



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Agenda

Ordinance Review Committee

Chair Melissa Roberts
Vice Chair Sonjia Kihlmire
Member James Diehl
Member Cheri Taylor
Member Thomas Walsh

Thursday, July 7, 2016

6:00 PM

Second Floor Conference Room

1. CALL TO ORDER:
2. ROLL CALL:
3. APPROVAL OF MINUTES & AGENDA:
 - A. [Minutes of June 2, 2016](#)
4. PRESENTATIONS/AWARDS/REPORTS:
5. PUBLIC FORUM:
6. OLD BUSINESS:
 - A. [Discussion: Mobile Vending](#)
7. NEW BUSINESS:
8. STAFF COMMENTS:
9. BOARD/COMMITTEE MEMBERS COMMENTS:

10. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Raftery 48 hours in advance of the meeting date and time at (386) 878-8500.



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

DRAFT Minutes - Final Ordinance Review Committee

Thursday, June 2, 2016

6:00 PM

Second Floor Conference Room

1. CALL TO ORDER:

The meeting was called to order at 6:00 pm.

2. ROLL CALL:

Also present: Ron Paradise, Planning and Development Services, Officer Mark Gibson, Enforcement Services and Kathrine Kyp, Planning and Development Services.

Present: 4 - Chair Melissa Roberts
Member James Diehl
Member Cheri Taylor
Member Thomas Walsh

Excused: 1 - Vice Chair Sonjia Kihlmire

Absent: 1 - Member Rossana Sepulveda

3. APPROVAL OF MINUTES & AGENDA:

A. Minutes for May 5, 2016

Motion by Member Walsh, seconded by Member Diehl, to approve the Minutes for May 5, 2016. The motion carried by the following vote:

For: 4 - Chair Roberts, Member Diehl, Member Taylor and Member Walsh

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

A. Discussion: Mobile Vending

Mr. Paradise presented the Committee with a Power Point presentation on itinerant merchants. He spoke regarding the various types such as food trucks, ice cream trucks, hot dog stands and parking lot food sales as well as potential reasons to regulate the itinerant merchant activity. Officer Gibson provided some background information regarding a merchant that was selling food under a tent that generated a complaint from a surrounding restaurant, as well initiating an adjacent retail store to sell merchandise in

their parking lot.

Discussion occurred regarding pedestrian safety, community aesthetics, and regulatory permitting.

Member Walsh spoke of the potential to have a special committee to regulate the food trucks. Discussion amongst the Committee and staff ensued regarding regulating the vendors including restrictions on specific operating days, hours of operation, locations, and limiting the vendors to special events only. The Committee concurred on returning at the next meeting to discuss the ordinance for itinerant merchants.

7. NEW BUSINESS:

8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

10. ADJOURNMENT:

The meeting was adjourned at 7:18 pm.

Melissa Roberts, Chairperson

ATTEST:

Kathrine Kyp, Board Secretary

Itinerate Merchants

Definitions:

Itinerate merchant shall be defined as follows: any person, firm, corporation, organization, or other entity selling, displaying, promoting, or giving away merchandise, products or services at a location external to a regularly licensed and established business or institutional use on a temporary basis. Itinerate merchants may be may be associated with a wheeled vehicle, trailer, tent and other temporary, nonpermanent structures which can be readily dismantled and/or moved.

Roving sales shall be defined as any person, firm, corporation, organization, or other entity selling, displaying, promoting or giving away merchandise, products or services from a self-contained, self-propelled vehicle that has a no greater than 10,000 lbs. manufacturer's gross weight. Furthermore, roving sales includes only food stuffs where no vendor or employee regularly leaves the vehicle and stops at a location for no greater than 15 minutes to conduct sales.

Itinerate merchant activity is allowed in the following circumstances:

- 1) C-1 or C-2 zoned land developed and used for an active principal use with an approved and current City Business Tax Receipt; or
- 2) as part of a City or Volusia County School District sponsored or sanctioned event; or
- 3) as part of a special event permitted consistent with City Ordinance 96-24; or
- 4) is permitted as a temporary outdoor automobile and arts and craft sales events and shows under Chapter 110 of the City Land Development Code.

