



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Agenda

Ordinance Review Committee

Vice Chair Sonjia Kihlmire

Member James Diehl

Member Eric Taulbee

Member Cheri Taylor

Member Maritza Avila-Vazquez

Thursday, January 5, 2017

6:00 PM

2nd Floor Conference Room

1. CALL TO ORDER:

2. ROLL CALL:

3. APPROVAL OF MINUTES & AGENDA:

A. [Minutes of November 3, 2016.](#)

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

A. [Ordinance No. 27-2016, Itinerate Merchants](#)

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

Minutes

Ordinance Review Committee

Thursday, November 3, 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; Joseph Ruiz, Planning and Development Services; Kathrine Kyp, Planning and Development Services; Chris Bowley, Planning and Development Services; and Becky Vose, City Attorney.

Present: 6 - Chair Melissa Roberts
Vice Chair Sonjia Kihlmire
Member James Diehl
Member Eric Taulbee
Member Cheri Taylor
Member Thomas Walsh

Absent: 1 - Member Maritza Avila-Vazquez

3. APPROVAL OF MINUTES & AGENDA:

A. Minutes of August 4, 2016.

Motion by Member Taylor, seconded by Member Walsh, to accept the Minutes of August 4, 2016. The motion carried by the following vote:

For: 6 - Chair Roberts, Vice Chair Kihlmire, Member Diehl, Member Taulbee, Member Taylor and Member Walsh

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

A. Ordinance No. 29-2016: Amending Chapter 70-30, Definitions and Chapter 102, Signs of the City's Land Development Code.

Mr. Bowley provided the Committee with a brief report regarding amending Chapter 102, Signs. He noted that the current draft added Section 102-11, through work of between

the Deltona Business Alliance and the City Attorney, as well as omitted the interior only fence banner language. Discussion ensued regarding schools, parks, ball fields having banners on fences. Member Walsh stated that Section 102-7 and 102-10(1) shows that the Travelodge sign would be prohibited and grandfathered in with the language as it is written in 102-10(1). Ms. Vose provided further language, for clarification purposes to the Sign Code. Discussion regarding prohibited signs ensued amongst the Committee and Staff.

Mr. Bowley explained the path of Ordinance 29-2016 going forward. He stated that the Planning and Zoning Board will review the ordinance at the November 16, 2016, in the second floor conference room at 7:00 pm.

Motion by Member Taylor, seconded by Member Taulbee, to accept Ordinance No. 29-2016: Amending Chapter 70-30, Definitions and Chapter 102, Signs of the City's Land Development Code. The motion carried by the following vote:

For: 6 - Chair Roberts, Vice Chair Kihlmire, Member Diehl, Member Taulbee, Member Taylor and Member Walsh

7. NEW BUSINESS:

8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

After discussion, the Committee agreed to meet again after the holidays on January 5, 2016.

Chairperson Roberts announced her resignation from the Ordinance Review Committee due to relocation. Member Walsh stated that he is waiting on his house to sell before finalizing his resignation due to relocation.

10. ADJOURNMENT:

The meeting was adjourned at 6:39 pm.

ORDINANCE NO. 27-2016

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING CHAPTER 22, "BUSINESSES", ARTICLE VI "STREET VENDORS" TO DEFINE ITINERATE MERCHANTS AND ROVING VENDORS; TO CLARIFY PROHIBITED ACTS, PENALTIES AND EXCEPTIONS; TO CREATE EXEMPTIONS FOR ITINERANT MERCHANTS AND ROVING VENDORS SUBJECT TO CRITERIA; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1: Sections 22-186(a) to 22-190 of Article VI "Street Vendors" in Chapter 22, "Businesses" of the Code of the City of Deltona, are hereby amended to read as follows:

Sec. 22-186. - Definitions.

(a)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:

Goods or merchandise means any materials or products, including but not limited to fruits, vegetables, or other edible items, souvenirs, trinkets, art objects, and other such items capable of being the object of a sale.

House of worship means premises used for worship and permitted customary accessory uses by an organization of religious believers.

Itinerate merchant means 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 for temporary periods of time. Itinerate merchants may operate from a wheeled vehicle, trailer, tent or other temporary, nonpermanent structure, which can be readily dismantled and/or moved from location to location.

Permanent structure means a building containing no fewer than four outer walls and a roof enclosing said walls, constructed in accordance with the local building code and a duly issued building permit, and for which occupancy is authorized by a duly issued certificate of occupancy.

Roving vendors means an itinerate merchant from a self-contained, and/or self-propelled vehicle.

Street vendor means a person who sells or offers for sale any goods, services or merchandise from a location other than a permanent structure located in a commercially zoned

area, including but not limited to itinerate merchants and roving vendors. A street vendor does not include anyone that utilizes newspaper, magazine, or other self-service vending machines for the sale of such items.

Sec. 22-187. - Prohibited acts.

It shall be unlawful for any street vendor to sell goods, merchandise or services from any public property, public right of way, ~~unoccupied private property, or undeveloped or private~~ property within the city limits of the City of Deltona except as provided herein.

Sec. 22-188. - Penalties.

Any person or entity, who is found to be in violation of any provision of this chapter for which another penalty is not specifically provided, shall immediately cease the activity in violation and may be issued a citation by a city enforcement services officer or law enforcement officer and be punished ~~able~~ by a fine not to exceed \$500.00. Failure to immediately cease the activity in violation may result in arrest by a law enforcement officer under F.S. § 901.15(1). For each day that the violation of a provision of this chapter exists, such violation shall constitute a separate offense.

