

Sec. 144-5.23. Temporary vending operations.

5.23-1. *Applicability.* The following rules for temporary vending operations do not alleviate such operations or uses from also adhering to other applicable municipal ~~or~~, state, or federal rules and regulations.

(a) Definition. A temporary vending operation is a retail use intended for limited duration and that does not involve the construction or alteration of any permanent structure.

~~(b) On improved property, a temporary vending operation may operate as long as a permit is issued.~~

Temporary vending operations are ~~permitted~~allowed in all non-residential districts. Anyone wishing to temporarily peddle, solicit, or vend from private property may do so as long as all applicable codes and ordinances of the city are met, and a temporary vending operation permit is issued by the city. ~~There can be no such activity on vacant, unimproved property.~~

(c) No permanent ~~or temporary~~ foundation may be placed or constructed for a temporary vending operation. All structures (including but not limited to booths, vehicles, trailers and any ancillary equipment and furnishings such as generators, tables and decks) employed for temporary vending operations must be removed from the subject property at the end of the permitted period.

(d) This section does not apply to:

(1) Individual food trucks (mobile food units) or other food-related temporary uses. Mobile food units are governed by Chapter 62.

(2) Mobile food courts; see §5.26.

(3) Special Events; see Chapter 91.

(4) Farmer's markets.

5.23-2. *Permit and fee.*

(a) An application processing fee per appendix D of ~~thi~~se City's Code of Ordinances is required for each temporary vending operation permit application. No fee is required for applications with non-profit status. ~~P~~, proof of tax-exemption from the IRS is required.

(b) Temporary vending operation permits are not transferable. A permit at any location is valid for one temporary vending operation regardless of any sale, lease, name change or any ownership transfer of the temporary vending operation.

~~5.23-3. Merchandise. All merchandise offered for sale must be consistent with this chapter.~~

~~5.23-4. Temporary vending operation. For purposes of this section, a temporary vending operation shall be considered any individual, business, company, firm, association or organization conducting business pursuant to this section.~~

5.23-~~5~~3. Temporary/Time. ~~The~~A temporary vending operation permit is valid for a period not to exceed ninety (90) consecutive days~~11 months~~. After the permit has expired, the temporary vending operation shall leave the property, parcel, lot or address where the vending has occurred for a minimum of thirty (30) consecutive days after which time the temporary vending operation may return to the same location with approval of a new permit ~~renewal~~. Temporary vending operations exceeding the term of the permit shall void their temporary status and shall come into compliance with all permanent structure and use regulations.

~~5.23-6. Parking.~~

~~(a) Required parking allocated for the patronage of the primary, permanent host business shall not be utilized for set up or parking of the temporary vending operation. Additional parking spaces must be available from the primary business.~~

~~(b) All vehicles (motorized or non-motorized), trailers, tents, structures, etc. associated with the temporary vending operation, including those from which vending occurs, must be located within the parking lot.~~

~~(c) One space is required per temporary vending operation except within the area exempt from required parking spaces (as shown in Figure 3, Sec. 5.1 Parking, loading, stacking and vehicular circulation).~~

~~(d) No seating may be provided for temporary vending operations unless the property has parking spaces in excess of the minimum requirement. In such cases, one parking space shall be required per four seats for patron use.~~

5.23-~~74~~. *Location.*

(a) All vending activities must occur on private property. There can be no such activity on vacant, unimproved property.

(b) No activity, parking, or signage may be located on public property or street right-of-way or within 25 feet of a street intersection, as measured at the right-of-way line, as to create a visual distraction.

(c) Building setbacks do not apply to temporary vending operations except that sight distance triangles at intersections of streets and driveways shall be maintained in accordance with §5.21-1(d).

(d) Temporary vending operations shall not impede traffic nor visually impair any motorist or pedestrian within a parking lot, driveway, street, sidewalk, bike path, or trail.

~~Anyone wishing to sell, take orders for immediate or future delivery, collect money or property, or attempt to do any of the foregoing, in exchange for a good or service, is prohibited from peddling, soliciting, or vending or advertising from any public street or park in the city. This provision does not apply to mobile catering/mobile vending as regulated in the Code of Ordinances.~~

5.23-~~85~~. *Refuse.* A sufficient quantity of garbage receptacles shall be provided and maintained so that permitted sites are kept clean of all debris, trash, and litter at all times. Trash generated on site is not allowed to blow or spill onto abutting or surrounding sites or onto the public right-of-way.

5.23-~~96~~. *Noises.* No temporary vending operation shall use a sound device, including but not limited to a bell, horn, whistle, or voice (amplified or not) to attract attention. Temporary vending operations and all associated mechanical equipment shall comply with the city's noise provisions in Chapter 82.

5.23-7. Lighting. All lighting associated with a temporary vending operation shall comply with the lighting requirements in this chapter as well as Chapter 82.

