

Chapter 19 - LICENSES, PERMITS AND BUSINESS REGULATIONS

ARTICLE III. - CONCESSIONS AND PEDDLERS

Sec. 19-51.- Definitions.

Concession -an enterprise which operates in the open and or utilizes a non-permanent structure and that makes available for sale perishable or non-perishable goods or commodities.

Concession Park - any parcel where two or more concessions gather under a designated park manager.

Concession Park Manager a person, corporation or entity that owns or is designated as the responsible party for management of a park and shall be responsible for ensuring the concessions functioning in the park follow all State, city codes and all applicable regulations contained in this Article.

Concession Truck/Trailer/Kiosk - a mobile concession establishment that is self-sufficient and readily moveable.

Kiosk - any cart, table, equipment or apparatus, which is designed and intended so as to not be a permanent fixture, and which is used for retail sales, rental, and/or display of perishable and/or non-perishable goods and/or commodities. This definition does not include any motorized or non-motorized vehicle such as a truck, trailer, mobile home, automobile, van or the like.

Mobile Concession -a concession that moves from location to location providing their services.

Peddler - a person who goes from place to place selling small goods for profit.

Special event - for the purposes of this Chapter, shall be defined by Chapter 6, Article II of this Code.

Trailer - a portable vehicular structure built on a chassis, which may or may not be self-propelled being either a dependent or independent unit.

Sec. 19-52. - Permit required.

- (a) No person shall peddle or conduct a concession in the city without a permit.
- (b) A new permit shall be obtained each calendar year, from January 1 through December 31. The annual permit is valid from the date the permit is obtained and shall expire on December 31 of each year.
- (c) All permits shall be non-transferable to person and/or location, unless:
 1. Request is in writing with supporting application materials; and

2. Request is received within sixty (60) days of original permit issuance.

- (d) Persons requesting to operate as both a concessionaire and a peddler shall be required to obtain separate permits for each request, and shall comply with the regulations for both types of operation.

Sec. 19-53. - Procedure for approval and applicable standards.

- (a) The application shall be submitted to the Development Services department at least ten (10) working days prior to the first date the contemplated concession is to take place.
- (b) Application submittal requirements may include, but not be limited to, the following:
 - (1) Completed written application;
 - (2) Valid legal identification;
 - (3) Proof of insurance and/or bond, in accordance with requirements established by the city;
 - (4) Site plan (each location of a concession shall be considered a separate business, therefore a separate permit shall be required for each location);
 - (5) Proposed signage;
 - (6) A county health department permit, is required. Any concession must adhere to county health department requirements;
 - (7) Copy of the current signed lease from the property owner to utilize the property from which the concession is to be conducted;
 - (8) State sales tax identification number and the City of Galveston shall be indicated as the origin of sales;
 - (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance (the city reserves the right to perform a criminal background check prior to the issuance of a permit); and
 - (10) Payment of a concession fee (permit fee) as established by the City Council.
 - a. The annual permit fee, as established by the City Cmmcil, shall be five hllildred dollars (\$500.00) per concession;
 - b. The permit is valid from the date of completion of the application and payment of the concession fee has been made;
 - (11) The Concession Park Manager shall pay a concession park fee as established by City Council.
 - a. The annual permit fee, as established by the City Collilcil, shall be one thousand dollars (\$1,000.00) per concession park permit;
 - b. The permit is valid from the date of completion of the application and payment of the concession park permit fee has been made;
- (c) Location standards.

