk shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application. Failure of the

city clerk to place notification of said decision in the mail or personally notify the applicant with acknowledgment shall require immediate issuance of the requested license to the applicant.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-93. - Fees.

(a) All fees required for permit application review and the annual permit fee shall be established by resolution by the city commission.

(b) Permit fees collected under this article are fees paid for the purpose of defraying the cost of administration of this article and are declared to be regulatory fees in addition to and not in lieu of the business tax receipt imposed by section 9-16 of this chapter. The payment of a permit fee under this article shall not relieve any person of liability for and the responsibility of paying a business tax where it is required by section 9-16 of this chapter and for doing such acts and providing such information as my be required by this chapter.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-94. - Exhibition of permit.

Approved vendors of food or merchandise are required to exhibit their permits at all times in a prominent location, no lower than forty (40) inches and no higher than sixty-five (65) inches above the ground. Approved canvassers or solicitors must show their permit upon the request of any person being solicited or by any representative of the city.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-95. - Penalties.

(a) Unless otherwise stated, violations of this article are class II violations as defined in section 2-260 and shall be addressed as provided for in chapter 2, article XIII.5 of the City Code.

(b) Permits issued under the provisions of this article may be revoked by the city clerk after notice for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for permit;

(2) Fraud, misrepresentation or false statement made in the course or conduct of a business or activities for which the city has issued a permit under this article;

(3) Two (2) or more violations of this article;

(4) Operating outside vending locations approved under the permit issued;

(5) Conducting the business of soliciting, canvassing or vending 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; or

(6) Failure to comply with any conditions included in the permit.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-96. - Appeal.

Any person aggrieved by the denial or revocation of a permit as provided in this article shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city manager's office, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth specifically the ground of the appeal. The city manager shall set a date and the time and place of hearing of such appeal. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing. The decision and order of the city manager on such appeal shall be final and conclusive.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-97. - Request for variance.

Any person who wishes to obtain a mobile vending permit that does not comply with subsection 9-111(b) of this article must petition the city commission for a variance. Variance requests will not be accepted for mobile vending permits issued for public property use.

(a) Application for a variance shall be made by the owner of the property where the variance is requested by filing an application on a form prescribed by the city and submitted to the city clerk's office.

(b) The applicant is responsible for submitting the variance request fee, which shall be set by resolution as well as all advertising costs.

(c) The city commission shall hold a public hearing prior to acting on the variance request.

(d) In permitting a variance, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

(Ord. No. 14-019, § 1, 9-15-14)

Secs. 9-98—9-110. - Reserved.

DIVISION 3. - MOBILE VENDING

Sec. 9-111. - General regulations.

(a) The telephone number included on the permit application must remain valid and active at all times. The vendor is responsible for notifying the city of any changes to their contact information.

(b) Mobile vending units must comply with the following minimum distance requirements, which shall be measured from the approved vending location to the nearest point of an established property line:

(1) Five hundred (500) feet from a similar type business.

(2) Three hundred (300) feet from a school, church, or any city or county park.

(3) One thousand (1,000) feet from an approved special event.

(c) May not block the ingress/egress to any property, sidewalk or street.

(d) May not block or impede pedestrian or vehicular traffic.

(e) May only operate at the approved location, clearly identified on the permit.

(f) May have one advertisement sign with a maximum size of sixteen (16) square feet. Such sign may not be free standing, illuminating, moving, flashing or utilizing neon color typically reserved for emergency services. Such restriction to be separate from any business name, decal or logo professionally installed on any motorized MFDV.

(g) May have one menu sign with a maximum size of nine (9) square feet.

(h) No amplified sounds, music or other loud noises, except as provided for in section 9-113, ice cream vendors.

(i) A trash receptacle must be provided and must be removed by the operator daily. Trash may not be placed within public street side trash receptacles.

(j) Mobile vendors are responsible for picking up all litter and waste within twenty-five (25) feet of their unit.

(k) No wastewater leakage or any other leakage is allowed.

(l) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.

(m) It shall be unlawful to place any chair, table, box, crate, stand, counter or shelving independent from the approved mobile vending unit.

(n) No mobile vending unit is to be left unattended at any time and must be removed from the location when not in operation.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-112. - Itinerant retail produce vendor.

(a) Every person who engages in the business of an itinerant retail produce vendor within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.

(b) A business tax receipt is not required for itinerant retail produce vendors.

(c) All products and produce offered for sale under this division must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.

(d) Itinerant retail produce vendors are permitted to vend from any truck, wagon, automobile, trailer or other vehicle provided that the vehicle is properly registered with the State of Florida. A copy of such registration shall be submitted with the permit application.

(e) All other regulations as outlined in section 9-111 of this chapter shall apply.

(Ord. No. 14-019, § 1, 9-15-14)

Sec. 9-113. - Ice cream vendors.

(a) *General.* The rules in this section shall apply to each person lawfully permitted as an ice cream vendor.

(b) *Prohibited sales.* It shall be unlawful for any ice cream vendor to sell or attempt to sell any commodity:

(1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, church or other place of worship during the hours when services are being held.

(2) Within five hundred (500) feet of any school during the school year.

(c) *Noise—Vehicle stopped.* It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.

(d) *Same—Hours.* The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day.

(e) *Traffic.* It shall be unlawful for any vendor to:

(1) Exceed a speed of fifteen (15) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale.

(2) Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale.

(3) Double-park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale.

(4) Make a U-turn on any block in a residential zone.

(5) Drive his/her vehicle backwards to make or attempt to make a sale.

(6) Sell to any person who is standing in the street.

(7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants.

(8) Remain standing or stopped at any place for a period of time exceeding five (5) minutes.

(9) Sell or attempt to sell along any particular route more than one time during a 24-hour period.

(Ord. No. 14-019, § 1, 9-15-14)

Cross reference— Health, § 2-261 et seq.

Sec. 9-114. - Seasonal sale vendors.

The rules of this section shall apply to each person lawfully permitted as a seasonal sales vendor.

(a) Every person who engages in the business of seasonal sales within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to division 2 of this article.

(b) Tents or canopies larger than twelve (12) feet by twelve (12) feet are prohibited unless a supplemental tent permit is obtained. Application for such permit shall be made with the building department. A sketch of the property showing the location of the tent or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.

(c) Seasonal sales permits will be issued no sooner than thirty (30) days prior to the associated holiday and shall expire seven (7) days following the holiday.

(Ord. No. 14-019, § 1, 9-15-14)

Secs. 9-115—9-130. - Reserved.