

ORDINANCE NO. 2011 - 835

AN ORDINANCE TO REGULATE VENDING ON PUBLIC RIGHTS OF WAY IN ORDER TO FACILITATE EFFICIENT USE OF THE STREETS AND SIDEWALKS FOR TRANSPORTATION USE.

Whereas, pushcart vendors enliven the pedestrian environment by providing convenience and diversity of products at affordable prices; and

Whereas, pushcarts lend charm and vitality to an active urban environment; and

Whereas, it is desired to place pushcart regulation into a separate ordinance and regulate those activities outside the Private Use of Public Space Manual;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Sec. 12- 1024 of the Raleigh City Code is hereby amended by adding the following new subsections thereto:

“ (e) All pushcarts must obtain and maintain a permit for each location where the owner of the pushcart intends to operate. All applications for permit renewal must be filed no later than June 20 preceding the next permit year. During the period June 21 through July 1 the permits for any spaces that were not renewed will be available to new applicants. In the event that more than one applicant desires one of the abandoned locations the City will conduct a lottery to assign that space. The price of each permit and permit renewal is \$150.00. Permit applications shall contain the following information:

- (1) A home occupation use permit for a home based business
- (2) A food vending permit from Wake County
- (3) A valid City of Raleigh business license
- (4) A scaled sketch plan or photographs showing proposed cart location, dimension, and details of surrounding streetscape elements, covering six feet on all sides of the edge of the cart

operation area including property lines, sidewalks, curb lines, lighting, trees indicating size, tree grates, planters, parking meters, benches, street signs, bus stops and fire hydrants. The cart operation area shall not exceed one hundred square feet.

- (5) A list of products to be sold
- (6) Proof of a valid insurance policy that provides a minimum liability coverage of one million dollars with the City named as an additional insured
- (7) A written indemnity agreement that will hold harmless the City, its officers, and employees, for any loss or liability or damage, including costs, for bodily injury or property damage sustained by a person as a result of the negligent installation, use, or maintenance of a permitted space.
- (8) A food permit from the N.C. Department of Agriculture if the applicant intends to sell baked goods or ice cream

(f) Permit holders may be required to remove private materials or accessories to allow street, sidewalk, or utility access for maintenance operation or during approved special events. All permits issued pursuant to this section shall be suspended during a special event approved by the city council. Carts are excluded within 400 feet of the edge of any special events area unless the permit holder is given permission from the event sponsor to set up within the designated event area. No more than 3 permits per cart shall be issued to any cart owner.

(g) Pushcarts are prohibited in areas not zoned for commercial use. In all other areas of the city the carts shall conform to the following regulations regarding location and operation:

- (1) Carts must not locate in any area that impedes, endangers, or interferes with pedestrian or vehicular traffic.
- (2) Carts selling food products must be located at least 50 feet from the entrance to any business selling food unless the owner of the other business gives written permission for the infringement of the no vending area.
- (3) Carts must locate at least 50 feet from any outdoor eating area.
- (4) Carts must be located at least 2 feet from any curb.
- (5) Carts must not be locked or attached to trees or street furniture.

- (6) Carts must maintain an unobstructed pedestrian corridor of a minimum of 5 feet in width parallel to the street. On Fayetteville Street the minimum pedestrian corridor is 7 feet.
  - (7) No more than two carts will be allowed on any block face.
- (h) All carts must meet the following design standards:
- (1) Carts must be non-motorized with operable wheels. Persons with disabilities may use a motorized system to propel the cart.
  - (2) All Carts must be self contained with a waste receptacle. All equipment other than coolers must be contained on or with in the cart.
  - (3) A cart may not exceed 6 feet in height and 8.5 feet in length and 4 feet in width. Carts permitted prior to 2007 may continue to operate if they exceed any of these dimensions.
  - (4) Umbrellas or canopies must be attached to the cart and must not exceed 8 feet in height above grade. Maximum diameter of canopies and umbrellas shall not exceed 6 feet and shall not interfere with pedestrian movement. No cart shall have more than 2 umbrellas.
  - (5) Carts must be constructed of durable material and not plastic or wood may be visible.
  - (6) Carts must comply with all local, state, and federal rules regarding sanitation and protection of food from airborne contamination.
  - (7) All signage on carts shall comply with the Raleigh sign ordinance. No free standing signage is permitted.
  - (8) Sales of goods and merchandise are limited to food and beverage, fresh cut flowers, or original artwork and handicrafts produced by the vendor. All items for sale must be confined to the cart. Food vendors may place a maximum of three coolers within their containment area so long as the coolers are neatly stacked to avoid visual clutter. No generators may be used at any time.
  - (9) A vendor may maintain one chair for his own use. No public seating is allowed. Pushcarts may not be stored, parked, or left overnight on any city property.
  - (10) Carts may only be operated between the hours of 6:00 a.m. and 3:00 a.m. Cleanup and removal of the cart must be completed by 3:30 a.m. The operator must be present at all times and must have a valid permit on his person or on the cart at all times.
  - (11) Permits are not transferrable.

(12) The operator is responsible for all waste and trash removal. The containment area must be kept clear of grease, trash, paper, cups or cans associated with the operation. No liquid waste or grease is to be disposed of in tree pits or onto the sidewalks, streets or other public places.

(i) Any street vending performed that is not in compliance with these regulations is illegal.”

(j) A permit is revoked if the operator receives three citations, either civil, criminal or combination thereof during any calendar year.

Section 2. Any violation of this ordinance may be punished by any means allowed by law and is specifically made a misdemeanor.

Section 3. All laws and clauses of laws in conflict herewith are repealed to the extent of any such conflict.

Section 4. The provisions of this ordinance are declared to be severable pursuant to the provisions of Part 14 of the Raleigh City Code.

Section 5. This ordinance shall be effective upon adoption.

Adopted: February 1, 2011

Effective: February 1, 2011

*Prepared by the Raleigh City Attorney's Office*