- (1) Concession permits are valid in Commercial, Resort/Recreation, Central Business, Heavy Industrial and Light Industrial zoning districts.
 - (2) Concessions will not be permitted within seventy-five (75) feet of an existing brick and mortar business which sells similar goods or services. Measurement shall be from the window of the concession to the door of the business.
- (d) The following regulations shall apply:
- (1) The proposed site of the concession may not include or be located within any required parking space(s) for a permanent business(es);
 - (2) A concession may not be located in the public right-of-way, et state highway department right-of-way or driveway and any serving window shall maintain a minimum setback of five (5) feet from the street right-of-way;
 - (3) For purposes of this Article, structures that are manufactured for a use other than mobile vending may not be used. Examples of acceptable vehicles include, but are not limited to, vehicle equipped with serving windows, merchandise display equipment, kitchen preparation areas, and advertisement display section. Approved structures must adhere to the following:
 1. No cracked windows;
 2. No visible rust or disrepair;
 3. No offensive images or language may be on the concession or signs;
 4. No emission of noxious gases, odors, and/or fumes;
 - (4) Shall not operate from a vehicle such as a passenger (pickup) truck, flatbed trailer, mobile home, automobile, or passenger van;
 - (5) Maximum of 12 person seating allowed.
 - (6) The concession must be able to relocate within eight (8) hours of an emergency declaration by the city;
 - (7) The concession shall be maintained in a clean and sanitary manner and shall not allow the accumulation of stagnant water. The concession must be associated with a commissary for disposal of oil and grey water.
 - (8) Food preparation must meet Galveston County Health District regulations;
 - (9) Concessions must have a water source as approved by the county health district and provide a free-standing pole or on-board generator for electrical service;
 - (10) A maximum of four (4) signs shall be permitted at each concession. The cumulative square footage may not exceed the face of the structure. Flashing and/or intermittent lighting signs are prohibited. A-frame signage is limited to one (1) per concession and may not exceed a square footage of six (6) square feet. No signage may exist within the City right-of-way;
 - (11) Off-site business advertising is limited to the advertisement of brick and mortar establishments owned by the concessionaire;

- (12) The concession shall not use noise, lighting, or windblown devices as a means of attracting attention to the business;
 - (13) Shall be permitted without a distance requirement from a residential structure when the concession is located in a commercial zoning district. Shall not be permitted within one hundred (100) feet of the district line of any single-or multiple-family zoning district.
 - (14) Must display the permit in a conspicuous location on the premises where the sale or exhibit is being conducted. The permit shall be visible from the street and shall remain on display so long as any goods or merchandise are being sold or exhibited;
 - (15) Each concession must have a litter receptacle available, clearly marked and maintained for patron use. This litter receptacle must be at least of a twenty (20) gallon capacity and composed of a leak-proof, nonabsorbent material;
 - (16) Shall not be permitted within five hundred (500) feet of any public or private school building or school property being used for school classes or school activities, except secondary education institutions, during the hours when school is in session, including the time period from one (1) hour before school commences to one (1) hour after classes dismiss;
- (e) The Director of the Development Services department or designee, reserves the right to deny and/or revoke a permit based on any, but not limited to the following:
- a. Inappropriate signage;
 - b. Incompatible stand/cart design;
 - c. Dangerous stand/cart placement or other threat to public health, safety and/or welfare; and
 - d. Non-compliance with permit conditions or city Code provisions.

(f) Declared Natural Disaster

In the event of a disaster on Galveston Island, concessionaires may apply for a concession to the Development Services department in accordance with the following:

- (1) The following items may, as approved by the City Manager, be allowed during recovery from a declared natural disaster:
 - a. Goods and services or related items: Laundry, food, charitable activities, generators, mattresses, landscaping, retail goods, internet and wireless services.

(g) Concession Parks

All concession regulations apply to the concessions within the park; including but not limited to the following:

- (1) The concession park shall have a designated Concession Park Manager;
 - a. The Concession Park Manager shall obtain a concession park permit to operate a concession park.
 - b. The permit shall provide contact information as required by the Development Services department.

- c. A permit shall be obtained each calendar year. A year shall be from January 1, through December 31 of each year. No prorating
- (2) The concession park manager shall be responsible for assuring that any concessions functioning in the park follow all regulations as listed in this article; including obtaining a concession permit;
- (3) A site plan must be provided showing placement of concessions along with any amenities;
 - a. One plant per concession is required in the concession park area;
 - b. Any lighting installed in a concession park shall adhere to Article 7 of the City of Galveston Land Development Regulations, as amended;
 - c. Customers of Concession parks where on-site parking is not available shall utilize on-street parking.
- (4) No more than one (1) concession per one-thousand (1,000) square feet of lot area;
- (h) Mobile concessions.
 - (1) May not provide seating;
 - (2) Mobile concessions serving only frozen novelties may operate island-wide
- (i) Renewal

A permit may be renewed on an annual basis. A permit is valid from January 1 through December 31 of each calendar year, regardless of the date of obtaining permit.