Sec. 22-189. - Exceptions.

(a) Exception – Public property and events.

~~Nothing herein shall be construed to prohibit~~ A street vendor must apply for a permit to sell the sale of goods and merchandise by vendors on public city property during city sponsored special events, festivals or parades. –with a permit issued by the city. Street vendors may sell, display, promote or giveaway merchandise, products or services on property owned by another governmental entity with written approval from the applicable governmental entity and compliance with any applicable permit conditions contained in this Article. In the event the other governmental entity imposes conditions in conflict with permit conditions contained in this Article, the more restrictive conditions shall apply.

(b) Exception—Food sales on house of worship property.

Upon application by a house of worship, the city manager, or his designee, may grant a permit for the sale of food on the house of worship property upon the completion of an application and the payment of a \$20.00 fee. Such permit shall allow the sale of food by no more than one vendor at a time during daylight hours only on house of worship property. All equipment and materials of any kind used by a vendor must be taken down before sundown each day and removed from house of worship property. This provision shall not eliminate any requirement for health department or other approval(s), as may be required by applicable law, and any vendor(s) shall be responsible to obtain business tax receipt(s).

(c) Exception – Itinerate merchants

The following conditions and requirements shall apply to all itinerate merchant activity:

1. Location. Itinerate merchant activity shall be allowed a) in a C-1 or C-2 zoning district on land that is currently developed and used for a non-residential principal use, and whose occupant maintains a current City Business Tax Receipt; b) as part of a government sponsored or sanctioned event; 3) as part of a special event authorized by this Code; or 4) a temporary use pursuant to Chapter 110.

2. Permit(s) Required. Itinerate merchants must obtain a City Special Event Permit or a Facility Use Agreement to operate within the City limits. An “at scale” site plan, plot plan or similar sketch must accompany the permit application to ensure adequate parking and safe circulation of both vehicles and pedestrians. Itinerate merchants may operate on property owned by other governmental entities with the prior permission from the applicable governmental entity and in accordance with the provisions of this Section. In the event of conflict between the permission granted by another governmental entity and this Section, the more restrictive provision shall apply.

3. Itinerate merchant activity shall not exceed seven (7) consecutive days in duration and shall not occur more than three times in any calendar year.

4. Itinerate merchants may not operate during the hours of 12:00 am to 7:00 am.

5. Written permission from the property owner of record is required if activity occurs on private property.

6. Any itinerate merchant serving or selling food or other perishable merchandise shall be compliant with all federal, state and local health and safety requirements.

7. No itinerate merchant activity is permitted until all applicable federal, state, and local approvals, licensing, certifications, etc. have been obtained and must be displayed and/or available for inspection by the City.

8. No outdoor seating associated with any food or beverage sales/promotions/giveaways, etc. is allowed.

9. 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 in order to maintain safe and efficient internal vehicular circulation and ingress and egress.

10. 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.

11. An adequate area for safe and efficient pedestrian movement shall be maintained in proximity to the itinerate merchant’s activity.

12. Itinerate merchant activities shall not occur within any public right-of-way or use or obstruct City sidewalks. All itinerate merchants shall use at least (1) one trash receptacle of no less than 32 gallons of capacity.

(d) Exception—Roving vendors

The following conditions and requirements shall apply to all itinerate merchant activity:

1. Roving vendors may participate in bona fide non-commercial, not-for-profit fundraising activities, including but not limited to car washes or bake sales, that 1) do not exceed 6 hours during a single day; and 2) do not occur more than once a month. The not for profit activity must be organized, managed and conducted by an entity with Section 501(c)(3) status as determined by the U.S. Internal Revenue Code.

2. Permit(s) Required. Roving vendors must obtain a Facility Use Agreement to operate within City parks. Roving vendors may operate on property owned by other governmental entities with the prior permission from the applicable governmental entity and in accordance with the provisions of this Section. In the event of conflict between the permission granted by another governmental entity and this Section, the more restrictive provision shall apply.

3. Location. Roving vendors may operate in residentially zoned area; however, stops are a) limited to no more than 5 minutes and can only occur on local (as per the City Thoroughfare Plan) streets with a posted speed limit of 30 mph or less; b) shall be at least 50 feet from any intersection; c) may not occur in areas that are designated no passing zones as per lane striping or other traffic control device. In commercial zoned areas, stops are limited to 60 minutes per parking facility, shopping center or other commercial development node. All commercial areas eligible to be used by roving vendors must be have an active, non-residential principal use, whose occupant has an approved and current City Business Tax Receipt. Roving vendors operating in commercial areas shall have written permission of the owner of record of the property, available for inspection by the City upon demand.

4. No outdoor seating is allowed adjacent to the roving vendor's activity.

5. Roving sales involving food shall be equipped with at least (1) one trash receptacle of no less than 32 gallons of capacity.

6. No roving sales activity shall be conducted from any City Thoroughfare (as per the City Thoroughfare Plan), obstruct traffic, interfere with the utility of any parking facility or create any safety concerns.

7. Roving vendors shall not operate between the hours of 9:00 pm and 7:00 am.

SECTION 2. CONFLICTS. All Ordinances or parts of Ordinances, insofar as they are inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent of any conflict.

SECTION 3. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 4. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance on which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2017.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY

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:

- (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.

(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.
- (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 therefor, 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.

(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)