Itinerate merchants shall be required to obtain or be associated with a City Special Events Permit and a Facility Use Agreement to operate within the City of Deltona.

Other criteria:

- 1) Itinerate merchant activity shall not exceed seven (7) consecutive days in duration and shall not occur more than three times in any calendar year;
- 2) Written permission of the owner of record is required;
- 3) Any itinerate merchant serving food shall be compliant with all Florida Department of Regulation or other applicable health and safety requirements;
- 4) All applicable Florida Department of Regulation approvals, licensing, certifications, etc. must be displayed and/or available for inspection by the City;
- 5) No outdoor seating associated with food/beverage sales/promotions/giveaways, etc. is allowed;

- 6) An itinerate merchant shall not be located so as to diminish the utility of any required parking facility and shall be located farthest removed from the principal building consistent with the maintenance of safe and efficient internal vehicular circulation and ingress and egress;
- 7) The flow of traffic on designated on-site traffic lanes on or off the lot or parcel shall not be obstructed in a manner that would create an unsafe condition;
- 8) Adequate area for safe and efficient pedestrian movement shall be maintained;
- 9) A site plan will be required to determine adequate parking and safe circulation of both vehicles and pedestrians;
- 10) Itinerate merchant activities shall not occur within any public right-of-way unless exempted under section 2 of "exemptions".
- 11) Itinerate merchants shall not use or obstruct City sidewalks.

Exemptions: (Note: there have been questions about the appropriateness of allowing exemptions.)

- 1) Bona fide non-commercial, not for profit fund raising activities including carwashes or bake sales that do not extend more than 6 hours during a single day occurring once a month;
- 2) Roving sales of food stuffs limited to ice cream and/or confections.
- 3) Sales, promotions, etc. occurring on the property of public schools when approved by the Volusia County School district.
- 4) Concessions located at City parks operating under a valid Facility Use Agreement.

Sec. 23-91. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile vending vehicle means any vehicle, cart or apparatus used for the displaying, storing or transporting of articles offered for sale by a mobile vendor.

Mobile vendor means any person engaged in the selling or offering for sale of food, beverages or merchandise outdoors from a mobile vending vehicle or from his person and not from an enclosed structure, as defined in the zoning code.

(Code 1953, § 38-19; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 2, 7-20-93)

Sec. 23-92. - Findings and purpose.

It is found and declared that:

- (1) The purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- (2) The prohibition of street and sidewalk vending is necessary to protect the health, safety and welfare of the traveling public.
- (3) The regulations contained in this article do not restrict the pure speech rights of organizations, but merely regulate the activities of organizations which are commercial in nature or which present safety hazards to the general public.

(Code 1953, § 38-18; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 3, 7-20-93)

Sec. 23-93. - Penalty.

Any person violating any provision of this article shall, upon being found guilty, be punished as provided in section 1-6 of this Code.

(Code 1953, § 38-30; Ord. No. C-84-109, § 2, 1-2-85)

Sec. 23-94. - Vending prohibited; exceptions.

Vending is prohibited in the city, other than in **B-2, B-3, and B-3-C** zoning districts. Applicants for a vending license shall provide documentation to the city's planning, zoning and building department's licensing division demonstrating:

Comment [TW1]: Areas to be specified

- (1) Permission (affidavit or notarized statement) from the property owner that the vending vehicle may locate on the property;
- (2) Location of vending vehicle as it relates to other structures on the property where it is to be located;
- (3) Public restroom availability if food, beverages or both are being served; and
- (4) On-site parking availability (parking required by the Zoning Code for existing uses will not be used by vendor).

Melissa suggest edit (5) Explicit permission from the City

Mobile vending vehicles that do not set up permanently but that stop only temporarily to make a sale shall be exempt from the limitations and provisions of section 23-94 and section 23-95(3) but shall comply with all other provisions of this article. This exemption shall not apply to non-motorized mobile vending vehicles.