Sec. 19-54. - Rules for peddlers.

- (a) Peddling shall not be permitted upon the paved or graded portion of any public street, except as otherwise noted on the permit, nor upon the sidewalk of the Seawall Boulevard, nor within one hundred (100) feet of the northerly right-of-way line of the Seawall Boulevard.
- (b) The permit shall be in the permittee's possession at all times.
- (c) Peddling shall not be permitted along State Highway 87 or within one thousand (1,000) feet of the Galveston-Bolivar Ferry Landing.
- (d) Peddling shall not be permitted on any property southerly of the seawall with the exception of vendors on the beach with permission from the park board of trustees.
- (e) Peddling, to include the sale of goods from vehicles, shall not be permitted within five hundred (500) feet of any public or private school building or school property being used for school classes or school activities, except secondary education institutions, during the hours when school is in session, including the time period from one (1) hour before school commences to one (1) hour after classes dismiss.

Sec. 19-55. Beach Concessions - Rules for beach concessionaires

- (a) The term beach concessionaire area shall refer to all public areas of the beachfront, south of the southerly right-of-way of Seawall Boulevard that can be utilized for equipment rental relating to recreation on the beach. This term shall only be applied to this section of the Code of the City of Galveston, as it relates to the permitting of concessionaires.
- (b) The term lease site shall refer to the designated area, determined by the City of Galveston beach concessionaire agreement and/or park board of trustees lease agreement, as applicable.
- (c) Beach concessionaires shall only be permitted to install the following signs, per each lease site:
 - (1) Sandwich board sign, as defined by Article V of the City of Galveston Land Development Regulations, may not exceed three (3) feet by two (2) feet, and is utilized solely to display the type of items for rental, and the respective fee(s). Only one (1) sandwich board sign is permitted per lease site.
- (d) Concessions within the beach concessionaire area shall not be permitted to utilize temporary or portable buildings.
- (e) All provisions of the city's Land Development Regulations must be met.
- (f) Concessionaire permits and regulations shall not apply to designated state park facilities.
- (g) Property managed by the Park Board in regards to concessions shall adhere to the requirements in this Article and all other city codes and ordinances.
- (h) The park board of trustees shall have authority, subject to approval by the city council to revoke or suspend any permit issued hereunder for violation of any provision of this subsection.

Sec. 19- 56 - Exceptions and exemptions.

- (a) The provisions of this Article shall not apply to special events or other public festivals of nonprofit organizations for the purpose of fundraising, as approved by the city.
- (b) Concessionaire permits and regulations shall not apply to designated state park facilities.
- (c) An owner/operator of a concession who is also the operator of a primary business conducted upon the same property and who is selling, through the concession, the same merchandise or goods that the operator is authorized to sell in the owner/operator's primary business entirely within the boundaries of the owner/operator's primary business location, and where the owner/operator is operating within the boundaries of premises from which the owner/operator has a license from the Texas Alcoholic Beverage Commission, is not required to obtain a permit to operate such concession. A business shall be considered a primary business only if the owner/operator of the business has been in business in the same location within the designated Mardi Gras or the Seawall Entertainment District area for a continuous period of at least six (6) months prior to the annual Mardi Gras Festival and has been issued a certificate of occupancy for conduct of such business.