5.23-~~108~~. *Codes and ordinances.* The existing property ~~and,~~ uses, and temporary vending operation must be and remain in compliance with all applicable codes and ordinances. ~~The accessory use of the temporary vending operation will be in compliance with all applicable codes and ordinances (e.g. temporary vending operation will meet zoning requirements, fire codes, health codes, etc.). Building setbacks do not apply to temporary vending operations except that sight distance triangles shall be maintained.~~

5.23-~~119~~. *Restroom facilities.* ~~Restrooms shall be provided in compliance with all applicable, current health codes.~~ No portable restrooms may be erected or used ~~except as permitted under subsection 5.23-19 (Special events).~~

5.23-~~120~~. *Utilities.* No permanent water, sewer, electric, fuel, or phone facilities may be connected to the vending operation. Connections must have a quick disconnect. Any use of extension cords must be no longer than ~~a maximum of~~ 50 feet, including multiple cords. A maximum of two cords may be utilized. Extension cords crossing areas of traffic (vehicular, pedestrian, etc.) must be encased in a cable protector rated for the specific traffic. Documentation of this rating must be provided.

5.23-~~131~~. *Maximum number of vendors.* An existing non-residential property may have a maximum number of two (2) permitted temporary vending operations at any one time.

~~5.23-14. Temporary food vendor operations. Temporary establishments that provide food services and must be registered and inspected by the city health division. For purposes of this section, "food vendor" shall be defined as "restaurant" under section 62-81, Definitions.~~

5.23-~~152~~. *Storage of inventory.* All storage must be within a building or container.

5.23-163. *Signage.* All temporary vending operations must comply with chapter 106, Signs. Sandwich boards, banners attached to a building or vending structure, and pennants are allowed. No banners may be utilized which stand independently utilizing stakes, t-posts, or otherwise attached to the ground.

~~5.23-17. *Provision of recreational activities.* No recreational activities may be permitted through the temporary vending operation permit.~~

~~5.23-18. *Reserved.*~~

5.23-194. *Application procedures.* An application shall be submitted to the [planning division city](#) for review and decision [in accordance with this section](#). ~~All temporary vending operations providing food or drink services shall also submit an application to the health division.~~

~~The planning director shall have the authority to make decisions concerning the site plan and other information provided during the consideration of a vendor permit. The planning director will approve or deny the permit application.~~

5.23-2015. *Application elements.*

- (a) A temporary vending operation shall provide with the application a letter and drawing from the owner of the property stating:
 - (1) The name and home address of the temporary vending operation;
 - (2) The purpose of the temporary vending operation (for example, "sell watermelons");
 - (3) The dates and times of the temporary vending operation;
 - (4) A site plan showing the location on the property where the temporary vending operation will take place, along with any external structures (decks, stairs, etc.);
 - (5) Miscellaneous information necessary to determine the compliance of the property, improvements, and vendor operations with city applicable codes and ordinances.
- (b) The temporary vending operation shall provide with the application a copy of a state sales tax certificate issued for the proposed temporary vending operation if the vended items are taxable.
- (c) The permit must be visibly posted on all temporary vending operations with the expiration date.

5.23-216. *Penalties.*

- (a) Permits may be revoked by the ~~director of planning, chief of police, or other city authority~~ for any of the following causes:
 - (1) Fraud, misrepresentation, or a false statement contained in the application for the permit;
 - (2) Fraud, misrepresentation, or a false statement made in the course of conducting business;
 - (3) Any violation of any city code or ordinance that has not been brought into compliance within 24 hours of notification.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude;
 - (5) Conducting the business in an unlawful manner so as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.
- (b) If a temporary vending operation has violated this or any other applicable part of the city's municipal code while conducting business with a permit issued under this section, the business owner shall be penalized as follows:
 - (1) The first offense shall result in a warning and the operation shall bring the temporary vending operation into compliance within 24 hours or the permit shall be revoked. \$500.00 for each offense per day.
 - (2) The second offense shall result in the operation having the permit revoked immediately and the temporary vending operation shall be prohibited from obtaining a permit under this section for one year from the date of the offense. \$1,000.00 for each offense per day.

- (3) The third offense shall result in the operation having the permit revoked immediately and the temporary vending operation shall be prohibited from obtaining a permit under this section indefinitely. \$2,000.00 for each offense per day.
- (c) If a host business has violated this or any other applicable part of the City Code while allowing temporary vending operations to be conducted with or without a permit issued under this section, the business owner shall be penalized as follows:
- (1) The first offense shall result in a warning and the host shall correct the violation within 24 hours or the permit shall be revoked. \$500.00 for each offense per day.
 - (2) The second offense shall result in the operation having the permits of all the host's temporary vending operations revoked immediately and the host shall be prohibited from hosting temporary vending operations for one year from the date of the offense. \$1,000.00 for each offense per day.
 - (3) The third offense shall result in the operation having the permits of all the host's temporary vending operations revoked immediately and the host shall be prohibited from hosting temporary vending operations indefinitely. \$2,000.00 for each offense per day.

5.23-~~22~~17. *Appeal procedures.*

~~(a)~~ Enforcement of this section may be appealed to the ~~zoning~~ board of adjustment in accordance with section 144-2.2 of this chapter.

~~(b)~~ ~~Appeal actions.~~

- ~~(1) An appeal shall be submitted to the planning and development services department. The requirements to file an appeal are outlined in section 144-2.2 of this chapter.~~
- ~~(2) The appeal shall be scheduled for consideration on the next available agenda of the board.~~
- ~~(3) The board shall review the appeal and shall approve, approve subject to certain conditions, or disapprove the appeal.~~
- ~~(4) The zoning board of adjustment shall determine final approval or disapproval of all appeals.~~