(Code 1953, § 38-23; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 4, 7-20-93)

Sec. 23-95. - Prohibited conduct.

No vendor shall:

- (1) ~~Vend within five hundred (500) feet of the grounds of any kindergarten, nursery, elementary, middle or high school between one (1) hour prior to the start of the school day and one (1) hour after dismissal at the end of the school day.~~ Joe suggested omit Melissa suggest edit prohibit residential |
- (2) ~~Vend within five hundred (500) feet of any church between one (1) hour prior to the start of any church service, Sunday school or religious ceremonies and one (1) hour after such services have concluded.~~ Joe suggested omit Melissa suggest edit prohibit residential |
- (3) Vend on any public street or sidewalk except as provided in this article. For purposes of this section, "public street or sidewalk" shall mean those owned by, dedicated to or an easement granted to the public.

Melissa suggest edit X number of feet from public street or intersection.

- (4) Vend in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.
- (5) Wave, flag or motion to vehicles on the street.
- (6) Sell food or beverages for immediate consumption unless he has available for public use his own litter receptacle which is available for his patrons' use.
- (7) Leave any location without first picking up, removing and disposing of all trash, materials or refuse remaining from sales made by him or the conduct of his operation.
- (8) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the vending vehicle.
- (9) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his vending vehicle, where such items have not been described in this application.

Joe suggestion Set up, maintain or permit the use of any tables, crate, carton, rack or any other device to increase the selling of or designed to allow patrons to consume allowed products on the premises

- (10) Allow any fluids to be discharged from a vending vehicle.
- (11) Sell anything other than that which he is licensed to vend.
- (12) Vend without the insurance coverage specified in section 23-112(5).
- (13) Vend without the health certificate specified in section 15-54
- (14) No vendor vending from a vending vehicle shall:
 - a. Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.
 - b. Stop, stand or park his vending vehicle at a metered parking space for the purpose of selling, or sell on any street under any circumstances during the hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance when such metered parking spaces, signs, or curb markings have been located on public travelways on private property.
 - c. Stop, stand or park his vending vehicle in order to make or attempt to solicit sales within twenty-five (25) feet of any intersection.

Comment [TW2]: Suggest this paragraph be deleted

Comment [TW3]: Agree with prohibiting residential areas with the exception of licensed ice cream trucks. Can we regulate the volume of the truck's music and/or sound effects?

(Code 1953, § 38-24; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, §

Sec. 23-96. - Safety requirements.

All vending vehicles ~~in or from which food is prepared or sold~~ shall be constructed so that all equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

(Code 1953, § 38-25; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 6, 7-20-93)

Sec. 23-97. - Advertising.

No advertising, except the posting of prices, shall be permitted on any vending vehicle, except to identify the name of the product or the name of the vendor. All signs shall be limited to a size not to exceed four hundred eighty (480) square inches.

(Code 1953, § 38-27; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 7, 7-20-93)

DIVISION 2. - LICENSE

Sec. 23-111. - Required.

It shall be unlawful for any person to sell or offer for sale any food, beverage or merchandise from a vending vehicle or the vendor's person within the city without first obtaining a license therefore. The annual license fee per vendor or per vending vehicle shall be two hundred dollars (\$200.00). Vendors operating in connection with special events when the vending activities shall last no longer than three (3) days shall be exempt from obtaining the license required by this section.

(Code 1953, § 38-20; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 8, 7-20-93; [Ord. No. C-11-02, § 1, 1-19-11](#))

Sec. 23-112. - Applications.