- (d) A person who holds a valid permit for rental of beach equipment pursuant to the requirements of section 8-53 of this Code shall not be required to obtain a permit under this Article.
- (e) With the exception of subsection (b) above, during the period of Mardi Gras activities or festivals, no person shall peddle or conduct an outdoor concession within the city without first having obtained a permit.
 - (1) A Mardi Gras concession permit will be issued for locations where allowed by city regulations with written and notarized authorization from the owner of that location.
 - (2) Concessions for food or drink will not be permitted within three hundred (300) feet of an existing business which sells food or drink outside of the Central Business District, as defined by the Mardi Gras ordinance (See chapter 20.5).
 - (3) Concessions which sell food or drink must have a valid permit from the Galveston county health district and permission to sell food or drink from the City prior to the issuance of a Mardi Gras permit.
 - (4) Separate permits are required for each concession, and shall not be issued without approval by the city council upon recommendation of the city manager.
 - (5) The permit fee for each concession within the area designated "entertainment area" will be as set forth in the Mardi Gras agreement with the city. The permit fee for each concession outside the area designated "entertainment area" will be as follows:

Seventy-five dollars (\$75.00) per weekend for beer or alcohol booths.

Fifty dollars (\$50.00) per weekend for food or novelty concessions.

It is the intention of this section that a separate permit fee will be paid for each separate concession regardless of whether the concession occupies an entire lot or location or a portion of said lot or parcel, and regardless of whether the concession is located inside or outside the entertainment area. A separate concession shall be based on a space of ten (10) feet by ten (10) feet. No more than two (2) permits shall be issued per each application and each individual or entity may not apply for more than two (2) permits for concessions on public property within the entertainment area, during the duration of Mardi Gras. When the city, has designated an exclusive concessionaire, the permit fees will be established in accordance with Article VII(A) of this Code and the exclusive concessionaire's contract. In addition to the permit fee, the city reserves the right to require a bond or deposit to assure the clean-up of debris.

- (6) A two hundred dollar (\$200.00) cash bond must be posted for each concession, which is refundable upon inspection of the concession site and the approval by the City.
- (7) The Mardi Gras permit will be valid only for the duration of the festival period only. Use of public rights-of-way by festival concessions will be limited to specific locations within the Central Business District only, and all concessions located in rights-of-way must be removed within twelve (12) hours of the conclusion of the parade for which they were erected.

(8) Each concession will provide one (1) fifty-five (55) gallon trash receptacle. (9) Each concession will display the Mardi Gras permit in a conspicuous location inside the concession stand/kiosk.

(10) If any provision of this section conflicts with Chapter 20.5 (The Mardi Gras Ordinance), the Mardi Gras ordinance shall control and prevail.

Sec. 19-57.- Penalty

- (a) A violation under this section is a class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day shall constitute a separate offense.
- (b) Pursuant to state law and this Code, the maximum penalty for offenses arising under such code or ordinance of the city governing fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).
- (c) If such maximum penalty provided for by this code or any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this code.
- (d) Penalties provided for are in addition to any other enforcement remedies that the city may have under city ordinances and state law.

Sec. 19-58. - Temporary parking lot permits.

- (a) It shall be unlawful for any person to intentionally or knowingly operate a temporary parking lot during the regularly scheduled weekends of, special events without a valid permit.
- (b) A temporary parking lot shall mean a parking lot that does not ordinarily charge a fee for parking.
- (c) An applicant for a temporary permit must complete a temporary parking permit application, provide proof of consent to operate from the property owner (if the applicant is not the property owner), and pay a fee as established by city council.
- (d) An applicant for a temporary seasonal permit beginning the first Friday of March through Labor Day weekend must complete a temporary seasonal parking permit application, provide proof of consent from the property owner to operate on the property (if the applicant is not the property owner), and pay a fee as established by the city council.
- (e) The violation of any provision of this section shall be unlawful and a misdemeanor offense punishable for a fine not exceeding five hundred dollars (\$500.00). Each day a continuing violation exists shall constitute a new and separate offense.

Sec. 19-59 Appeal process.

Should the applicant be aggrieved by the decision of the city to deny a permit request, a letter requesting an appeal hearing must be submitted to the Director of Development Services department within ten (10) days of the city's decision.

Sec. 19-60. - Reserved.

SECTION 3. It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared invalid by a final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective on **August 15, 2015** after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNAM. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular Meeting held on July 23, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of July, 2015.

Secretary for the City Council
of the City of Galveston