Application for a license required by this division shall be made to the chief license inspector upon the appropriate forms, such forms shall be available in the office of the chief license inspector during regular working hours. Such application shall be sworn to or affirmed and filed with the chief license inspector and shall contain the following:

- (1) The name, home and business address of the applicant and the name and address of the owner, if other than the applicant, of the vending business or vending vehicle to be used in the operation of the vending business.
- (2) A description of the type of food, beverage or merchandise to be sold.
- (3) A description of the proposed location of the vending business.
- (4) A description and photograph of any equipment or vending vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
- (5) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license. Such insurance shall be in at least the amounts of three hundred thousand dollars (\$300,000.00) for injury for each occurrence and one hundred thousand dollars (\$100,000.00) per person.
- (6) A health certificate issued by the county health department, if vending food or beverage.

Comment [TW4]: This restriction should not be limited to food vehicles.

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Comment [TW5]: Consider adding mention and requirements for any hitched trailers.

Comment [TJW6]: I disagree with no license required. Preferable would be a reduced rate single use permit for special events.

(7) Those items listed in section 23-94(1) through (4).

(Code 1953, § 38-21; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 9, 7-20-93)

Sec. 23-113. - Issuance; denial.

Not later than ten (10) days after the filing of a completed application for a vendor's license, the applicant shall be notified by the license inspector of the decision on the issuance or denial of the license. If the issuance of the license is approved, the license inspector shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons, for the denial, which reasons shall be entered in writing on the application. The applicant shall be entitled to an informal hearing with the city manager or his designee, if so requested by the applicant within five (5) days of his receipt of the written denial from the license inspector. A license issued pursuant to this section is valid for a period of one (1) year from October 1 to September 30.

Deleted: therefor

(Code 1953, § 38-22; Ord. No. C-84-109, § 2, 1-2-85)

Sec. 23-114. - Display of license.

All licenses issued under this division shall be displayed at all times during the operation of the vending business in a place where the license is visible at all times.

(Code 1953, § 38-26; Ord. No. C-84-109, § 2, 1-2-85)

Sec. 23-115. - Renewal.

All licenses issued under this division are valid for the entire licensing period unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than sixty (60) days before the expiration of the current license.

(Code 1953, § 38-28; Ord. No. C-84-109, § 2, 1-2-85)

Sec. 23-116. - Revocation.

Any license issued under this article may be revoked for cause.

(Code 1953, § 38-29; Ord. No. C-84-109, § 2, 1-2-85; Ord. No. C-93-46, § 10, 7-20-93)

From: D. Fuller Haring [mailto:Fharing@boginmunns.com]
Sent: Tuesday, May 19, 2015 3:23 PM
To: Jerry Mayes <JMayes@deltonafl.gov>
Subject: Parking Lot Food Venue

Mr. Mayes,

The DBA has discussed the issues that the city officials have asked our opinion on, and have come to the following consensus:

The Deltona Business Association is supportive of all those who would like to do business within Deltona. The DBA also understands that business must be conducted in such a way that it protects the safety of the public and upholds the best business practices. This would include adherence to not only the letter, but the spirit of the laws and ordinances of the City of Deltona and the State of Florida. As such, we feel that the ordinances guiding the establishment of semi-permanent eating venues should be revised to discourage so called "parking lot" restaurants, cafes, and the like.

The DBA appreciates the entrepreneurial spirit of those who are just starting out in their own businesses, and hopes to encourage the best business practices in our efforts to inspire economic development. To that end, the DBA would encourage our elected officials to revisit the ordinances regarding the practice of setting up such temporary eating establishments. The DBA feels that when a temporary eating establishment is set up in a parking lot on a weekly basis, the business has availed itself of the same protections and benefits that the property owners pay for with their property tax assessments, and therefore ought to be treated as such. This would include a requirement to become a permanent physical location subject to the same inspection and safety protocols as all other eating establishments. This would also ensure that the local tax burden would be shared equally with all businesses who would like to operate within Deltona, and not simply those that are in established storefront locations. Thus, the DBA feels that as a matter of fairness, the practice of "parking lot" restaurants, cafes, etc., should be discontinued or limited to special occasions and taxed, inspected, and treated proportionately to those businesses in storefront locations.

Regards,

D. Fuller Haring, Esq.
President
Deltona Business Association

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